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MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 22

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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

In the matter of the amendment) NOTICE OF PUBLIC HEARING ON
of ARM 17.40.203 and 17.40.212) PROPOSED AMENDMENT
pertaining to certification)
and fees for water and)
wastewater operators) (WASTEWATER OPERATORS)

TO: All Concerned Persons

1. On December 14, 1999, at 1:30 p.m. in Room 35 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, the Department of Environmental Quality will hold a public hearing to consider the proposed amendment of the above-captioned rules.

2. The Department will make reasonable accommodations for persons with disabilities who wish to participate in this hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Department no later than 5 p.m., December 7, 1999, to advise us of the nature of the accommodation you need. Please contact the Department at P.O. Box 200901, Helena, Montana, 59620-0901; phone (406) 444-2544; fax (406) 444-4386.

3. The rules proposed to be amended provide as follows. Text of present rule with matter to be stricken interlined and new matter underlined.

17.40.203 CERTIFICATION OF OPERATORS (1) through (9) (a) remain the same.

(b) Operators certified under (a) above must pay a 1-time fee of ~~30~~ 70 in addition to the fees applicable for the Montana certification sought.

(10) Certificates must be renewed each year after payment of the proper fee. are effective for a base year from July 1 of one year through June 30 of the subsequent year. Certificates may be renewed annually.

AUTH: 37-42-202, MCA

IMP: 37-42-304 through 37-42-308, MCA

17.40.212 FEES (1) An applicant for certification ~~or a certified operator applying for renewal of his certificate must~~ shall pay to the department:

(a) ~~for certification or renewal of a certificate in any classification level of water distribution or water treatment, an annual application fee of 30, the payment of which entitles the applicant to take examinations for 12 months from the date of the application, provided that the applicant pays the fee required for each examination as specified in (3), below; and~~

(b) for certification or renewal of a certificate in any classification level of waste water treatment, an annual application fee of 30, the payment of which entitles the

applicant to take examinations for 12 months from the date of the application, provided that the applicant pays the fee required for each examination as specified in (3), below.

(2) A certified operator applying for renewal of a certificate shall pay to the department by June 30 of every year:

(a) for a certificate in any classification level of water distribution or water treatment, a renewal fee of \$30;

(b) for a certificate in any classification level of waste water treatment, a renewal fee of \$30.

~~(2)~~ (3) The fee is ~~\$20~~ \$70 for each examination.

(3) remains the same, but is renumbered (4).

AUTH: 37-42-202, MCA

IMP: 37-42-304, 37-42-308, MCA

4. The Department is proposing to amend ARM 17.40.203(9)(b) by increasing from \$30 to \$70 the fee charged by the Department to issue reciprocal certification to water and wastewater system operators certified in other states. The Department is proposing to amend ARM 17.40.203(10) to clarify that certificates are effective for a year, starting on July 1 of one year and ending on June 30 of the next year, and that certificates may be renewed annually. The Department proposes to change the word "must" to "shall" in ARM 17.40.212(1). The Department is proposing to amend ARM 17.40.212(1)(a) and (b) by increasing from \$30 to \$70 the fees charged by the Department for applications for certification of operators of water distribution, water treatment, and waste water treatment systems. The Department is also proposing to amend ARM 17.40.212(1)(a) and (b) to specify that payment of the application fee entitles the applicant to take examinations for 12 months from the date of the application, provided that the applicant pays the fee required for each examination.

The Department is proposing to add a new subsection (2) to ARM 17.40.212 specifying that renewal fees must be paid by June 30 of every year. The Department is proposing to renumber the present ARM 17.40.212(2) to (3) and to amend it by increasing from \$20 to \$70 the fee charged by the Department for each examination.

Montana law requires that the operator certification program take in sufficient funding from fees and federal funds to pay its expenses. See Sections 37-42-304 and 37-1-134, MCA.

The revenue from current fees is not high enough to cover expenses. In Fiscal Year 1999 (FY99), the operator certification program had a deficit of \$12,353.

The reasons for the deficit are that FY99 was the first full fiscal year that the program had a full staff: Grade 13, Grade 10, and Grade 8. The Grade 13 position is also being reviewed for an upgrade to Grade 14, and the Grade 8 position has been upgraded to a Grade 9 (half of FY99 was at the Grade 9 level). Also, all state employees will receive raises in FY00 and FY01.

The fact that this program is not making enough from fees has been an audit exception for the last 5 years. The Montana legislative auditor has recommended that the Department raise application and examination fees so that, when combined with federal funding, they cover program expenses.

To be able to continue providing services to operators and systems, the Department must raise fees to accommodate the costs of providing these services. Services that would need to be discontinued if one full-time program position was dropped for lack of funding are the tracking of continuing education credits (CEC), and sending certified operators CEC status reports (operators would have to track their own training and send proof to the certification office that they have met biennial requirements). The program would also have to begin charging for all study materials instead of sending them without additional charge when application and exam fees have been received. Also, the program currently offers opportunities for small system operators to take examinations on numerous dates in addition to the normal semiannual testing dates. To reduce workload and costs if this proposed fee increase is not approved, fewer of these additional examination dates would be offered.

The entire cost of processing applications, administering exams, and processing certifications is well over the current charge of \$50. Based on a cost study done in January 1994, the cost was approximately \$367, which is still considerably more than the \$140 that would be charged for an application and an examination if the proposed rule changes are adopted. The personnel costs used in the 1994 study were based on one employee at \$11.169/hour. The program now has 3 full-time employees whose combined hourly wage is \$31.72. These 3 employees spend the following proportions of their time processing applications and examinations: the Grade 10 certification technician spends 90%; the Grade 9 certification clerk spends 50%; and the Grade 13 program manager spends 25%.

Printing and postage expenses have increased because the program is now providing more study information to applicants and is responding to more requests for information.

It is necessary to increase reciprocity fees because more time is being spent by the program manager to determine whether operators' certifications from other states are equivalent to the requirements for certification in Montana. Reciprocity for an operator certified in another state is determined after a review of the operator's application and certification information as well as direct contact with the certification authority in the certifying state.

Effect of the proposed increases: There were 362 applications received in calendar year 1999, with total application fees received of \$10,860. If the application fee was \$70, it would increase the fees received to \$25,340, for a total revenue increase of \$14,480.

There were 421 examinations given in 1999, with total examination fees received of \$8,420. If the examination fee

was \$70, it would increase the fees received to \$29,470, for a total revenue increase of \$21,050.

There were 3 reciprocity certifications issued in 1999, with total reciprocity fees received of \$90. If the reciprocity fee was \$70, it would increase the fees received to \$210, for a total revenue increase of \$120.

There are 865 community and non-transient non-community public water supply systems and 248 wastewater systems required to have certified operators.

The Department proposes to clarify ARM 17.40.203(10) by stating that certificates are effective for a year running from July of one year to June 30 of the next (the state's fiscal year), and that they may be renewed annually, because the current rule does not explicitly state the duration, renewal period, or effective dates of certificates, although it implies them.

The Department proposes to change the word "must" to "shall" in ARM 17.40.212(1) to reflect current rule drafting style that requires the use of "shall" to impose a mandatory duty on an applicant.

5. Concerned persons may submit their data, views or arguments concerning the proposed action either in writing or orally at the hearing. Written data, views or arguments may also be submitted to Debbie G. Allen, Paralegal, Department of Environmental Quality, P.O. Box 200901, Helena, Montana, 59620-0901, no later than December 17, 1999. To be guaranteed consideration, the comments must be postmarked on or before that date. Written data, views or arguments may also be submitted electronically via email addressed to Debbie G. Allen, Paralegal, at "dallen@state.mt.us", no later than 5 p.m. December 17, 1999.

6. Norm Mullen, attorney for the Department, has been designated to preside over and conduct the hearing.

DEPARTMENT OF ENVIRONMENTAL QUALITY

by: Mark A. Simonich
MARK A. SIMONICH, Director

Reviewed by:

David Rusoff
David Rusoff, Rule Reviewer

Certified to the Secretary of State November 8, 1999.

BEFORE THE DEPARTMENT OF CORRECTIONS
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF PROPOSED
of ARM 20.2.101, pertaining to) AMENDMENT
the department model procedural)
rules) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On December 18, 1999, the Department of Corrections proposes to amend ARM 20.2.101, by incorporating by reference ARM 1.3.101 through 1.3.233, the Attorney General's model rules of procedure, and the sample forms attached to the model rules.

2. The Department of Corrections will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Corrections no later than 5:00 p.m. on December 16, 1999, to advise us of the nature of the accommodation that you need. Please contact Cj Johnson, Department of Corrections, P.O. Box 201310, 1539 11th Ave., Helena Montana 59620-1301; telephone (406) 444-7917; fax (406) 444-1976.

3. The rule as proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

20.2.101 MODEL PROCEDURAL RULES (1) The department of ~~institutions~~ corrections has herein adopted and incorporated the attorney general's model rules as published in ARM Title 1, ~~Chapter 6~~ 3. As the department of ~~institutions~~ corrections is exempt from the Montana Administrative Procedure Act in the areas of the supervision and administration of any penal institution with regard to the institutional supervision, custody, control, care and treatment of youths or prisoners, none of the above cited model rules shall apply to the above listed institutional functions. Modifications to the model rules for contested cases are set forth in sub-chapter 2 of this chapter.

AUTH: 2-4-101, and 2-4-201, MCA
IMP: 2-4-101, 2-4-201, and 2-4-202, MCA

4. The amendment to ARM 20.2.101 is proposed to adopt the Attorney General's amendments to the Model Rules of Procedure, which were adopted at page 1225 of the 1999 Montana Administrative Register, Issue No. 11, effective June 4, 1999. The model procedural rules provide rules of practice, setting forth the nature and requirements for formal and informal administrative procedures.

5. Concerned persons may submit their data, views or arguments concerning the proposed amendment in writing to Lois Adams, Policy Bureau Chief, Department of Corrections, 1539 11th Ave., P.O. Box 201301, Helena Montana 59620-1301. Any comments must be received no later than December 16, 1999.

6. The department 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 that the person wishes to receive notices regarding rules written by the Department of Corrections. Such written request may be mailed or delivered to Cj Johnson, Department of Corrections, 1539 11th Ave., P.O. Box 201301, Helena, Montana 59620-1301, telephone (406) 444-7917; faxed to the office at (406) 444-1976, or may be made by completing a request form at any rules hearing held by the Department of Corrections.

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

DEPARTMENT OF CORRECTIONS

By: /s/ Rick Day
Rick Day, Director

/s/ Lois Adams
Lois Adams, Rule Reviewer

Certified to the Secretary of State November 8, 1999

BEFORE THE BOARD OF MILK CONTROL
OF THE STATE OF MONTANA

In the matter of amendment) NOTICE OF PROPOSED
of ARM 32.24.503 through) AMENDMENT AND
32.24.505 and ARM 32.24.511) ADOPTION
as they relate to quota and)
pooling transactions; and) NO PUBLIC HEARING
proposed adoption of a rule) CONTEMPLATED
on surplus and excess milk)
DOCKET NO. 1-99

TO: All Concerned Persons

1. On December 20, 1999, the board of milk control proposes to amend ARM 32.24.503, 32.24.504, 32.24.505, and 32.24.511 which relate to quota and pool transactions; and to adopt new RULE I which relates to surplus and excess milk proceeds and losses.

2. The board of milk control will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the milk control bureau no later than 5:00 p.m. on December 6, 1999, to advise us of the nature of the accommodation that you need. Please contact Marlys Mattfeldt, Milk Control Bureau, 301 N. Roberts St. - Rm. 236, PO Box 202001, Helena, MT 59620-2001; phone: (406)444-2875; TTD number: 1-800-253-4091; fax: (406)444-1432.

3. The rules as proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

32.24.503 NEW PRODUCERS--PERCENTAGE OF MILK SALES
ASSIGNED TO QUOTA MILK (1) A new eligible producer, as
defined in ARM 32.24.501, is entitled to receive the quota
price for his milk sales to a pool plant for each month in
accordance with the following schedule:

<u>MONTHS</u>	<u>PERCENTAGE OF MILK SALES</u> <u>ASSIGNED TO QUOTA</u>
April through August	20%
All other months	35%

~~This assignment is not an assignment of actual quota to such
new eligible producer, and no quota will be owned by a
producer assigned under this rule. However, it is a part of
the total quota milk calculated under these rules.~~

(a) The new eligible producer can not own any quota to be eligible for this assignment.

(b) This assignment is not an assignment of actual quota to such new eligible producer.

(c) This assignment of quota milk becomes a part of the total quota milk calculated under these rules.

(2) When the new eligible producer acquires quota by purchase or otherwise, or acquires quota pursuant to ARM 32.24.505, the percentage of milk sales assigned to quota price under this rule shall be decreased accordingly so that the total quota equals the applicable percentage in (1) above.

(a) A producer who acquires quota by purchase or otherwise which exceeds the applicable percentage in (1) is not eligible to receive an assignment of quota pursuant to this rule.

(3) Remains the same.

AUTH: 81-23-302, MCA

IMP: 81-23-302, MCA

32.24.504 TRANSFER OF QUOTA

(1) through (7) remain the same.

~~(8) Retirement of an eligible producer is a one-time opportunity. If an eligible producer retires and then re-enters the dairy business, this rule will not apply again. An eligible producer may retire and be exempt from the 10% penalty with a minimum of 15 continuous years in a dairy farm operation.~~

(8) An eligible producer may retire and be exempt from the 10% penalty with a minimum of 15 continuous years in a dairy farm operation.

(a) Retirement of an eligible producer is a one-time opportunity, and if an eligible producer retires and then re-enters the dairy business, this rule will not apply again.

(b) Upon approval by the producer committee to accept this retirement request, the producer will be allowed up to 6 months to sell his quota. However, if during this grace period the producer ceases production completely, then ARM 32.24.502 will apply.

(c) If at the end of the 6-month grace period the producer has not yet sold all his quota, and is still delivering milk to the processor, the producer committee will go back and assess a penalty on the amount of quota that had been transferred without penalty.

AUTH: 81-23-302, MCA

IMP: 81-23-302, MCA

32.24.505 REASSIGNMENT OF QUOTA FROM THE UNASSIGNED QUOTA POOL AND READJUSTMENT OF QUOTA INTO THE STATEWIDE QUOTA SYSTEM

~~(1) If the Montana market needs exceed the current established total quota then additional quota will be added into the quota system. Market needs are defined to exceed~~

current total quota when there is less than 16.5% in class III quota milk.

(2) (1) The quota accumulated in the unassigned quota pool will be re-assigned pro rata to all eligible producers when the unassigned quota pool is equal to or greater than 2,000 pounds.

(3) ~~For application of either (1) or (2) on or before the first day of April each year when applicable, the administrator shall calculate the additional quota to be assigned to each eligible producer in accordance with the following computations:~~

~~(a) compute the total pounds of class I and II milk of all pool plants during the preceding calendar year (January 1, through December 31);~~

~~(b) from the calendar year 1 year prior to the preceding calendar year subtract the total pounds of class I and II milk from the result obtained in (3) (a);~~

~~(c) divide any positive figure resulting from the computation in (3) (b) by total days in the year;~~

~~(d) determine the total pounds of quota that has been forfeited and accumulated prior to this calculation either by initial determination, loss of quota, or 10% penalties on transfer of quota; and~~

~~(e) the resulting pounds shall be prorated to all eligible producers on the basis of their average daily marketings of all plant milk during the preceding months of September through December and assigned to them as quota effective on May 1st next following.~~

(a) For application of (1) the administrator shall determine the total pounds of quota that has been forfeited and accumulated through March 31 either by initial determination (meaning when the quota system began), loss of quota, or 10% penalties on transfer of quota.

(b) The resulting pounds in (1)(a) shall be prorated to all eligible producers on the basis of their average daily marketing of milk to all pool plants during the preceding months of September through December and assigned to them as quota effective on May 1st.

(2) Readjustment of quota into the statewide quota system will occur if the Montana market needs exceed the current established total quota.

(3) Market needs are not met when the following conditions exist:

(a) when there is less than 16.5% in class III quota milk; and

(b) when production of class I and class II quota milk has increased from 2 years prior to the preceding year (when a negative figure results, there will be no readjustment).

(4) When the statewide quota system needs additional quota added to meet market needs, the administrator shall calculate on or before the first day of April each year the additional quota to be assigned to each eligible producer in accordance with the following computations:

(a) For application of (3) (a), using the preceding

calendar year (January 1 through December 31), the total class III quota milk is divided by the total quota pounds to determine the percentage of class III quota milk utilized.

(b) For application of (3)(b), using the preceding calendar year (January 1 through December 31), compute the total pounds of class I and class II quota milk from all pool plants and subtract the results obtained from (4)(a).

(c) Take the positive figure resulting from the computation in (4)(b) and divide it by the total days in the year to determine how many pounds of quota will be issued into the statewide quota system.

(d) The resulting pounds in (4)(c) shall be prorated to all eligible producers on the basis of their average daily marketing of milk to all pool plants during the preceding months of September through December and assigned to them as quota effective on May 1st.

(4) If the established quota contains more surplus than can be effectively handled, any affected party may petition the milk control board for a hearing.

(5) Each eligible producer will have 6 months after this plan's effective date to reduce his production to his assigned quota. Following the initial 6 months, any freight costs and loss on the movement and sale of surplus milk over quota will be charged back to those eligible producers who produced above their quota. The proceeds for the sale of surplus milk above quota, less transportation, will be paid to the eligible producers who ship in excess of their quota.

(5) Any affected party, not satisfied with the outcome of this rule, may petition the board of milk control for a hearing.

AUTH: 81-23-302, MCA

IMP: 81-23-302, MCA

32.24.511 POOLING PLAN DEFINITIONS (4) The following definitions apply in ARM 32.24.511 sub-chapter 5 unless the context otherwise requires:

(1) "Excess milk over quota" means milk received for a producer that is over his established quota. This milk is priced as excess milk.

- (a) remains the same, but is renumbered (4).
- (b) remains the same, but is renumbered (8).
- (c) remains the same, but is renumbered (3).
- (d) remains the same, but is renumbered (5).
- (e) remains the same, but is renumbered (6).
- (f) remains the same, but is renumbered (10).
- (g) remains the same, but is renumbered (7).
- (h) remains the same, but is renumbered (2).
- (i) remains the same, but is renumbered (13).
- (j) remains the same, but is renumbered (9).
- (k) remains the same, but is renumbered (11).

(12) "Surplus milk in quota" means the milk utilized at all pool plants was less than the amount of the total combined quota of all pool producers. This milk is priced as quota

milk.

AUTH: 81-23-302, MCA

IMP: 81-23-302, MCA

4. The proposed amendments are necessary for the following reasons:

(a) To clarify and/or make more workable certain provisions which govern the quota, pooling, utilization and marketing rules in ARM 32.24.503, 32.24.504 and 32.24.505; and

(b) to define what constitutes "surplus milk in quota" and "excess milk over quota" in ARM 32.24.511.

5. The proposed rule provides as follows:

RULE I PROCEEDS AND LOSSES FOR SURPLUS MILK IN QUOTA AND EXCESS MILK OVER QUOTA (1) Any freight costs and loss on the movement and sale of surplus milk in quota will be charged back to the statewide quota pool.

(a) If there is a loss, then all producers in the statewide quota system will share in the loss; or

(b) If there are any proceeds from surplus milk in quota, those proceeds will be shared with all producers in the statewide quota system.

(2) The proceeds for the sale of excess milk over quota, less transportation and administrative costs, will be shared with those producers who ship in excess of their quota.

AUTH: 81-23-302, MCA

IMP: 81-23-302, MCA

6. The proposed rule implements a means to determine how the proceeds and losses for surplus milk in quota and excess milk over quota are to be handled.

7. Concerned persons may submit their data, views or arguments concerning the proposed amendments and new rule in writing to the Milk Control Bureau, 301 N. Roberts Street - Room 236, PO Box 202001, Helena, MT 59620-2001, to be received no later than December 17, 1999.

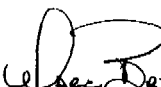
8. If persons who are directly affected by the proposed amendment and adoption wish to express their data, views and arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to the same address as above. The comments must be received no later than December 17, 1999.

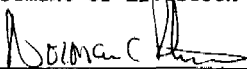
9. If the board receives requests for a public hearing on the proposed actions from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed

actions; from the appropriate administrative rule review 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 14 persons based on the 140 licensed milk producers in Montana.

10. The milk control bureau maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. 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 that the person wishes to receive notices regarding milk issues. Such written request may be mailed or delivered to the Milk Control Bureau, 301 N. Roberts Street - Room 236, PO Box 202001, Helena, MT 59620-2001.

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

By: 
Marc Bridges, Executive Officer
Board of Livestock
Department of Livestock

By: 
Norman C. Petersen, Rule Reviewer
Assistant Attorney General
Agency Legal Services Bureau

Certified to the Secretary of State November 8, 1999.

BEFORE THE DEPARTMENT
OF PUBLIC SERVICE REGULATION
OF THE STATE OF MONTANA

In the Matter of Proposed) NOTICE OF PUBLIC HEARING
Amendments to Rules Pertaining) ON PROPOSED AMENDMENT OF
to Pipeline Safety) ARM 38.5.2202 AND 38.5.2302

TO: All Concerned Persons

1. On Tuesday, December 21, 1999, at 1:30 p.m. a public hearing will be held in the Bollinger Room, Public Service Commission (PSC) offices, 1701 Prospect Avenue, Helena, Montana, to consider the amendment of ARM 38.5.2202 and 38.5.2302.

2. The PSC 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 require an accommodation, contact the PSC no later than 5:00 p.m. on December 14, 1999 to advise us of the nature of the accommodation that you need. Please contact Kathy Anderson, Commission Secretary, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, telephone number (406) 444-6170, TTD number (406) 444-6199, fax number (406) 444-7618.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

38.5.2202 INCORPORATION BY REFERENCE OF FEDERAL PIPELINE SAFETY REGULATIONS (1) The commission hereby adopts and incorporates by reference the U.S. Department of Transportation (DOT) Pipeline Safety Regulations, Code of Federal Regulations (CFR), Title 49, chapter 1, subchapter D, parts 191, 192, and 193, including all revisions and amendments enacted by DOT on or before ~~October 20, 1998~~ October 26, 1999. A copy of the referenced regulations may be obtained from DOT, Research and Special Programs Administration, Western Region, Pipeline Safety, 12600 W. Colfax Ave., Suite A-250, Lakewood, Colorado 80215-3736, or may be reviewed at the Public Service Commission Offices, 1701 Prospect Avenue, Helena, Montana 59620-2601.

AUTH: 69-3-207, MCA
IMP: 69-3-207, MCA

38.5.2302 INCORPORATION BY REFERENCE OF FEDERAL PIPELINE SAFETY REGULATIONS -- DRUG AND ALCOHOL TESTING AND PREVENTION PROGRAMS (1) Except as otherwise provided in this subchapter the commission hereby adopts and incorporates by reference the DOT Pipeline Safety Regulations, Drug and Alcohol Testing, 49 CFR 199, including all revisions and amendments enacted by DOT on or before ~~October 20, 1998~~ October 26, 1999. A copy of the

referenced CFR's is available from the DOT, Research and Special Programs Administration, Western Region, Pipeline Safety, 12600 W. Colfax Ave., Suite A-250, Lakewood, Colorado 80215-3736, or may be reviewed at the Public Service Commission Offices, 1701 Prospect Avenue, Helena, Montana 59620-2601.

AUTH: 69-3-207, MCA
IMP: 69-3-207, MCA

4. Amendments (annual updates) of the rules are necessary to allow the PSC to properly administer the most current version of federal rules applicable in the PSC's administration of all federal aspects of Montana's pipeline safety programs.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments (original and 10 copies) may also be submitted to Legal Division, Public Service Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, and must be received no later than December 21, 1999. (PLEASE NOTE: When filing comments pursuant to this notice please reference "Docket No. L-99.11.11-RUL.")

6. The PSC, a commissioner, or a duly appointed presiding officer may preside over and conduct the hearing.

7. The Montana Consumer Counsel, 616 Helena Avenue, P.O. Box 201703, Helena, Montana 59620-1703, phone (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.

8. The PSC maintains a list of persons who wish to receive notices of rulemaking actions proposed by the PSC. 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 that the person wishes to receive notices regarding: electric utilities, providers, and suppliers; natural gas utilities, providers and suppliers; telecommunications utilities and carriers; water and sewer utilities; common carrier pipelines, motor carriers, rail carriers, and administrative procedures. Such written request may be mailed or delivered to Legal Division, Public Service Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, faxed to Legal Division at (406) 444-7618, or may be made by completing a request form at any rules hearing held by the PSC.

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



Dave Fisher, Chairman



Reviewed By Robin A. McHugh

CERTIFIED TO THE SECRETARY OF STATE NOVEMBER 5, 1999.

BEFORE THE DEPARTMENT
OF PUBLIC SERVICE REGULATION
OF THE STATE OF MONTANA

In the Matter of the Proposed)	NOTICE OF PUBLIC HEARING
Adoption and Amendment of)	ON THE PROPOSED ADOPTION
Rules Implementing)	AND AMENDMENT OF DISCLOSURE
Title 69, chapter 8, (MCA),)	AND LABELING RULES
(Electric Utility Industry)	
Restructuring and Customer)	
Choice Act) Pertaining to)	
Disclosure and Labeling to)	
Inform Customers on)	
Electricity Supply Service)	

TO: All Concerned Persons

1. On Monday, December 20, 1999 at 10:30 a.m. a public hearing will be held in the Bollinger Room, Public Service Commission (Commission) offices, 1701 Prospect Avenue, Helena, Montana, to consider the proposed adoption and amendment of rules on disclosure and labeling of electricity supply and electricity supply service.

2. The PSC 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 require an accommodation, contact the PSC no later than 5:00 p.m. on December 13, 1999 to advise us of the nature of the accommodation that you need. Please contact Kathy Anderson, Commission Secretary, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, telephone number (406) 444-6170, TTD number (406) 444-6199, fax number (406) 444-7618.

3. The rules proposed for adoption provide as follows:

RULE I. DEFINITIONS (1) "Biomass" means an electric power source derived from combustible residues or gasses from logging, forest products manufacturing, agricultural and orchard crops, black pulping liquor, waste products from livestock and poultry operations and food processing, urban wood waste, municipal liquid waste treatment operations, and landfill gas.

(2) "Claim" or "claims-based sale" means a claim made to customers by a retail supplier for the purpose of marketing any electricity product that identifies any of a retail supplier's electricity sources as different from net system power or a claim that a sale is based on or related to one or more specific purchases or power supplies and that contains either:

(a) a reference to the type of fuel used to generate the electricity product offered for sale by the retail supplier, other than disclosure of net system power;

(b) a reference, directly or indirectly, to use of a renewable resource to generate, in part or in whole, the electricity product offered for sale by the retail supplier, other than disclosure of net system power; or

(c) a statement that either a specific attribute of the electricity product or of its use creates or is associated with an environmental effect.

(3) "Coal" means a power source from burning coal or coal wastes.

(4) "Disclosure" means disclosure to the end-use customer in accordance with these rules.

(5) "Electricity product" means the electrical energy produced by a generating facility that a retail seller offers to sell or sells to customers in this state under terms and conditions specific to an offer or to a tariff. It does not include the provision of electric services on-site at the retail customer's premises.

(6) "Fuel mix" means the actual or imputable sources of electricity sold at retail, expressed in terms of percentage contributions by the various fuels or technologies (such as coal or solar) used to generate electricity. The total fuel mix included in each disclosure must total one hundred percent.

(7) "Geothermal" means an electric power source derived from thermal energy naturally produced within the earth.

(8) "Hydro" means a power source created when water flows from a higher elevation to a lower elevation and such flow is converted to electrical energy in one or more generators at a single facility.

(9) "Low-impact hydro" means hydroelectric generation sources that have low environmental impact.

(10) "Natural gas" means a power source from burning natural gas, ethane or propane.

(11) "Net system power" means the sum of all power generation within the United States portion of the northwest power pool less all specific purchases from generation facilities within the northwest power pool. Net system power is assigned the average residual fuel source and environmental impact characteristics of all generation within the northwest power pool area, less all specific purchases, as determined in accordance with the memorandum of understanding on electricity generation reporting procedures within the western interconnection executed by and between the regulatory agencies of states located within the geographic boundaries of the western systems coordinating council.

(12) "Nuclear" means a power source from nuclear fission or fusion.

(13) "Other" means a power source other than a renewable, coal, hydro, natural gas, or nuclear source. Each type of "other" should be specifically listed if it constitutes more than one and one-half percent of total sources.

(14) "Promotional materials" means any paper, electronic, or other media distributed to customers that contain words pertaining to a specific electricity or gas product being advertised, offered, or contracted for and that are distributed to customers, including advertisements and notices in general circulation media.

(15) "Renewable" means a technology other than a conventional power source that uses biomass, geothermal, low impact hydro, solar, or wind as the source of electrical generation.

(16) "Retail supplier" or "retail seller" means an entity that offers an electricity product for sale to retail customers in the state.

(17) "Solar" means an electric power source that is derived from radiation from the sun that is directly or indirectly converted to electrical energy.

(18) "Specific purchase" means:

(a) a transaction claimed by a retail supplier to document the source of supply, consisting of the purchase of a stated quantity of electricity, directly or indirectly, from a specified generation facility; or

(b) purchase of the right to trace a stated quantity of electricity to generation of an equal amount by a specified generation facility.

(19) "Uniform information label" means the prescribed format for disclosure of information under this rule to small customers.

(20) "Wind" means an electric power source created by movement of air that is converted to electrical energy.

AUTH: 69-8-403, MCA

IMP: 69-8-102, MCA

RULE II. ELECTRICITY PRODUCT SPECIFIC DISCLOSURE

(1) In connection with any sale or offer for sale of any electricity product, the retail supplier must provide the following information to the customer:

(a) the price of electricity as required by [RULE III];

(b) the generation source by fuel type as required by [RULE IV]; and

(c) the environmental impacts for the electricity product offered for sale, as required by [RULE V].

(2) Each retail supplier must disclose the information required in this rule to electricity customers as follows:

(a) Disclosure to small customers in the form of a uniform information label in the format located on the commission's web site must be provided to each customer at the time of an offer for sale along with the terms of service. Thereafter, the disclosure must be provided semi-annually at a minimum;

(b) Product specific advertising appearing in newspapers and magazines must include a condensed label disclosing source of power and average generation price for newspaper ads quarter page or larger and full-page magazine ads unless the

majority of customers in the affected area have already received direct mail on the products; and

(c) Product specific advertising appearing in newspapers and magazines must include an 800 number box for:

(i) newspaper ads quarter page or larger and full-page magazine ads that were subject to the exception contained in (2)(b); and

(ii) newspaper ads smaller than quarter page or magazine ads less than full a page.

(3) Disclosure of the information to large commercial, industrial and other customers not included within the definition of small customers must be provided to the customer at the time of sale and annually thereafter. For purposes of this rule, sales to aggregated accounts of small commercial customers collectively using 50 thousand kilowatt-hours or more of electricity each month of the year must be treated as sales to large commercial and industrial customers.

AUTH: 69-8-403, MCA

IMP: 69-8-102, MCA

RULE III. ELECTRICITY PRICE AND CONTRACT DISCLOSURE

(1) Disclosure for small customers must include electricity price per kilowatt-hour and contract information in accordance with this rule.

(2) The price of the electricity product without reflecting any adjustments for nonrecurring cash or non-cash inducements must be disclosed as the effective price of electricity supply service in cents per kilowatt-hour for the following specified levels of consumption typical for the customer segment:

(a) for residential customers, the price per kilowatt-hour for usage amounts of 250, 500, 1000 and 2000 kilowatt-hours per month; and

(b) for small commercial customers, the price per kilowatt-hour for usage amounts of 1,000, 10,000 and 30,000 kilowatt-hours per month. For small commercial customers with a demand meter, the demand charges for peak demands of 8, 40, and 100 kilowatt-hours associated with each level must be disclosed. With commission approval, other usage levels based on representative percentages of a particular class size may be substituted for the levels specified above.

(3) Retail suppliers offering electricity on a spot market or other variable price basis must disclose prices as follows:

(a) Prices per kilowatt-hour for typical usage levels must reflect the price calculated over the most recent calendar year based on a single, generic load profile for each customer class; and

(b) This statement must be printed below the average bill portion of the label: "Your actual price will depend on future market conditions and could be substantially higher or lower than the prices reflected here that are based on historical market conditions. Your bill amount is not [is]

capped if prices rise. See your service contract for exact pricing and historic price information."

(4) The uniform information label must also include:

- (a) a "contract" section which will specify the length of time the contract will be in effect;
- (b) whether the price is fixed or variable;
- (c) the toll-free telephone number for customer inquiries; and
- (d) the hours during which the customer can contact the supplier at that number.

AUTH: 69-8-403, MCA

IMP: 69-8-102, MCA

RULE IV. ELECTRICITY PRODUCT FUEL MIX DISCLOSURE

(1) Disclosure must specify the fuel mix of the electricity product sold in accordance with this rule.

(2) Each retail supplier must disclose to customers the fuel mix of each electricity product offered as follows:

(a) A retail supplier making a claim of specific purchases or a claims-based sale must:

- (i) disclose the projected fuel mix for the electricity product for the current calendar year; or
- (ii) include for comparison the fuel mix for net system power based on the previous calendar year.

(b) A retail supplier supplying electricity without any claims of specific purchases and making sales that are not claims-based sales must:

(i) disclose the fuel mix for the electricity product as the fuel mix for net system power based on the previous calendar year; and

(ii) include a subheading below the fuel mix disclosure stating: "The electricity sold under this label is supplied from whatever electricity supply is available. The fuel mix shown above is based on the supply available over a recent twelve-month period."

(3) The disclosure must include the following information about the fuel mix of the electricity product:

(a) Fuel mix information must be provided as percentages of the total product supply for the electricity product using the following fuel type categories in the following order:

- (i) renewable;
- (ii) coal;
- (iii) hydro (non low-impact);
- (iv) natural gas;
- (v) nuclear; and
- (vi) other (specify for types over one and one-half percent).

(b) The retail supplier may include the following sub-categories within the renewable category, but is not required to display the fuel mix percentages for these sub-categories:

- (i) biomass;
- (ii) geothermal;
- (iii) low-impact hydro;

- (iv) solar; and
- (v) wind.
- (4) The percentage of each specified fuel type category or sub-category must be calculated based on weighted contribution in kilowatt-hours supplied from that fuel mix category over the relevant period. The sum of the categories must total one hundred percent.

AUTH: 69-8-403, MCA

IMP: 69-8-102, MCA

RULE V. ENVIRONMENTAL IMPACT DISCLOSURE (1) Disclosure must specify the environmental impacts of the electricity product sold in accordance with this rule.

(2) Each retail supplier must disclose in the form of a bar chart the environmental impacts from generation of the electricity product sold, as compared to the respective levels (regional average levels) of such impacts from all electricity generation in the region encompassed by net system supply. The bar chart must reflect separate horizontal bars for each of the following environmental impacts:

- (a) carbon dioxide;
- (b) sulfur dioxide;
- (c) nitrogen oxides;
- (d) spent nuclear fuel; and
- (e) hydro impact.

(3) The bar chart must contain a vertical line across the bar chart, which represents the regional average level of each impact from all electricity generation in the region encompassed by net system supply. For each impact the horizontal bar must measure the greater or lesser percentage of that impact from the electricity product sold as compared to the regional average level represented by the vertical line. For each impact, the percentage of impact from the specified electricity product as compared to the regional average must be computed using the following rate measurements:

- (a) carbon dioxide, measured in lbs/kWh of carbon dioxide emissions;
- (b) sulfur dioxide, measured in lbs/kWh of sulfur dioxide emissions;
- (c) nitrogen oxides, measured in lbs/kWh of nitrogen oxide emissions;
- (d) spent nuclear fuel, measured in mg/kWh of spent fuel; and
- (e) hydro impact, as percentage of non low-impact hydro in the fuel mix.

(4) A retail supplier making a claim of specific purchases or a claims-based sale must compute the impacts based on the annual emission factors for the most recent calendar year applied to the expected production level for each source of supply included in the electricity product.

(5) A retail supplier supplying some or all electricity without any claims of specific purchases and making sales that

are not claims-based sales must include for that portion of supply the environmental impacts for net system power based on the previous calendar year, with a subheading below the disclosure stating: " percent of the electricity sold under this label is supplied from whatever electricity supply is available. The environmental impact levels shown above are based on the supply available over a recent twelve-month period."

(6) A retail supplier must include in the terms of service an explanation of environmental impacts in the form prescribed by the commission.

AUTH: 69-8-403, MCA
IMP: 69-8-102, MCA

4. The rule proposed for amendment provides as follows:

38.5.6004 SMALL CUSTOMER SERVICE CONTRACT (1) All rates, terms and conditions for supply service must be provided to a small customer in a service contract, written in plain language. The service contract must include the letter of authorization required by ARM 38.5.6002 and the letter of authorization must be returned by the customer to the supplier before any supply service is provided. The front page of a service contract shall prominently and clearly disclose a uniform information label prescribed by the commission in conformance with [RULES I THROUGH VI] for electricity supply and as available on the commission's internet website for both electricity and gas supply. For gas supply service the uniform information label must specify:

(a) remains the same.
(b) the effective price for gas supply service, ~~in cents per kilowatt hour for electricity or, for gas, stated as price~~ per either dekatherm or mcf, whichever billing unit is used by the distribution services provider, for ~~various~~ specified levels of consumption typical for the customer's customer segment;

(c) and (d) remain the same.
(2) through (10) remain the same.

AUTH: 69-3-1404, 69-8-403, MCA
IMP: 69-3-1404, 69-8-102, 69-8-403, MCA

5. Rationale: Senate Bill 390 (1997) ("Electric Utility Industry Restructuring and Customer Choice Act," codified at Title 69, Chapter 8, MCA) requires the Commission to promulgate rules as necessary to carry out the provisions of the chapter, including informing customers regarding electricity supply service. The Committee on Regional Electric Power Cooperation (CREPC) and the Western Conference of Public Service Commissioners initiated a regional Consumer Information Disclosure Project to develop a Model Rule to promote as much regional consistency as possible. Assisted by

the National Council on Competition and the Electric Industry, the joint effort resulted in Version 2.5, Model Rule on Consumer Disclosure in Connection with Electricity Sales. Customers can make more informed choices more quickly when presented with consistent formats and standard definitions for comparison of products. The Model Rule includes provisions covering price, price variability, fuel source, and environmental impacts. The Model Rule is a source document providing a common starting point for the western states to implement a common format, while modifying the rule to comply with the requirements of particular state laws. In accordance, the Commission has incorporated the definitions, relevant provisions and standard format to better inform Montana customers about choices in electrical supply.

The Commission put proposed draft rules on the disclosure and labeling provisions out to a substantial number of concerned parties for comment. The Commission's proposed rules in this notice take into consideration the comments received on or before September 17, 1999.

6. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments (original and 10 copies) may also be submitted to Legal Division, Public Service Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, and must be received no later than December 20, 1999. (PLEASE NOTE: When filing comments pursuant to this notice please reference "Docket No. L-99.7.9-RUL."

7. The Public Service Commission, a commissioner, or a duly appointed presiding officer may preside over and conduct the hearing.

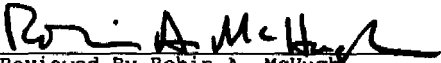
8. The Montana Consumer Counsel, 616 Helena Avenue, P.O. Box 201703, Helena, Montana 59620-1703, phone (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.

9. The PSC maintains a list of persons who wish to receive notices of rulemaking actions proposed by the PSC. 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 that the person wishes to receive notices regarding electric utilities, providers, and suppliers; natural gas utilities, providers and suppliers; telecommunications utilities and carriers; water and sewer utilities; common carrier pipelines; motor carriers; rail carriers; and administrative procedures. Such written request may be mailed or delivered to Legal Division, Public Service Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, faxed to Legal Division at (406) 444-7618, or may be made by completing a request form at any rules hearing held by the PSC.

10. Both bill sponsor notification requirements of 2-4-302, MCA, apply and have been complied with.



Dave Fisher, Chairman



Reviewed By Robin A. McHugh

CERTIFIED TO THE SECRETARY OF STATE NOVEMBER 8, 1999.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING
adoption of New Rule I and) ON THE PROPOSED ADOPTION
amendment of ARM 42.22.105) AND AMENDMENT
relating to Intangible)
Personal Property)

TO: All Concerned Persons

1. On December 16, 1999, at 9:00 a.m., a public hearing will be held in the Fish, Wildlife and Parks Commission Room, First Floor, Fish, Wildlife and Parks Building, 1420 East 6th Avenue, in Helena, Montana, to consider the adoption of New Rule I and the amendment of ARM 42.22.105, relating to intangible personal property.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the Department not later than 5:00 p.m., December 6, 1999, to advise us of the nature of the accommodation that you need. Please contact Cleo Anderson, Department of Revenue, Director's Office, P.O. Box 5805, Helena, Montana 59604-5805; telephone (406) 444-2460; fax (406) 444-3696; or e-mail canderson@state.mt.us.

3. The proposed new rule I does not replace or modify any section currently found in the Administrative Rules of Montana. The rule proposed to be adopted provides as follows:

NEW RULE I DEDUCTIONS FOR EXEMPT INTANGIBLE PERSONAL PROPERTY (1) The value of exempt intangible personal property shall be deducted from each unit valuation indicator as follows:

(a) In the cost approach, by deducting the net book value of exempt intangible personal property which is included in the unit or system net book value;

(b) In the income and market approaches, by subtracting the exempt value calculated by multiplying each value indicator by the percent attributable to exempt intangible personal property for each centrally assessed industry as follows:

(i) Airlines	10%
(ii) Pipelines	5%
(iii) Electric Cooperatives	5%
(iv) Telephone Cooperatives	5%
(v) Electric Utilities	10%
(vi) Telecommunications	15%; or

(c) For railroads assessed according to the provisions of 15-23-205, MCA, exempt intangible personal property, which shall be deducted from the railroad system value, is equal to 5% of the system value.

(2) If the taxpayer believes that the value of intangible personal property is different than provided in (1)(b) or

(1) (c), then the taxpayer must provide clear and convincing evidence of the value of each claimed exempt intangible personal property.

(3) Upon consideration of the information provided according to (2), the department may determine a value for exempt intangible personal property which may be greater or less than that calculated according to (1) (b) or (1) (c).

(4) The department will review the percentages in (1) (b) biennially.

AUTH: 15-23-108, MCA

IMP: 15-6-218, 15-23-202, and 15-23-303, MCA

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

42.22.105 REPORTING REQUIREMENTS (1) Each year all centrally assessed companies shall submit to the department of revenue a report of operations for the preceding year. Railroads, railroad car companies, and pipelines shall submit the report by April 15 and all others by March 31, on forms supplied by the department.

(2) The report shall contain the following information on the operating properties:

(a) balance sheet for the system;

(b) statement of income for the system;

(c) original cost and book depreciation for system property, including an estimate of current value of property leased from others;

(d) statement of outstanding preferred stock, common stock, and debt, showing both book value and market value;

(e) statement of actual revenue and expense for the Montana operation- (if actual amounts are not available, a statement of allocated revenue and expense may be substituted)-;

(f) if nonoperating properties are included in subsections (a) through (e), their original cost, book depreciation, market value, and income;

(g) general description, original cost, and book depreciation of Montana properties, including description and location of property leased from others, together with name of lessor, current value or annual rental, and responsibility for the property tax (lessor or lessee);

(h) if rolling stock is allocated to Montana, the method used;

(i) pertinent statistical data on the company's operations within and without this state;

(j) copy of annual report to stockholders;

(k) copy of annual report to the federal regulatory agency if one is filed;

(l) copy of annual report to the Montana public service commission if no report is filed with a federal regulator agency;

(m) in the case of centrally assessed railroads, all information required under ARM 42.22.106;

(n) in the case of centrally assessed electric utilities, all information required under ARM 42.22.107, if applicable;

(o) all other information requested by the department which will assist in valuing the operating properties;

(p) documentation and verification of all intangible personal property exemptions claimed under New Rule I;

(q) documentation of the net book value of intangible personal property included on the taxpayers books; and

(~~p~~)(r) signed statement of correctness.

(3) remains the same.

AUTH: 15-6-218 and 15-23-108, MCA

IMP: 15-6-218, 15-23-103, 15-23-201, 15-23-212, 15-23-301, 15-23-402, 15-23-502, 15-23-602, and 15-23-701, MCA

5. The Department is proposing amendments to ARM 42.22.105 to show that a reporting requirement which provides documentation and verification of all intangible personal property exemptions are claimed under new rule I(2). This reporting requirement is only necessary if the taxpayer chooses to request an exempt intangible personal property deduction which differs from that provided in new rule I(1)(b) or (c). This reporting requirement provides utility appraisers with the information necessary to evaluate whether a different intangible exemption is substantiated and allowable.

New rule I describes the deductions for the exempt intangible personal property for centrally assessed taxpayers. More specifically, the rule specifies the valuation methodology for centrally assessed intangible personal property. The law requires the Department to adopt administrative rules specifying the valuation methodology for centrally assessed intangible personal property prior to valuation determinations for tax year 2000.

6. Interested parties may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to:

Cleo Anderson
Department of Revenue
Director's Office
P.O. Box 5805
Helena, Montana 59604-5805

and must be received no later than December 27, 1999.

7. Cleo Anderson, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.


8. The Department of Revenue 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 that the person wishes to receive notices regarding particular subject matter. Such written request may be mailed or delivered to the person in section 6 above or faxed to the office at (406) 444-3696, or may be made by completing a

request form at any rules hearing held by the Department of Revenue.

9. The notice requirements of 2-4-302, MCA, apply and have been satisfied.



CLEO ANDERSON
Rule Reviewer



MARY BRYSON
Director of Revenue

Certified to Secretary of State November 8, 1999

BEFORE THE BOARD OF REAL ESTATE APPRAISERS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT OF
of rules pertaining to board) 8.57.411 CONTINUING
organization and continuing) EDUCATION
education)

TO: All Concerned Persons

1. On June 3, 1999, the Board of Real Estate Appraisers published a notice of the proposed amendment of the above-stated rules at page 1189, 1999 Montana Administrative Register, issue number 11.

2. The Board has decided not to adopt the proposed change to ARM 8.57.101. The Board has amended ARM 8.57.411 as proposed but with the following changes, stricken matter interlined, new matter underlined.

"8.57.411 CONTINUING EDUCATION (1) through (4) will remain the same.

(5) Up to and including the renewal year ending March 31, 2001, a maximum of 30 continuing education hours in excess of the 45 hours needed, can be carried over to the next renewal cycle. Continuing education hours will not be accepted for carry over for the renewal year ending March 31, 2002. (The uniform standards of professional appraisal practice cannot be carried over."

AUTH: Sec. 37-1-131, 37-1-306, 37-54-105, MCA
IMP: Sec. 37-1-131, 37-1-306, 37-54-105, 37-54-210,
37-54-303, 37-54-310, MCA

3. The Board received two written comments. The comments received and the Board's response is as follows:

COMMENT #1: The commentators agreed with the repeal of the carry over of continuing education hours but suggested that the change be phased-out to allow those with education carry-over credits to retain those hours for the upcoming renewal process.

RESPONSE: The Board concurred with the commentators and has amended the rule to allow a phase-out period in which to allow continuing education hours to be carried over.

BOARD OF REAL ESTATE APPRAISERS
A. FARRELL ROSE, CHAIRMAN

BY: *Annie M. Bartos*

ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Annie M. Bartos

ANNIE M. BARTOS, RULE REVIEWER

CERTIFIED TO THE SECRETARY OF STATE, November 8, 1999

BEFORE THE STATE LIBRARY COMMISSION
OF THE STATE OF MONTANA

In the matter of the) NOTICE OF ADOPTION
adoption of new rules I through) AND REPEAL
through VIII, and repeal of)
ARM 10.102.101, 10.102.1101 through)
10.102.1113, 10.102.1116 through)
10.102.1122, 10.102.1126,)
10.102.1129, 10.102.1130,)
10.102.1133 through 10.102.1138,)
and 10.102.1140 through 10.102.1149)
relating to library standards)

TO: All Concerned Persons

1. On August 12, 1999 the state library commission published notice of the proposed adoption of New Rules I through VIII, and repeal of ARM 10.102.101, 10.102.1101 through 10.102.1113, 10.102.1116 through 10.102.1122, 10.102.1126, 10.102.1129, 10.102.1130, 10.102.1133 through 10.102.1138, and 10.102.1140 through 10.102.1149 relating to library standards at page 1724 of the 1999 Montana Administrative Register, Issue No. 15.

2. A public hearing was held on September 10, 1999, where oral comments were received.

3. Oral and written comments received by the state library commission are summarized as follows, along with the state library commission's response.

COMMENT 1: Three years is not enough time to be certified.

RESPONSE: The certification program has been amended to include an enrollment level. This enrollment and subsequent participation in approved continuing education activities will provide all library directors in this category sufficient time to achieve this standard.

COMMENT 2: Why is the service population gap from 3,500 to 10,000? Commentator suggested ranges from 3,500 to 5,000; 5,000 to 7,000; and 7,000 to 11,000.

RESPONSE: The committee that drafted the standards looked at the divisions used by other states and researched other divisions. Their best judgment is that these divisions are appropriate in Montana. The state library commission has amended new rule I(1)(g) to add (iv) to allow libraries that fall on the edge of a population division to use a lesser standard.

COMMENT 3: If a library does not receive its state funding due to non-compliance with standards, what will the state library do with these dollars?

RESPONSE: The state library commission will leave the funds in the various state aid accounts and disperse the funds, according to its rules, to libraries that meet these standards.

COMMENT 4: In new rule II(1), insert "each year."

RESPONSE: The state library commission agrees and has amended new rule II(1) as suggested.

COMMENT 5: Is another deferral possible if a library cannot meet these standards within the three years?

RESPONSE: The state library commission has added a one-year extension to the rules. No other extension is allowed.

COMMENT 6: In new rule V(1), is "denied a waiver" the same as the "letter denying payment" in new rule III(1)(b)?

RESPONSE: The state library commission has clarified this language in new rule III(1)(b).

COMMENT 7: In new rule V(1)(b)(i), does "who is not from the appellant's library" mean that it cannot be a library patron, or just library staff? Does "not...governing authority" mean city, county, or in our case as multi-jurisdictional, also not trustees?

RESPONSE: The state library commission has clarified this language in new rule V(1)(b)(i).

COMMENT 8: Are libraries limited to an appeal on process issues?

RESPONSE: No. Libraries may enter the appeal for any violation of process or a difference in interpretation.

4. As a result of these comments, the state library commission has adopted the following rules with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I (10.102.1150) PUBLIC LIBRARY STANDARDS (1) through (1)(g)(iii) remain the same.

(iv) if a library notifies the state library that it has a service population that is no more than five percent over the minimum for any of the upper three ranges, then the state library will consider that library in the next lowest range for service population purposes.

(h) remains the same.

AUTH: Sec. 22-1-103, MCA; IMP, Sec. 22-1-103, 22-1-326, 22-1-327, 22-1-328, 22-1-329, 22-1-330 and 22-1-331, MCA

NEW RULE II (10.102.1151) CERTIFICATION STATEMENT

(1) Montana state library will send a certification statement to public libraries each fiscal year.

(a) and (b) remain the same.

AUTH: Sec. 22-1-103, MCA; IMP, Sec. 22-1-103, 22-1-326, 22-1-327, 22-1-328, 22-1-329, 22-1-330 and 22-1-331, MCA

NEW RULE III (10.102.1152) DEFERRALS (1) through (1)(a) remain the same.

(b) The state librarian shall notify the library requesting the waiver of the decision by letter by October 1.

(c) Any library may request a one-year extension of the waiver from the state librarian in writing by August 25th of each year. The library shall provide the state librarian with an updated compliance plan and a statement that the application of the standard will cause a hardship.

(d) The state librarian may grant an extension for one year only. No other extension is allowed.

(b) remains the same, but is renumbered (e).

AUTH: Sec. 22-1-103, MCA; IMP, Sec. 22-1-103, MCA

NEW RULE V (10.102.1154) APPEALS PROCESS (1) through (1)(b) remain the same.

(i) a member named by the appellant who is not ~~from the appellant's library or governing authority~~ a member of the appellant's library staff, library board, or city or county commission;

(ii) remains the same.

(iii) a member from the library community who is not ~~connected to~~ affiliated with the appellant's library, the state library commission, or state library staff, named by the president-elect of the Montana library association.

(c) The independent review committee shall hear the appeal based on the following procedures: ~~which it shall determine.~~

(i) both the appellant and the state ~~librarian~~ library shall have equal opportunity to present testimony, either in writing or orally, and to respond to points raised by the other party;

(ii) remains the same.

(d) The commission can affirm, deny, or modify the findings and recommendations of the independent review committee.

(e) remains the same.

(f) Neither the independent review process nor any subsequent review and decision process of the commission is a contested case, and common law and statutory rules of evidence do not apply to these proceedings.

AUTH: Sec. 22-1-103, MCA; IMP, Sec. 22-1-103, 22-1-326, 22-1-327, 22-1-328, 22-1-329, 22-3-330 and 22-1-331, MCA

5. The state library commission has adopted new rules IV (10.102.1153), VI (10.102.1155), VII (10.102.1156), and VIII (10.102.1157) as originally proposed.

6. The state library commission has repealed ARM 10.102.101, 10.102.1101 through 10.102.1113, 10.102.1116 through 10.102.1122, 10.102.1126, 10.102.1129, 10.102.1130, 10.102.1133 through 10.102.1138 and 10.102.1140 through 10.102.1149 as proposed.

Karen Strege

KAREN STREGE

State Librarian and Rule Reviewer

Certified to Secretary of State November 8, 1999.

BEFORE THE DEPARTMENT OF CORRECTIONS
OF THE STATE OF MONTANA

In the matter of the adoption)
of new Rules I through XLIV) CORRECTED NOTICE
pertaining to the operation) OF ADOPTION
and physical condition of a)
private correctional facility)
and the security, safety,)
health, treatment and discipline)
of persons confined in a private)
correctional facility)

TO: All Concerned Persons

1. On September 9, 1999, the Department of Corrections published a notice at page 1902 in the 1999 Montana Administrative Register, Issue Number 17, of the adoption of the above captioned rules which set out the department's licensing requirements for private correctional facilities operating within the state.

2. The reason for the corrections are:

a. the notice of adoption incorrectly cited 53-30-603, MCA as authorizing authority for each rule;

b. the citations to the specific sections in the Montana Code Annotated that certain rules intended to implement were not included pursuant to 2-4-305, MCA;

c. the notice of adoption did not reflect the clearest language in response to the comment of Rule VII(2). Rule VII (20.27.210) was changed to be easier understood explaining who receives the license to operate a private correctional facility; and

d. a change on Rule V (20.27.207) for grammatical improvement on paragraph (1)(e), from or to and to include both ACA and NCCHC is needed to be accredited for a private correctional facility.

3. The corrected rule adoption is as follows:

20.27.201 PURPOSE (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA

IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.202 DEFINITIONS (1) through (3) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.203 FACILITY LICENSE (1) through (5) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and 53-30-606, MCA

20.27.206 LICENSING PROCEDURES (1) through (8) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and 53-30-606, MCA

20.27.207 LICENSE REVOCATION AND DENIAL (1) through (1) (d) remain the same.

(e) has failed to become accredited by both ACA ~~or~~ and NCCHC within the first three years of operation;
(f) and (g) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and 53-30-606, MCA

20.27.208 HEARING (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.210 PURPOSE AND MISSION (1) remains the same.

(2) ~~The facility must be established by being party to a current contract with the state of Montana to operate a private correctional facility which complies with 53-30-608, MCA. To receive a license under these rules, the owner or operator of a private correctional facility must have a current contract with the department to operate the facility which complies with 53-30-608, MCA.~~

(3) through (5) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604, and 53-30-606, and 53-30-608, MCA

20.27.212 FACILITY WARDEN (1) through (3) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.213 FACILITY ORGANIZATION (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.214 POLICY AND PROCEDURE MANUAL (1) and (2) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.216 MEDIA ACCESS (1) through (1)(b) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and 53-30-606, MCA

20.27.217 INMATE FUNDS (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.218 STAFFING REQUIREMENTS (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.219 BACKGROUND/CRIMINAL RECORD CHECK (1) and (2) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.221 DRUG-FREE WORKPLACE (1) through (1)(b) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.222 PERSONNEL FILES (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.223 TRAINING AND STAFF DEVELOPMENT (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.225 INMATE POPULATION MOVEMENT (COUNT) (1) through (3) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~ 53-30-610, MCA

20.27.227 BUILDING AND SAFETY CODES (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and 53-30-606, MCA

20.27.229 INMATE HOUSING (1) and (2) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.230 EXERCISE AND RECREATION (1) and (2) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.231 VISITING AREAS (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.232 FIRE AND LIFE SAFETY (1) through (6) (c) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.233 EMERGENCY RESPONSE PLAN (1) through (2) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.235 USE OF FORCE, RESTRAINTS AND CHEMICAL AGENTS (1) through (4) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.237 SECURITY MANUAL (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.238 CONTROL OF CONTRABAND (1) and (2) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.239 KEY AND TOOL CONTROL (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.241 INJURIES INCURRED IN A FACILITY INCIDENT
(1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.242 FACILITY SECURITY THREATS, ESCAPES (1) through (4) (b) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and 53-30-606, MCA

20.27.243 RULES AND DISCIPLINE (1) through (1) (c) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.245 SPECIAL MANAGEMENT (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.246 INMATE CLASSIFICATION (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~ 53-30-608, MCA

20.27.248 INMATE RIGHTS (1) through (3) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and 53-30-606, MCA

20.27.250 ADMISSION (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.251 PERSONAL PROPERTY (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.252 MENU, DIETS, FOOD SERVICE (1) through (5) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.253 SANITATION AND HYGIENE (1) through (4) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.254 HEALTH CARE (1) through (5) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.255 PHARMACEUTICALS (1) through (1)(g) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.256 HEALTH SCREENING (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and 53-30-606, MCA

20.27.258 INMATE WORK PROGRAMS (1) through (1)(b) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: ~~53-30-132~~, 53-30-604 and ~~53-30-606~~, MCA

20.27.260 MAIL, TELEPHONE, VISITING (1) through (2)(b) remain the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

20.27.261 RELIGIOUS PROGRAMS (1) remains the same.

AUTH: ~~53-30-603~~ and 53-30-604, MCA
IMP: 53-30-604 and ~~53-30-606~~, MCA

4. Replacement pages for the corrected notice of adoption will be submitted to the Secretary of State on December 31, 1999.

DEPARTMENT OF CORRECTIONS

By: /s/ Rick Day
Rick Day, Director

/s/ Lois Adams
Lois Adams, Rule Reviewer

Certified to the Secretary of State November 8, 1999

BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT
of ARM 36.2.101, pertaining to)
the department model procedural)
rules)

TO: All Concerned Persons

1. On October 7, 1999, the Department of Natural Resources and Conservation published notice of the proposed amendment of ARM 36.2.101 concerning the department model procedural rules at page 2224 of the 1999 Montana Administrative Register, Issue Number 19.

2. The agency has amended ARM 36.2.101 as proposed.

AUTH: Sec. 2-4-201, MCA
IMP: Sec. 2-4-201, MCA

3. No comments or testimony were received.



DONALD D. MACINTYRE
Rule Reviewer



ARTHUR R. CLINCH
Director

Certified to the Secretary of State November 8, 1999.

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

In the matter of the adoption)
of Rules I through XXI) CORRECTED NOTICE OF
pertaining to network) ADOPTION
adequacy in managed care)

TO: All Interested Persons

1. On July 22, 1999, the Department of Public Health and Human Services published notice of the proposed adoption of the above-stated rules at page 1627 of the 1999 Montana Administrative Register, issue number 14, and on September 23, 1999, published notice of the adoption on page 2052 of the 1999 Montana Administrative Register, issue number 18.

2. This corrected notice is being filed to correct an error in ARM 37.108.251(3).

3. The rule is corrected as follows:

RULE XXI (37.108.251) APPEAL FROM DEPARTMENT DECISION (1) and (2) remain as adopted.

(3) The provisions of ARM 46.2.201, 46.2.202, 46.2.205 through 46.2.212, 46.2.214 and ~~46.12.509A~~ 46.12.509A do not apply to such hearings.

AUTH: Sec. 2-4-201 and 33-36-105, MCA

IMP: Sec. 2-4-201 and 33-36-105, MCA

4. ARM 37.108.251(3) contained a typographical error. The cite listed does not exist and this notice has been corrected to reflect the correct cite.

5. All other rule changes adopted remain the same.

Jawn Ileva
Rule Reviewer

Lauree Thompson
Director, Public Health and
Human Services

Certified to the Secretary of State November 8, 1999.

VOLUME NO. 48

OPINION NO. 8

COUNTY ATTORNEYS - Longevity increase for years served as deputy;
COUNTY GOVERNMENT - Authority of county commissioners to grant full-time county attorney longevity increase for years served as deputy;
PUBLIC OFFICERS - Longevity increase for county attorney based on years served as deputy;
SALARIES - Longevity increase for county attorney based on years served as deputy;
STATUTORY CONSTRUCTION - Construction of statute's provisions in manner which gives meaning and effect to each;
MONTANA CODE ANNOTATED - Sections 1-2-101, 7-4-2503(3)(d).

HELD: Mont. Code Ann. § 7-4-2503(3)(d)(ii) (1999) authorizes county commissioners to grant full-time county attorneys longevity increases for their years served as deputy county attorneys in addition to their years of service as county attorneys.

November 2, 1999

Mr. Marty Lambert
Gallatin County Attorney
615 South 16th Avenue
Bozeman, MT 59715

Dear Mr. Lambert:

You have requested my opinion on the following issue:

Do the amendments to Mont. Code Ann. § 7-4-2503 authorize county commissioners to grant full-time county attorneys longevity increases for their years served as deputy county attorneys in addition to their years of service as county attorneys?

The relevant statutory provisions are found in subsection (3)(d) of Mont. Code Ann. § 7-4-2503, which provides:

(i) After completing 4 years of service as deputy county attorney, each deputy county attorney is entitled to an increase in salary of \$1,000 on the anniversary date of employment as a deputy county attorney. After completing 5 years of service as deputy county attorney, each deputy county attorney is entitled to an additional increase in salary of \$1,500 on the anniversary date of employment. After completing 6 years of service as deputy county attorney and for each year of service thereafter up to

completion of the 11th year of service, each deputy county attorney is entitled to an additional annual increase in salary of \$500.

(ii) A county with a full-time county attorney may pay its full-time county attorney the same longevity increase that is provided for under subsection (3) (d) (i) for deputy county attorneys.

(iii) Unless longevity increases are restored pursuant to 7-4-2504(2), the years of service during a year in which the salary was set at the level of the salary of the prior fiscal year may not be included in a calculation of longevity increases.

The years of service as a deputy county attorney accumulated prior to July 1, 1985, must be included in the calculation of the longevity increase, but, unless longevity increases are restored pursuant to 7-4-2504(2), the years of service during a year in which the salary was set at the level of the salary of the prior fiscal year may not be included in a calculation of longevity increases.

Specifically, you question how subsection (3) (d) (ii) interacts with subsection (3) (d) (i), and whether subsection (3) (d) (iii) indicates a legislative intent to bar longevity increases to full-time county attorneys who have previously served as deputy county attorneys.

Montana Code Annotated § 1-2-101 expresses a preference that, where possible, a statute be interpreted in a manner which gives meaning to each particular provision of the statute. Accordingly, subsection (ii) should be construed in a manner which gives meaning both to it and to subsection (i). Subsection (i) provides the base method by which to calculate the longevity increases a deputy county attorney earns as each period of longevity is achieved. Subsection (ii) provides that county commissioners may grant a full-time county attorney the "same longevity increase" as that which subsection (i) mandates for deputy county attorneys. Neither of these provisions draws a distinction between years of service as a deputy county attorney and as a county attorney for the purpose of calculating longevity increases, although subsection (i) explicitly states that longevity increases commence upon the completion of four years' service as a deputy county attorney and continue annually thereafter.

In the absence of any contrary language in either subsection, a mutually meaningful construction arises which includes the full-time county attorney's years of service as a deputy county attorney. In instances where a full-time county attorney has no years of service as a deputy county attorney, longevity commences with the full-time county attorney's completion of

four years of service as a full-time county attorney. Since legislative intent can be gleaned from the plain wording of these subsections, construed together, I determine it is unnecessary to consult the legislative history of the statute. County v. Dain Rosworth, 265 Mont. 75, 82, 874 P.2d 718, 722 (1994).

The next question is whether the 1999 amendments to subsection (iii) affect my conclusion above. Subsection (iii) is a recodification of Mont. Code Ann. § 7-4-2503(3)(d)(ii) (1997), which read in part:

The years of service as a deputy county attorney accumulated prior to July 1, 1985, must be included in the calculation of the longevity increase, but, unless longevity increases are restored pursuant to 7-4-2504(2), the years of service during a year in which the salary was set at the level of the salary of the prior fiscal year may not be included in a calculation of longevity increases.

The 1999 legislature amended this subsection to delete the phrase, "The years of service as a deputy county attorney accumulated prior to July 1, 1985 must be included in the calculation of the longevity increase, but" Consequently, § 7-4-2503(3)(d)(iii) now reads:

Unless longevity increases are restored pursuant to 7-4-2504(2), the years of service during a year in which the salary was set at the level of the salary of the prior fiscal year may not be included in a calculation of longevity increases.

Again, there is no need to consider the legislative history of this amendment, since the meaning of subsection (iii) is clear. See Dain Rosworth, 265 Mont. at 82, 874 P.2d at 722. The amended language does not negate the discretionary authority which Mont. Code Ann. § 7-4-2503(3)(d)(ii) (1999) grants to county commissioners to pay full-time county attorneys the longevity increase that is provided for their prior service as deputy county attorneys. The former language of subsection (ii) and the present language of subsection (iii) merely permit county commissioners to restore longevity increases in those instances where previously withheld cost of living increases are restored pursuant to Mont. Code Ann. § 7-4-2504(2) (1997) and (1999). Conversely, Mont. Code Ann. § 7-4-2503(3)(d)(ii) (1999) constitutes a statute which simply grants county commissioners the discretion to pay full-time county attorneys any longevity increase they earned by virtue of their prior service as deputy county attorneys.

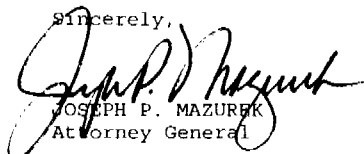
Even though county commissioners may now grant a longevity increase to a full-time county attorney under subsection (ii),

the method by which to calculate the longevity increase remains subject to the provisions of subsection (iii). Accordingly, the two subsections actually complement, rather than contradict, one another. My construction of them in such a manner achieves the preference for consistent, meaningful statutory construction expressed in Mont. Code Ann. § 1-2-101. In light of this construction, there is no need for me to consider the legislative history of Mont. Code Ann. § 7-4-2503(3)(d)(iii).

THEREFORE, IT IS MY OPINION:

Mont. Code Ann. § 7-4-2503(d)(ii) (1999) authorizes county commissioners to grant full-time county attorneys a longevity increase for years served as deputy county attorneys in addition to their years of service as county attorneys.

Sincerely,



JOSEPH P. MAZUREK
Attorney General

jpm/jet/dm

**NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE
Interim Committees and the Environmental Quality Council**

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Business and Labor Interim Committee:

- ▶ Department of Agriculture;
- ▶ Department of Commerce;
- ▶ Department of Labor and Industry;
- ▶ Department of Livestock;
- ▶ Department of Public Service Regulation; and
- ▶ Office of the State Auditor and Insurance Commissioner.

Education Interim Committee:

- ▶ State Board of Education;
- ▶ Board of Public Education;
- ▶ Board of Regents of Higher Education; and
- ▶ Office of Public Instruction.

Children, Families, Health, and Human Services Interim Committee:

- ▶ Department of Public Health and Human Services.

Law, Justice, and Indian Affairs Interim Committee:

- ▶ Department of Corrections; and
- ▶ Department of Justice.

Revenue and Taxation Interim Committee:

- ▶ Department of Revenue; and
- ▶ Department of Transportation.

State Administration, Public Retirement Systems, and Veterans' Affairs Interim Committee:

- ▶ Department of Administration;
- ▶ Department of Military Affairs; and
- ▶ Office of the Secretary of State.

Environmental Quality Council:

- ▶ Department of Environmental Quality;
- ▶ Department of Fish, Wildlife, and Parks; and
- ▶ Department of Natural Resources and Conservation.

These interim committees and the EQC have 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. They also 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, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is PO Box 201706, Helena, MT 59620-1706.

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 September 30, 1999. This table includes those rules adopted during the period October 1, 1999 through December 31, 1999 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 September 30, 1999, 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 1998 and 1999 Montana Administrative Registers.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number. These will fall alphabetically after department rulemaking actions.

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BOARD APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the *Montana Administrative Register* a list of appointees and upcoming or current vacancies on those boards and councils.

In this issue, appointments effective in October 1999, appear. Vacancies scheduled to appear from December 1, 1999, through February 29, 2000, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

Each month, the previous month's appointees are printed, and current and upcoming vacancies for the next three months are published.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of November 8, 1999.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

BOARD AND COUNCIL APPOINTEES FROM OCTOBER, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Developmental Disabilities Planning and Advisory Council (Public Health and Human Services)			
Mr. Keven Halsey	Governor	not listed	10/6/1999 1/1/2003
Qualifications (if required): primary consumer			
Ms. Karby Phillips	Governor	not listed	10/6/1999 1/1/2003
Missoula			
Qualifications (if required): primary consumer			
Ms. Ramona Weber	Governor	not listed	10/6/1999 1/1/2003
Billings			
Qualifications (if required): primary consumer			
Governor's Council on Tobacco Use Prevention (Governor)			
Rep. Trudi Schmidt	Governor	not listed	10/8/1999 9/22/2001
Great Falls			
Qualifications (if required): representing the Montana House of Representatives			
Interagency Coordinating Council for State Prevention Program (Public Health and Human Services)			
Mr. William Snell	Governor	Miller	10/6/1999 7/1/2001
Billings			
Qualifications (if required): experiences with prevention programs and services			
Ms. DeAnn Thomas	Governor	reappointed	10/6/1999 7/1/2001
Kalispell			
Qualifications (if required): experiences with prevention programs and services			
Montana Historical Society Board of Trustees (Historical Society)			
Mr. Larry McRae	Governor	Hibbard	10/6/1999 7/1/2001
Missoula			
Qualifications (if required): public member			

BOARD AND COUNCIL APPOINTEES FROM OCTOBER, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Peace Officers Standards and Training Advisory Council (Justice)	Governor	not listed	10/18/1999
Ms. Winnie Ore			2/13/2000
Helena			
Qualifications (if required):	representing the Department of Corrections		
State Emergency Response Commission (Military Affairs)	Governor	not listed	10/18/1999
Mr. Pat Brannon			10/1/2003
Helena			
Qualifications (if required):	representing the Department of Transportation		
Sheriff Cliff Brophy	Governor	not listed	10/18/1999
Columbus			10/1/2003
Qualifications (if required):	representing local law enforcement agencies		
Dr. Drew Dawson	Governor	not listed	10/18/1999
Helena			10/1/2003
Qualifications (if required):	representing the Department of Public Health and Human Services		
Mr. Thomas Ellerhoff	Governor	not listed	10/18/1999
Helena			10/1/2003
Qualifications (if required):	representing the Department of Environmental Quality		
Mr. Brent Erickson	Governor	not listed	10/18/1999
Helena			10/1/2003
Qualifications (if required):	representing a railroad company		
Ms. Mary Jo Fox	Governor	not listed	10/18/1999
Billings			10/1/2003
Qualifications (if required):	representing the Governor's Office		

BOARD AND COUNCIL APPOINTEES FROM OCTOBER, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Emergency Response Commission (Military Affairs) cont. Mr. Jim Green Helena Qualifications (if required): representing the National Guard	Governor not listed		10/18/1999 10/1/2003
General Jim Higgins Helena Qualifications (if required): representing the Guard	Governor not listed		10/18/1999 10/1/2003
Mr. Jim Hirose Great Falls Qualifications (if required): representing local fire departments	Governor not listed		10/18/1999 10/1/2003
Mr. Lloyd Jackson Pablo Qualifications (if required): representing Native Americans	Governor not listed		10/18/1999 10/1/2003
Mr. Tim Murphy Missoula Qualifications (if required): representing the Department of Natural Resources and Conservation	Governor not listed		10/18/1999 10/1/2003
Mr. Craig B. Palmer Helena Qualifications (if required): representing the Department of Justice	Governor not listed		10/18/1999 10/1/2003
Mr. Terry Phillips Helena Qualifications (if required): representing state fire organizations	Governor not listed		10/18/1999 10/1/2003
Ms. Carole Raymond Forsyth Qualifications (if required): representing local emergency medical responder	Governor not listed		10/18/1999 10/1/2003

BOARD AND COUNCIL APPOINTEES FROM OCTOBER, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Emergency Response Commission (Military Affairs) cont.			
Mr. Bill Rhoads	Governor	not listed	10/18/1999
Butte			10/1/2003
Qualifications (if required):	representing a Montana utility company		
Ms. Bonnie Rouse	Governor	not listed	10/18/1999
Helena			10/1/2003
Qualifications (if required):	representing the public		
Mr. Donald Skaar	Governor	not listed	10/18/1999
Helena			10/1/2003
Qualifications (if required):	representing the Department of Fish, Wildlife and Parks		
Mr. Paul Spengler	Governor	not listed	10/18/1999
Helena			10/1/2003
Qualifications (if required):	representing local emergency planning committees		
Mr. Seidon Weedon	Governor	not listed	10/18/1999
Great Falls			10/1/2003
Qualifications (if required):	representing state fire organizations		
State-Tribal Economic Development Commission (Governor)			
Mr. Joe Little Coyote, Sr.	Governor	not listed	10/6/1999
Lame Deer			6/30/2001
Qualifications (if required):	representing the Northern Cheyenne Tribe		
Vocational Rehabilitation Advisory Council (Public Health and Human Services)			
Mr. Mike Crater	Director	not listed	10/20/1999
Glasgow			10/20/2001
Qualifications (if required):	representing people from business, industry and labor		

BOARD AND COUNCIL APPOINTEES FROM OCTOBER, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Vocational Rehabilitation Advisory Council (Public Health and Human Services) cont.	Director	not listed	10/1/1999
Mr. Dale Davis	Director	Bowlds	10/1/1999
Missoula			10/1/2001
Qualifications (if required):	representing people from business, industry and labor		
Ms. Jan Duffy	Director	not listed	10/1/1999
Billings			10/1/2001
Qualifications (if required):	representing the Parent Training Organization		
Mr. Ian Elliot	Director	MacLeod	10/1/1999
Billings			10/1/2001
Qualifications (if required):	representing people with disabilities		
Mr. Robert P. Shuckahosee	Director	Fowler	10/1/1999
Polson			10/1/2001
Qualifications (if required):	representing people with disabilities		
Water and Waste Water Operators' Advisory Council (Environmental Quality)	Governor	not listed	10/16/1999
Dr. Carol Reifschneider	Governor	not listed	10/16/2005
Havre			
Qualifications (if required):	member of university faculty		
Wild Medicinal Plants Task Force (Natural Resources and Conservation)	Governor	not listed	10/6/1999
Mr. Kevin Chappel	Governor	not listed	4/20/2002
Helena			
Qualifications (if required):	representative of the Department of Natural Resources and Conservation		
Mr. Kirk Denny	Governor	not listed	10/6/1999
Lame Deer			4/20/2002
Qualifications (if required):	knowledge of cultural, historical and spiritual aspects of wild medicinal plants		

BOARD AND COUNCIL APPOINTEES FROM OCTOBER, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Wild Medicinal Plants Task Force (Natural Resources and Conservation) cont.			
Mr. Gary Gingery	Governor	not listed	10/6/1999
Helena			4/20/2002
Qualifications (if required):	representative of the Department of Agriculture		
Ms. Robyn Klein	Governor	not listed	10/6/1999
Bozeman			4/20/2002
Qualifications (if required):	knowledge of the scientific aspects of indigenous medicinal plants		
Mr. Peter McKay	Governor	not listed	10/6/1999
Lolo			4/20/2002
Qualifications (if required):	representative of the medicinal plant production industry		
Dr. Rustem Medora	Governor	not listed	10/6/1999
Missoula			4/20/2002
Qualifications (if required):	representative of the Montana university system		
Ms. Kathleen Wagnild	Governor	not listed	10/6/1999
Outlook			4/20/2002
Qualifications (if required):	knowledge of the scientific aspects of indigenous medicinal plants		
Mr. Curley Youpee	Governor	not listed	10/6/1999
Poplar			4/20/2002
Qualifications (if required):	representative of tribal governments		

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 1999 through FEBRUARY 29, 2000

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Alfalfa Seed Committee (Agriculture) Mr. Tom Helm, Toston Qualifications (if required): alfalfa seed grower	Governor	12/21/1999
Mr. Kenneth M. Sagmiller, Ronan Qualifications (if required): alfalfa seed grower	Governor	12/21/1999
Appellate Defender Commission (Administration) Judge Dorothy B. McCarter, Helena Qualifications (if required): district judge	Governor	1/1/2000
Board of Chiropractors (Commerce) Ms. Patti Mitchell, Dillon Qualifications (if required): public member	Governor	1/1/2000
Dr. Karlene Berish, Billings Qualifications (if required): licensed chiropractor	Governor	1/1/2000
Board of Hail Insurance (Agriculture) Mr. W. Ralph Peck, Helena Qualifications (if required): Director of the Department of Agriculture	Governor	1/1/2000
Auditor Mark O'Keefe, Helena Qualifications (if required): State Auditor	Governor	1/1/2000
Board of Horse Racing (Commerce) Ms. Isabelle Devlin, Terry Qualifications (if required): resident of District 1	Governor	1/20/2000
Dr. James A. Scott, Great Falls Qualifications (if required): resident of District 3	Governor	1/20/2000

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 1999 through FEBRUARY 29, 2000

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Occupational Therapy Practice (Commerce) Ms. Diana Margaret Leonard, Great Falls Qualifications (if required): occupational therapist	Governor	12/31/1999
Board of Personnel Appeals (Labor and Industry) Rep. Jim Rice, Helena Qualifications (if required): labor/management experience and an attorney	Governor	1/1/2000
Board of Public Education (Education) Ms. Barbara Keim, Billings Qualifications (if required): resides in District IV	Governor	2/1/2000
Board of Regents of Higher Education (Education) Mr. Patrick P. Davison, Billings Qualifications (if required): Republican residing in Eastern District	Governor	2/1/2000
Board of Respiratory Care Practitioners (Commerce) Mr. Rich Lundy, Billings Qualifications (if required): respiratory care practitioner	Governor	1/1/2000
Dr. Richard Blevins, Great Falls Qualifications (if required): physician	Governor	1/1/2000
Board of Speech-Language Pathologists and Audiologists (Commerce) Ms. Lynn Harris, Miles City Qualifications (if required): audiologist	Governor	12/31/1999
Ms. Linda Solem, Kalispell Qualifications (if required): speech-language pathologist	Governor	12/31/1999

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 1999 through FEBRUARY 29, 2000

<u>Board/current_position_holder</u>	<u>Appointed by</u>	<u>Term_end</u>
Capital Finance Advisory Council (Administration)		
Dr. Peter Blouke, Helena	Governor	2/25/2000
Qualifications (if required): Director of the Department of Commerce		
Mr. Bob Thomas, Stevensville	Governor	2/25/2000
Qualifications (if required): member of the Board of Housing		
Mr. Mark A. Simonich, Helena	Governor	2/25/2000
Qualifications (if required): Director of the Department of Environmental Quality		
Mr. Marvin Dye, Helena	Governor	2/25/2000
Qualifications (if required): Director of the Department of Transportation		
Rep. Royal C. Johnson, Billings	Governor	2/25/2000
Qualifications (if required): legislator		
Mr. Jim Kaze, Havre	Governor	2/25/2000
Qualifications (if required): member of the Board of Regents		
Mr. Dave Lewis, Helena	Governor	2/25/2000
Qualifications (if required): Director of the Office of Budget and Program Planning		
Dr. Amos R. Little, Jr., Helena	Governor	2/25/2000
Qualifications (if required): member of the Health Facility Authority		
Mr. Bud Clinch, Helena	Governor	2/25/2000
Qualifications (if required): Director of the Department of Natural Resources and Conservation		
Ms. Lois A. Menzies, Helena	Governor	2/25/2000
Qualifications (if required): Director of the Department of Administration		

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 1999 through FEBRUARY 29, 2000

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Capital Finance Advisory Council (Administration) cont. Rep. Ray Peck, Havre Qualifications (if required): State Representative in the Montana Legislature	Governor	2/25/2000
Mr. Warren Vaughan, Billings Qualifications (if required): member of the Board of Investments	Governor	2/25/2000
Capitol Restoration Commission (Administration) Ms. Gayle Shanahan, Helena Qualifications (if required): Governor's appointee	Governor	12/3/1999
Ms. Jeanne Michael, Billings Qualifications (if required): public member	Lt. Governor	12/3/1999
Mr. Walter (Howdie) S. Murfitt, Helena Qualifications (if required): Governor's appointee	Governor	12/3/1999
Mr. Loren Smith, Great Falls Qualifications (if required): public member	Lt. Governor	12/3/1999
Governor's Council on Organ Donor Awareness (Public Health and Human Services) Mr. Lowell Bartels, Helena Qualifications (if required): representative of business	Governor	2/12/2000
Ms. Nancy Ellery, Helena Qualifications (if required): representative of the Department of Public Health and Human Services	Governor	2/12/2000
Lt. Governor Judy Martz, Helena Qualifications (if required): representative of state government and donor families	Governor	2/12/2000

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 1999 through FEBRUARY 29, 2000

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Judicial Nomination Commission (Supreme Court) Mr. Tony Harbaugh, Miles City Qualifications (if required): public member	Governor	1/1/2000
Local Government Records Committee (Secretary of State) Ms. Bonnie Ramey, Boulder Qualifications (if required): none specified	Secretary of State	12/31/1999
Ms. Marcia Porter, Missoula Qualifications (if required): none specified	Secretary of State	12/31/1999
Ms. Lorraine Van Ausdol, Helena Qualifications (if required): none specified	Secretary of State	12/31/1999
Martin Luther King Holiday Commemorative Commission (Commerce) Ms. Kay Maloney, Great Falls Qualifications (if required): public member	Governor	1/20/2000
Ms. Cristina Medina, Helena Qualifications (if required): public member	Governor	1/20/2000
Ms. Carol Murray, Browning Qualifications (if required): public member	Governor	1/20/2000
Mr. Brian Schnitzer, Billings Qualifications (if required): public member	Governor	1/20/2000
Ms. Michelle Wilkerson, Great Falls Qualifications (if required): public member	Governor	1/20/2000
Mr. Robert Fourstar, Wolf Point Qualifications (if required): public member	Governor	1/20/2000

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 1999 through FEBRUARY 29, 2000

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Martin Luther King Holiday Commemorative Commission (Commerce) cont. Mrs. Pat Ojo, Missoula Qualifications (if required): public member	Governor	1/20/2000
Dr. Frederick Gilliard, Great Falls Qualifications (if required): public member	Governor	1/20/2000
Mr. Benjamin Pease, Jr., Billings Qualifications (if required): public member	Governor	1/20/2000
Mr. Anthony Caldwell, Great Falls Qualifications (if required): public member	Governor	1/20/2000
Ms. Angelina Vallejo Cormier, Billings Qualifications (if required): public member	Governor	1/20/2000
Mr. Gary Conti, Bozeman Qualifications (if required): public member	Governor	1/20/2000
Montana Abstinence Education Advisory Council (Public Health and Human Services) Rep. Bea McCarthy, Anaconda Qualifications (if required): public member	Governor	2/13/2000
Rep. Loren Soft, Billings Qualifications (if required): state legislator	Governor	2/13/2000
Montana Arts Council (Education) Mr. Bill Frazier, Livingston Qualifications (if required): public member	Governor	2/1/2000
Mr. Jack Hines, Big Timber Qualifications (if required): public member	Governor	2/1/2000

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 1999 through FEBRUARY 29, 2000

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Arts Council (Education) Mr. Monte Dolack, Missoula Qualifications (if required): public member	Governor	2/1/2000
Ms. Marilyn Olson, Sidney Qualifications (if required): public member	Governor	2/1/2000
Ms. Kathy Doeden, Miles City Qualifications (if required): public member	Governor	2/1/2000
Montana Higher Education Student Assistance Corporation (Education) Ms. Shirley Warehime, Helena Qualifications (if required): public member	Governor	1/1/2000
Peace Officers Standards and Training Advisory Council (Justice) Chief Robert Jones, Great Falls Qualifications (if required): representing Montana Chief's Association	Governor	2/13/2000
Sheriff Lee Edmisten, Virginia City Qualifications (if required): representing Montana Sheriff's Association	Governor	2/13/2000
Sen. Debbie Shea, Butte Qualifications (if required): representing Montana Board of Crime Control	Governor	2/13/2000
Mr. Jack Lynch, Butte Qualifications (if required): representing Montana League of Cities and Towns	Governor	2/13/2000
Colonel Craig Reap, Helena Qualifications (if required): representing Montana Highway Patrol	Governor	2/13/2000
Mr. Greg Noose, Helena Qualifications (if required): representing Montana Law Enforcement Academy	Governor	2/13/2000

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 1999 through FEBRUARY 29, 2000

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Peace Officers Standards and Training Advisory Council (Justice) cont. Mr. Donald R. Houghton, Bozeman Qualifications (if required): representing Montana Deputy Sheriff's Association	Governor	2/13/2000
Mr. Dennis McCave, Billings Qualifications (if required): representing Montana detention officers	Governor	2/13/2000
Mr. Chris Miller, Deer Lodge Qualifications (if required): representing Montana Attorney's Association	Governor	2/13/2000
Ms. Surry Latham, Helena Qualifications (if required): representing Montana communications officers	Governor	2/13/2000
Ms. Winnie Ore, Helena Qualifications (if required): representing the Department of Corrections	Governor	2/13/2000
Prison Ranch Advisory Council (Corrections) Rep. Francis Bardanoue, Harlem Qualifications (if required): rancher	Director	2/1/2000
Sen. Thomas Beck, Deer Lodge Qualifications (if required): rancher	Director	2/1/2000
Mr. Don Davis, Deer Lodge Qualifications (if required): rancher	Director	2/1/2000
Rep. Bill Tash, Dillon Qualifications (if required): rancher	Director	2/1/2000
Rep. Edward (Ed) J. Grady, Canyon Creek Qualifications (if required): rancher	Director	2/1/2000

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 1999 through FEBRUARY 29, 2000

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Prison Ranch Advisory Council Sen. Francis Koehnke, Townsend Qualifications (if required): rancher	Director	2/1/2000
Mr. Ray Lybeck, Kalispell Qualifications (if required): dairyman	Director	2/1/2000
Rep. Robert Thoft, Stevensville Qualifications (if required): rancher	Director	2/1/2000
Resource Conservation Advisory Council (Natural Resources and Conservation) Mr. Dennis L. DeVries, Polson Qualifications (if required): conservation districts	Director	1/30/2000
Ms. Jamie Doggett, White Sulphur Springs Qualifications (if required): Western Montana	Director	1/30/2000
Mr. Sever Enkerud, Glasgow Qualifications (if required): grazing districts	Director	1/30/2000
Mr. Robert Fossum, Richland Qualifications (if required): Eastern Montana	Director	1/30/2000
Mr. Tom Stelling, Fort Shaw Qualifications (if required): North Central Montana	Director	1/30/2000
Mr. Ellis Hagen, Westby Qualifications (if required): general public	Director	1/30/2000
Ms. Marieanne Hanser, Billings Qualifications (if required): South Central Montana	Director	1/30/2000

VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 1999 through FEBRUARY 29, 2000

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Vocational Rehabilitation Advisory Council (Public Health and Human Services) Ms. Betty Van Tighem, Great Falls	Director	2/10/2000
Qualifications (if required): none specified		