

VISITOR'S REGISTER

HOUSE HUMAN SERVICES : SIJB COMMITTEE

BILL \_\_\_\_\_

DATE January 28, 1983

SPONSOR \_\_\_\_\_

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
<i>Lyvonne Sylvia</i>		<i>SDHES</i>		
<i>Judy Wright</i>		<i>SDHES</i>		
<i>Douglas D. White</i>		<i>SDHES</i>		
<i>John D. Hawthorne</i>		<i>SDHES</i>		
<i>Steve Permutter</i>		<i>DHES</i>		
<i>RON WEISS</i>		<i>OBPP</i>		
<i>DENNY MOREEN</i>		<i>AG</i>		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE MEETING OF THE JOINT APPROPRIATIONS SUBCOMMITTEE  
ON HUMAN SERVICES  
January 28, 1983

The meeting was called to order by Vice-Chairman Sen. Pete Story at 7:40 a.m.

All subcommittee members were present except for Rep. John Shontz and Sen. Pat Regan who arrived later.

Also present were: Norman Rostocki, Fiscal Analyst; Dr. John Drynan and Ray Hoffman from the Department of Health, Yvonne Sylva and Judy Wright, John Hawthorne and Doug Abbott from the Health Department, John Bartlett from the legal services division of the Department of Health, Steve Perlmutter from the Legal Division of the Department of Health and Denny Mureen from the Attorney General's office.

HEARINGS FOR THE LEGAL DIVISION OF DEPARTMENT OF HEALTH  
Begin Tape 26 Side 1

Dr. John Drynan, director of the Department of Health introduced Mr. Steve Perlmutter who is with the legal staff of the Department of Health. See exhibit 1 Mr. Perlmutter explained the legal staff has been an integral part of the Department of Health since 1971. In 1975 they had three attorneys on staff and in 1980 they reached a peak of six attorneys and in 1982 the division administrator was discontinued and at the present time they are down to a staff of three attorneys. They are responsible for all aspects of representation and counsel for 25 to 30 different statutory programs and about 20 different divisions or units of the department. They cover everything from air and water quality to hospital licenses and the confidentiality of birth certificates. They enforce litigations, conduct of administrative hearings, drafting and review of all department contracts, interpretation of federal and state statutes, issuing of formal legal opinions and general legal advice and counsel on an hourly basis to the department. They are available everyday for all kinds of legal counsel and cover many different areas daily. As a result, it is very difficult to charge out time to a particular area because of all the interruptions. He felt the chargeback system in a way prohibits them from providing legal counsel in many instances where a department might seek the advice but they might not be able to afford the expense to their particular budget. He pointed out that until 1980 there was no chargeback and they always had some general fund money until this past biennium. He felt the total chargeback system was a "noble" experiment but that it was not working very well. He stressed that currently studies show there is more than enough demand to keep three attorneys and two support people busy but that the distribution of funds among the bureaus did not always meet the need for legal services. They hope the committee will give favorable consideration to the department's request to help them smooth out the imbalances they have.

He then introduced Mr. Denny Mureen from the Attorney General's office. He gave the committee his view of the attorney general's office taking over some of the legal duties. They give legal assistance to state agencies that require legal services beyond their own legal capabilities and they do it on a contracted basis. They survive on a revolving account with no general fund. They have never provided assistance to an agency as in-house counseling and their purpose is to catch the overflow and save the state money by them not having to go to private counsel. They would have to change the basis of their program some if they were to provide in-house type of counseling by being able to assign attorneys to handle the department's legal matters fulltime. They would have to have enough FTE to handle this additional load and more than likely the people hired would have to be housed at the Department of Health anyways as they would not have the necessary space to house them. Sen. Story asked Mr. Mureen if they were currently handling any specific cases for the department at this time and he told them they were. Dr. Drynan then explained that in matters of need where the department director ends up having to make a decision on a certain case he sometimes gets into an ex-party situation where he can not communicate with his own staff and must go to the attorney general for legal counsel because the counsel in the Department of Health represents the Department of Health and then has to go outside for counsel to prevent a conflict of interest.

Ray Hoffman pointed out to the committee that within the executive budget they had changed their request from 4 to 5 FTE. Ron Weiss explained how they first set up the budget they were going to transfer the whole legal division to the attorney general's office and then it was changed back and they found that 1 clerical support person was not enough for three attorneys so they have asked for an additional support person in this request for those three attorneys.

Sen. Aklestad asked for a breakdown of caseloads for existing attorneys. Mr. Perlmutter told him he would get him such a breakdown.

Sen. Aklestad asked questions about the \$2,741 for contracted services within the legal budget and was told that this was for rule revisions for the legal unit, for filing of APA's and for consulting with the attorney general's office.

Sen. Story asked Dr. Drynan if in this time we should not be entering a period of more cooperation and less litigation. Dr. Drynan explained he wished this were indeed so but unfortunately it is not and as a part of state government they will be named in suits and must have a defense.

LABORATORY DIVISION OF THE DEPARTMENT OF HEALTH

Yvonne Sylva, Administrator of Management Services, presented an overview of the chemistry and microbiology labs. These two labs are legislatively mandated and are divided into two bureaus. Services provided in support of these bureaus have been consolidated and centralized in an effort to ensure that no duplication occurs, that they are more efficient and that costs are reduced. The lab provides testing consultation, certification and licensing services in support of department activities. They also serve as a liaison for the Centers for Disease Control, Environmental Protection Agency and the Food and Drug Administration. Basically the chemical lab does: 1) testing of foods for contaminants, 2) testing for formaldehydes and other occupational health tests, and 3) air quality testing for fluoride, metals, and 4) water testing.

She told the committee that the average monthly postage bill is \$900 and to offset this high cost a handling charge could be implemented for routine services provided by the lab. They estimate that \$70,000 could be recovered each year through implementation of such a charge and possibly \$99,825 over the biennium from Water Quality and Air Quality Bureaus. They have revised the billing dates for collection in 1984 and request \$61,000 additional spending authority and that upon availability of these funds they would use this to purchase necessary equipment for operation of the lab.

On the issue of equipment she told the committee that it was anticipated by the department that a total of \$58,860 be expended by June 30, 1983 and in order to maintain services at the 1982 level it was necessary to transfer the remaining equipment funds into operating budget in 1983. They now request \$48,500 for the biennium and she said this would require no additional general fund support.

Norman Rostocki pointed out to the committee that the department has an equipment request which is not shown in the governor's budget. Ron Weiss said that at the time the budget request was put together they removed the equipment request because they were trying to determine the amount of fees that could be collected and in attempts to deal with the council on management after the budget book was printed they had an agreement with the department that if they can collect fees they can use some of these fees for a reduced equipment request.

Norman explained the issue on both of these programs was how much they could generate from collecting fees. The LFA budget was put together with the assumption that 2/3rd's of the cost of

of the chemistry lab could be reimbursed through fees charged back to users. The committee must keep in mind that the department says they have \$48,500 they have in one time moneys that is available and they wish to buy equipment and yet there is a shortfall in the amount they are going to collect in fees. The committee might wish to bankroll this and keep the lab running with this money and consider the equipment issue separate. On the issue of chargebacks the difference between the LFA and Executive is that the LFA feels they can generate more fees than the department does and the difference is made up in general fund.

In the lab there is a law that now requires that fees generated go into the general fund and in the past apparently no one was aware of the law and they appropriated these funds. Now the audit has come through and said they can't spend these fees but must deposit them in the general fund. SB 200 is currently before the legislature concerning this. He told them that if this committee felt the fees should go back to the lab and not to the general fund this bill must be amended. If this bill is not amended this budget will have to have more general fund in it to cover the costs.

Sen. Aklestad asked how many fees were generated and was told that for 1983 they expect \$163,087 for fees collected.

Norman explained to the committee there was \$47,000 allocated in 1982 and \$36,000 for 1983 for purchase of equipment, however, in 1983 the department took money that was originally allocated for equipment and put it into operating expenses. Sen. Regan asked Dr. Drynan to respond to this and Dr. Drynan told them that at the time the budgets were put together in 1982 the department had not looked at the 1983 actual allocations as they are looking at them now. They found they were short this amount of money. To buy equipment and cut back more FTE from a core level they have gone to and decrease the operating expenses would have shut down the lab operation for a three or four month period and so he determined it was more advantageous to have the lab in operation. Sen. Aklestad felt what we are hearing in the committee then was that money that was allocated for equipment was not used for equipment but rather for operation of the lab and now they are back asking for money for equipment that has already been allocated.

Sen. Regan asked Ray Hoffman if he felt the fees now charged will take care of the lab. He explained that the department does not yet know how much the cost of issuing warrants to collect these fees will be and therefore how much revenue they can expect and they are looking at all these aspects and will be studying this in the new biennium and will have backup figures next time around.

Sen. Regan felt that in this area there should be some type of language that there would be some general funds but if fees come in that general fund would be reduced.

Rep. Winslow asked what specific tests they do and if private labs were more competitive and if there are duplicate tests done and Dr. Drynan said they do not do the routine tests but the more technical, difficult tests in their lab.  
End of Tape 26 Side 1

Sen. Aklestad inquired about the repairs and maintenance being so much higher. Yvonne Sylva explained that the majority of the equipment was new equipment purchased in the last biennium where the warranties have now expired and they felt they need to continue some type of preventative maintenance and have it checked more often. By paying a flat rate they can be guaranteed of getting the repairs done when the equipment does break down. Sen. Aklestad wanted to know about the \$9,450 cost of maintenance contract on a piece of equipment and Mr. John Hawthorne responded it was purchased over two bienniums and the total cost of this instrument is \$77,000.

This completed the hearings on the Department of Health Lab.

#### EXECUTIVE SESSION DEPARTMENT OF HEALTH

The first area of executive action taken up was on the Emergency Medical Services. Norman explained his spread sheets from the day before. See exhibit 4 On the Certificate of Need Program Norman had it all generally funded at the 1982 level. He put it back to the current level of 10.3 FTE now that federal funds have become available. On EMS the Department requests for 1984 \$285,000 in general fund and \$229,000 in Preventative Block and the LFA is higher. In summary the department has gone below the LFA current level but the general fund is usually increased.

On EMS both budgets have assumed that over \$229,000 will be available from Preventative Health Block Grant and actually there is only \$167,128 left. The department made the presentation that the general fund supported the people in Helena and the Block grant supported the training effort. The committee has to decide where do the priorities lie. If they wish to keep them at current level they don't have enough preventative block to do this, so they have to tell the department where the priorities go from there.

A discussion of how the committee wanted to fund the program ensued in which a department handout was referred to which identified approximately \$32,000 attributable to the advanced life support training. Sen. Story proposed that the committee

take the remainder of the Preventative Health Block Grant of \$167,128 and take \$196,977 from general fund and give them \$30,000 more to make up for the shortage. Sen. Regan questioned if the committee did this if they were committing themselves to a maintenance of effort that they would be stuck with. Dr. Drynan replied there is no match required in the preventative block grant. This proposal would keep the department at the basic training level and not support the advanced or intermediate level of EMT training. Sen. Regan asked if with the some 800 people who have been trained for EMS if they had to continue EMS at that level or if they would retrain 800 more new people in the new year. Dr. Drynan emphasized that even those who are trained now need to upgrade and keep up their skills in the future. A discussion of whether or not they needed to train the same amount of people per year and if this amount would or could be reduced in future years. It was discussed that they were very dedicated people and most stay with this program for many many years. Sen. Regan questioned if the funding should be level or should there be a little slump and then a level and asked if there was a reduction what the slump would be. She realized the budget has been drawn up for a contract for these people but if the terms of the contract change a little and there was less involved shouldn't this be reflected with a drop in the contract.

Ray Hoffman answered that he felt not in this biennium because the program is really just getting underway and he could come back with valid data and statistics to look at next session. Dr. Drynan told them yes they would look at it and if it is possible they would see about a reduction next time.

End of tape 26 Side 2

Begin Tape 27 Side 1

Chairman Shontz told the committee one of the things that concerned him was the way in which the program was being developed in Montana and it has been done on a regional basis and there are still some areas that have not the basic EMS yet and we should continue at the level of effort we have now till all the state has been covered.

Sen. STORY made a MOTION we use the block grant of \$167,128 for EMS and pump up the executive budget by \$29,627 to fund the program for 1984 or a total of \$196,977. MOTION carried. This action removes all the request for advanced training beyond basic Emergency Training.

For the second year, a MOTION was made by Sen. REGAN that the program be funded from block grant moneys of \$182,565 with the intention of providing some direction to have the committee look at this next time in terms of scoping it down in the future. MOTION carried with Rep. WINSLOW voting no.

Sen. REGAN made a SUBMOTION that we fund the first year of the biennium with \$29,859 instead of \$29,627 as was passed first. This brings the amount of the budget to the \$196,977 level. MOTION carried.

Sen. REGAN made a MOTION we accept the executive budget for the remainder of the budget for those people who are responsible for the statutory responsibilities of the program. MOTION carried.

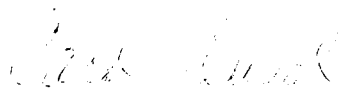
The next meeting will be held at 8 a.m. on Monday, January 31.

The meeting was adjourned at 10 a.m.  
End of Tape 27 Side One to 330



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John Shorne, Chairman



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Carol Duval, Secretary



M E M O R A N D U M

TO: John Bartlett  
FROM: Legal Unit  
DATE: January 18, 1983  
SUBJECT: LFA Summary of DHES Legal Unit

In response to the LFA's summary of DHES Legal Unit, we at the Legal Unit offer the following brief comments to the LFA's statement of facts and recommendations:

- (1) LFA's statement that DHES Legal has never received general funds is not true. In fact, prior to FY 1980, we were entirely general-funded. The chargeback system began in FY 1980, when we were funded 14% by General Fund and 86% chargeback. In FY 1981: 12% General Fund, 30% federal grants, and 58% chargeback. The current biennium is the only period we have been funded totally on a chargeback basis.
- (2) In general terms the LFA summary makes no reference to the professional and operational undesirability of a total chargeback system nor does it mention that the DHES is the only Department in state government whose Legal Division operates on a total chargeback system. Any fair description of "chargeback" should detail the headaches (legal and administrative) associated with this setup when used in a Department with several

independent programs. These are numerous examples of bureaus failing to request legal advice or to take necessary legal actions because of a reluctance to go over their legal budget. And even after we are called in, we are often constrained to "cut corners" in preparing a case for the same reasons. These artificial barriers stand in the way of providing top quality legal representation to the agency. No other department's legal staff is faced with such obstacles.

- (3) The LFA alludes to recent wholesale upgrades for professional staff and implies that such reclassifications indicate an already healthy budget for the Legal Division. It should be pointed out that the reclassifications strictly conform to lawyer specifications used by the Department of Administration and are based upon the scope and level of responsibility carried by each staff attorney. Such classifications are clearly consistent with similarly situated attorneys in other Departments. Furthermore, these responsibilities arose, in part, from the discontinuation of the position of legal division administrator, and the reclassifications were funded by the deletion of that position. It is in that context that the reclassifications should be considered.

(4) The key to the LFA's perspective on the DHES Legal Unit is that it does not operate as efficiently as the Attorney General's Office and therefore there is little justification to plow general fund monies into such an inefficient operation. The comparison of hourly rates between DHES Legal and the Attorney General's Office must be updated. The Attorney General has requested an increase from its current rate of \$35 per hour to \$42.50 for fiscal 1984 and \$45.00 for fiscal 1985. Last week (1/20/83) these rates were recommended for approval by the appropriations subcommittee reviewing the Attorney General's budget. Second, unlike the Attorney General's office which has few program functions, this Legal Unit cannot bill any bureau for time spent on department-wide or administrative issues (staff meetings, budget meetings, internal bookkeeping, policy matters, legislation, etc.). In this sense we are less able than the Attorney General to bill out hours to specific budget numbers. The requested general fund monies would help address this time spent in general Department matters.

The likelihood is that the DHES legal unit is as fiscally efficient as any other. Unfortunately our unique chargeback format and program related functions tend to distort that fact.

(5) Current time studies show clearly that there is more than enough demand for legal services within the Department to keep three attorneys and two support personnel fully occupied. Unfortunately, the distribution of funds among the bureaus often does not match the need for legal services. In addition budget costs throughout the Department have left less money to allocate for legal services. The total reliance on chargeback creates an artificial imbalance which a direct contribution from the general fund would help to adjust.

TESTIMONY  
LABORATORIES  
January 28, 1983

Chairman Shontz, members of the committee, I am Yvonne Sylva, Administrator of Management Services Division. I will present an overview of the two bureaus in the Division, the Chemistry and Microbiology labs. In addition, I will address the various issues included in the Legislative Fiscal Analysts review of the program and present proposed changes in general operation of the Laboratories on behalf of the Department.

At the conclusion of my presentation, John Hawthorne, Bureau Chief of the Chemistry Lab, Dr. Doug Abbott, Bureau Chief of Microbiology Lab will respond to any questions you may have about the various functions of the labs.

Budget questions should be directed to Mr. Hoffman.

You each have received a packet containing more detailed information about the laboratories than I will provide in the overview. You may wish to refer to it.

The public health laboratories of the Montana State Department of Health and Environmental Sciences are legislatively mandated and are divided into two bureaus: Chemistry and Microbiology.

Services provided in support of these bureaus have been consolidated and centralized in an effort to ensure that no duplication occurs, that efficiency is increased, and costs are reduced.

The laboratories provide testing, consultation, certification and licensing services in support of Department activities, especially in the areas of Communicable Diseases and Environmental programs. In addition, the labs serve as a liaison for the Centers for Disease Control, Environmental Protection Agency and the Food and Drug Administration.

In general, the microbiology lab provides disease surveillance examinations, epidemiological testing, reference diagnostic work for clinical laboratories in the state, and consultation to physicians and clinical laboratory personnel.

The services provided by the Chemistry Laboratory are geared according to the legislative policy referring to "maintenance of conditions under which man and nature can co-exist in productive harmony." As the public health laboratory in the environmental field, the Chemistry Laboratory provides chemical health services to Montanans, to other programs of the Department, and serves as a consulting and reference laboratory for other environmental labs in Montana.

The four basic areas of function in the chemistry lab are:

1. Testing of foods for contaminants.
2. Testing for formaldehydes and other occupational health tests (blood lead level).
3. Air quality testing for fluoride, metals (Clean Air Act).
4. Water testing - pollution and drinking water supplies.

Issue: Fees

Currently the average monthly postage bill for operating the labs is \$900. To offset this high operating cost and others a handling charge could be implemented for routine services provided by the laboratories. Based on an average number of tests conducted over the last five years it is estimated that \$70,000 could be recovered in each year of the biennium through implementation of such a handling charge. It is also projected that \$99,825 will be collected in fees each year of the biennium from the Water Quality and Air Quality Bureaus for laboratory testing.

The Department has revised the billing dates for the collection of fees from annual to quarterly. This will result in a one time increase in fees collected in SFY 84. Therefore, \$61,000 additional spending authority is requested.

It is proposed that the availability of these funds on a one time basis be utilized to purchase necessary equipment for operation of the laboratories. The equipment request will be addressed later in the presentation.

The Microbiology Laboratory has traditionally not been reimbursed for a majority of services provided. The Department will be conducting a study over the biennium to determine reimbursable services provided by the Microbiology Laboratory and to project potential revenue from this source. Findings of this study will be presented to the Forty-ninth Legislature.

Currently one of the laws that the laboratories function under concerns the collection of fees. This law is contained in 75-6-103 (2) (b)...Duties of the Board, and is included in your packet. This statute states that the

Board of Health shall establish fees relevant to analyzing water and that the fees collected should be deposited in an earmarked revenue account for use by the Department. Currently fees for water analyses are collected and based on a rate set by the Board in June, 1982. This fee will be revised annually and will not exceed the actual cost of the services performed.

All other fees collected are to be deposited into the general fund pursuant to 50-1-202 MCA (18). Attached.

ISSUE - Repair and Maintenance

You will find in your packet of information a detailed breakdown of the dollars requested for repair and maintenance. Preventive maintenance and repair contracts are on-going and not a one time expenditure. Increases in the request are due primarily to the addition of equipment in the last biennium where the original warranty has now expired. Other equipment has been added as it is less expensive to pay for the maintenance contract than for emergency repairs. In order for the laboratory to provide quality uninterrupted services it is necessary to maintain functioning equipment. Proper preventive maintenance of equipment will extend the life of the equipment considerably and reduce the rate of replacement.

In conclusion, it is expensive to provide for preventive maintenance contracts for laboratory equipment, however it is also expensive to replace equipment at a more rapid rate than necessary solely because of poor maintenance.

ISSUE - Equipment

The Forty-seventh legislature authorized \$81,600 for the purchase of equipment in the Laboratories in the current biennium. It is anticipated



that a total of \$58,860 will be expended by June 30, 1983. In order to maintain services at the 1982 level in the laboratories it was necessary to transfer the remaining equipment funds into the operating budget for SFY 83.

The equipment request for the biennium is \$48,500 and will require no additional general fund support. A complete itemization and justification for this request is included in the handout material for your consideration. Spending authority will need to be increased in the special revenue account to accommodate this request. Funds will be available on a one time basis due to changes in billing periods for water analyses.

This concludes an overview of the laboratories and the issues. If you have any questions you may direct them to John Hawthorne, Chemistry Laboratory Bureau Chief, or Dr. Abbott, Microbiology Laboratory Bureau Chief. Budget questions should be directed to Mr. Hoffman.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES



TED SCHWINDEN, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

January 26, 1983

HELENA, MONTANA 59620

TO: Human Services Committee  
John Shontz, Chairman

FROM: Yvonne Sylva, Administrator  
Management Services Division

RE: Microbiology and Chemistry Laboratories

The laboratories of the Montana State Department of Health and Environmental Sciences provide testing, consultation, certification and licensing services in support of the Department's activities as well as the activities of Federal and other state agencies.

You will find attached general information about functions of the laboratories. Also included is a breakdown of the repair and maintenance contracts requested for the biennium and the equipment request. No additional funds are requested for the purchase of equipment. It will be necessary however to increase the spending authority in the special revenue account to accommodate the equipment purchase. Funds will be available on a one time basis to allow for this expenditure. The availability of additional funds is due to a revised billing procedure for the collection of fees.

I will be presenting an overview of the laboratories, and will propose changes in the general method of operation for the biennium.

Dr. Doug Abbott, Chief of the Microbiology Laboratory, and John Hawthorne, Chief of the Chemistry Laboratory, will be available to respond to any specific questions you may have.

LABORATORIES  
MICROBIOLOGY AND CHEMISTRY

The Laboratories of the Montana State Department of Health and Environmental Sciences provide testing, consultation, and certification and licensing services in support of DHES activities, particularly those of the Communicable Disease and Environmental Sciences programs, as well as the activities of Federal and other state agencies. The laboratories are the Chemistry Laboratory Bureau and the Microbiology Laboratory Bureau.

Chemistry Laboratory Bureau

The Chemistry Laboratory Bureau was formally established as a bureau in 1972. Prior to that time chemists were part of individual units of the Environmental Sciences Division, and before that the laboratory was a unit of the Health Services Division. As a public health laboratory in the environmental field, the Chemistry Laboratory provides chemical health services to Montana citizens, and laboratory services to other programs of the department and other state agencies, including analyses not available or difficult to perform on the local level. The laboratory serves as a reference and consulting laboratory for other environmental laboratories in the state.

Working with the Environmental Sciences Division of the department, the Chemistry Laboratory analyzes air, water, food and occupational health samples in support of state programs whose purpose is to provide and maintain a healthful environment for Montanans, including the Montana Clean Air Act, the Safe Drinking Water Act, and the Montana Food, Drug and Cosmetic Act.

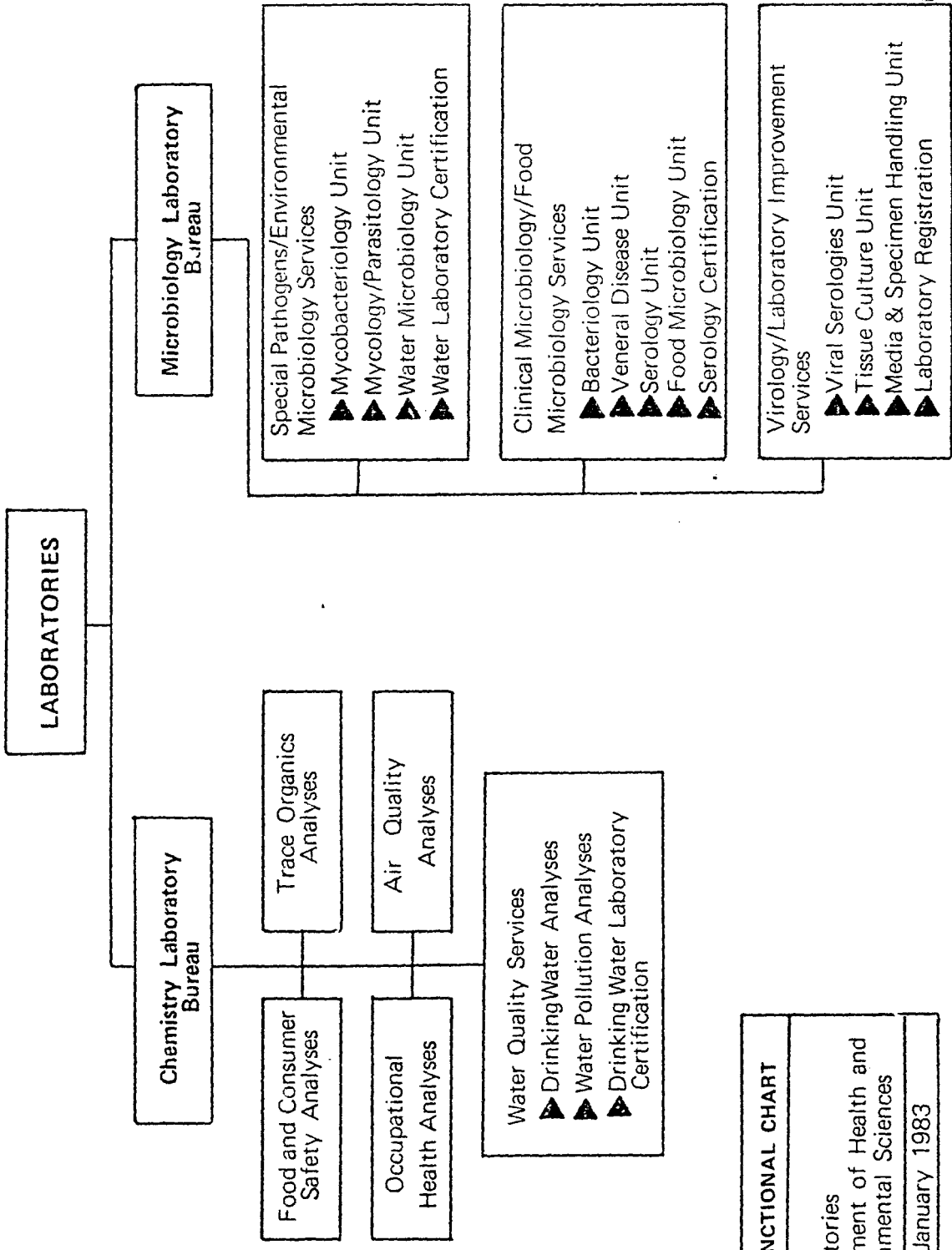
The laboratory provides both routine analyses for surveillance and monitoring purposes, and emergency response in the event of chemical spills or suspected environmental hazards. Upon evidence of known or suspected medical problems, the laboratory works with citizens and their physicians to analyze those elements of their environment which could be a threat to health. The Chemistry Laboratory is also responsible for the licensing of environmental laboratories engaged in the chemical analysis of drinking water.

### Microbiology Laboratory Bureau

Established in 1917 as the state public health laboratory, the Microbiology Laboratory Bureau is the older of the two laboratories. The Microbiology Laboratory offers direct services to physicians, nurses, laboratorians and citizens of the state in support of disease prevention and control programs. The services supplied by the laboratory include disease surveillance examinations, outbreak and epidemic testing support, reference diagnostic work, direct clinical testing where necessary for important communicable diseases, and consultation and training for hospital and independent clinical personnel. This laboratory has also been given the responsibility for licensing laboratories in the state engaged in the microbiological analysis of drinking water, and approving clinical laboratories for the performance of premarital serologies.

The Microbiology Laboratory operates in support of and as a back-up for the local laboratories in the state in the same manner that the federal laboratories serve as a back-up to the state laboratories. The laboratory provides testing services that cannot be performed practically on the local level, confirmation and consultation services on difficult and unusual specimens, material and technical assistance to upgrade laboratory performance, and referral services as needed to federal laboratories.

The attached operating chart outlines the current operating functions of the laboratories.



<b>FUNCTIONAL CHART</b>
Laboratories Department of Health and Environmental Sciences
January 1983

(3) The attorney general shall represent the board if requested, or the department may appoint special counsel for the proceedings, subject to the approval of the attorney general.

(4) The initiation of an action for review or the taking of an appeal does not stay the effectiveness of any order of the board unless the court finds that there is probable cause to believe:

(a) that refusal to grant a stay will cause serious harm to the affected party; and

(b) that any violation found by the board will not continue or, if it does continue, any harmful effects on state waters will be remedied immediately on the cessation of the violation.

(5) If a court does not stay the effectiveness of an order of the board, it may enforce compliance with that order by issuing a temporary restraining order or an injunction at the request of the board.

History: En. Sec. 15, Ch. 21, L. 1971; amd. Sec. 66, Ch. 349, L. 1974; R.C.M. 1947, 69-4821.

### CHAPTER 6

## PUBLIC WATER SUPPLIES, DISTRIBUTION, AND TREATMENT

### Part 1 — Public Water Supply

- 5-6-101. Policy.
- 5-6-102. Definitions.
- 5-6-103. Duties of the board.
- 5-6-104. Duties of department.
- 5-6-105. Records required for wells drilled to supply water to public.
- 5-6-106. Licensing of laboratories.
- 5-6-107. Variances and exemptions.
- Sections 75-6-108 through 75-6-110 reserved.
- 5-6-111. Appeal from rule or standard — injunction to require compliance.
- 5-6-112. Prohibited acts.
- 5-6-113. Penalty.

### Part 1

### Public Water Supply

**75-6-101. Policy.** It is the public policy of this state to protect, maintain, and improve the quality and potability of water for public water supplies and domestic uses.  
History: En. Sec. 140, Ch. 197, L. 1967; R.C.M. 1947, 69-4901.

**75-6-102. Definitions.** As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

- (1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.
- (2) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes creating a hazard to human health.

(3) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(4) "Drainage" means rainfall, surface, and subsoil water.

(5) "Industrial waste" means any waste substance from the processes of business or industry or from the development of any natural resource, together with any sewage that may be present.

(6) "Maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to any user of a public water supply system.

(7) "Other waste" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

(8) "Person" means any individual, corporation, association, partnership, municipality, other political subdivision of the state, or federal agency.

(9) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of any state waters which exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor or the discharge or introduction of any liquid, gaseous, solid, radioactive, or other substance into any state water which will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife. A discharge which is authorized under the pollution discharge permit rules of the board is not pollution under this chapter.

(10) "Public water supply system" means a system for the provision of water for human consumption from any community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that serves 10 or more families or 25 or more persons daily or has at least 10 service connections at least 60 days out of the calendar year.

(11) "Safe Drinking Water Act" means 42 U.S.C. 300f and regulations at Title 40, CFR, Parts 141 and 142.

(12) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings, together with groundwater infiltration and surface water present.

(13) "State waters" means any body of water, irrigation system, or drainage system, either surface or underground.  
History: En. Sec. 145, Ch. 197, L. 1967; amd. Sec. 1, Ch. 67, L. 1974; amd. S.c. 1, Ch. 556, L. 1977; R.C.M. 1947, 69-4902; amd. Sec. 1, Ch. 556, L. 1979.

**75-6-103. Duties of the board.** (1) The board has general supervision over all state waters which are directly or indirectly being used by a person for a public water supply system or domestic purposes or as a source of ice.

- (2) The board shall adopt rules and standards concerning:
  - (a) maximum contaminant levels for waters that are or will be used for a public water supply system;
  - (b) fees for services rendered by the department in analyzing water and conducting inspections;

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- (c) monitor, recordkeeping, and reporting by persons who own or operate a public water supply system;
  - (d) requiring public notice to all users of a public water supply system when a person has been granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;
  - (e) the issuance of licenses by the department to laboratories that conduct analysis of public water supply systems;
  - (f) the siting, construction, operation, and modification of a public water supply system;
  - (g) the collection and analysis of samples of water used for drinking or domestic purposes;
  - (h) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act and this part; and
  - (i) any other requirement necessary for the protection of public health as described in this part.
- (3) The board may issue orders necessary to fully implement the provisions of this part.

History: En. Sec. 142, Ch. 197, L. 1967; amd. Sec. 70, Ch. 349, L. 1974; amd. Sec. 2, Ch. 556, L. 1977; R.C.M. 1947, 69-4903; amd. Sec. 2, Ch. 556, L. 1979.

**75-6-104. Duties of department.** The department shall:

- (1) upon its own initiative or complaint to the department, to the mayor or health officer of a municipality, or to the managing board or officer of a public institution, make an investigation of alleged pollution of a water supply system and, if required, prohibit the continuance of the pollution by ordering removal of the cause of pollution;
- (2) have waters examined to determine their quality and the possibility that they may endanger public health;
- (3) consult and advise authorities of cities and towns and persons having or about to construct systems for water supply, drainage, wastewater, and sewage as to the most appropriate source of water supply and the best method of assuring its quality;
- (4) advise persons as to the best method of treating and disposing of their drainage, sewage, or wastewater with reference to the existing and future needs of other persons and to prevent pollution;
- (5) consult with persons engaged in or intending to engage in manufacturing or other business whose drainage or sewage may tend to pollute waters to the best method of preventing pollution;
- (6) collect fees for services rendered in analyzing water and conducting inspections to cover costs of the service and deposit the fees collected in an earmarked revenue fund for use by the department;
- (7) establish and maintain experiment stations and conduct experiments to study the best methods of treating water, drainage, wastewater, sewage, and industrial waste to prevent pollution, including investigation of methods used in other states;
- (8) enter on premises at reasonable times to determine sources of pollution or danger to water supply systems and whether rules and standards of the board are being obeyed;
- (9) enforce and administer the provisions of this part;
- (10) establish a plan for the provision of safe drinking water under emergency circumstances.

- (11) maintain an inventory of public water supply systems and establish a program for conducting sanitary surveys; and
- (12) enter into agreements with local boards of health wherever appropriate for the performance of surveys and inspections under the provisions of this part.

History: En. Sec. 143, Ch. 197, L. 1967; amd. Sec. 71, Ch. 349, L. 1974; amd. Sec. 3, Ch. 556, L. 1977; R.C.M. 1947, 69-4904; amd. Sec. 3, Ch. 556, L. 1979.

**75-6-105. Records required for wells drilled to supply water to public.** Every person drilling a water well to furnish water for public consumption shall keep a complete record of the depth, thickness, and character of different strata and other information prescribed by the board. Data shall be furnished to the department on forms prescribed by it. These data are available to the public at all reasonable times.

History: En. Sec. 145, Ch. 197, L. 1967; R.C.M. 1947, 69-4906.

**75-6-106. Licensing of laboratories.** (1) No laboratory analysis of water taken from a public water supply system or any report of such an analysis required by this part or a rule adopted under this part may be accepted by the department or board unless the analysis or report is made by the laboratory of the department or by a laboratory licensed by the department for such purposes. The department shall issue a license to any laboratory that can meet criteria for licensing established in the rules adopted by the board.

(2) An application for a license under this section shall be made on forms furnished by the department.

(3) A person aggrieved by a decision of the department to grant, deny, or revoke a license may appeal the department's decision to the board as provided in the Montana Administrative Procedure Act.

History: En. 69-4905.2 by Sec. 5, Ch. 556, L. 1977; R.C.M. 1947, 69-4905.2; amd. Sec. 4, Ch. 556, L. 1979.

**75-6-107. Variances and exemptions.** The department may grant a variance or exemption from the requirements of this part or the rules adopted under this part pursuant to the terms and conditions of the variance and exemption rules adopted by the board. A variance or exemption granted pursuant to this section shall be accompanied by a compliance plan specifying a time schedule for compliance. A person aggrieved by a decision of the department to grant, deny, revoke, or modify a variance or exemption may appeal the department's decision to the board as provided in the Montana Administrative Procedure Act.

History: En. 69-4905.1 by Sec. 4, Ch. 556, L. 1977; R.C.M. 1947, 69-4905.1; amd. Sec. 5, Ch. 556, L. 1979.

**75-6-108 through 75-6-110 reserved.**

**75-6-111. Appeal from rule or standard — injunction to require compliance.** (1) A person aggrieved by a rule, standard, or order adopted or issued pursuant to this part may appeal to the district court. While the appeal is pending, the rule, standard, or order is in force.

(2) The department may seek an injunction from the appropriate district court to require compliance with this part or a rule or order issued as authorized by this part. The department may also initiate an action to collect a criminal penalty as provided in 75-6-113.

History: En. Sec. 146, Ch. 197, L. 1967; *amd.* Sec. 72, Ch. 349, L. 1974; *amd.* Sec. 6, Ch. 556, L. 1977; R.C.M. 1947, 69-4907(1), (2); *amd.* Sec. 7, Ch. 68, L. 1979.

#### 75-6-112. Prohibited acts. A person shall not:

(1) discharge sewage, drainage, industrial waste, or other wastes that will cause pollution of state waters used by a person for domestic use or as a source for a public water supply system or water or ice company;

(2) discharge sewage, drainage, industrial waste, or into any abandoned or state waters or on the banks of any state waters or into any abandoned or operating water well unless the sewage, drainage, industrial waste, or other waste is treated as prescribed by the board;

(3) build or operate any railroad, logging road, logging camp, or electric or manufacturing plant of any kind on any watershed of a public water supply system unless:

(a) the water supply is protected from pollution by sanitary precautions prescribed by the board; and

(b) a permit has been issued by the department after approval of detailed plans and specifications for sanitary precautions;

(4) construct, alter, or extend any system of water supply, water distribution, sewer, drainage, wastewater, or sewage disposal without first submitting necessary maps, plans, and specifications to the department for its review and approval;

(5) operate or maintain any public water supply system which exceeds a maximum contaminant level established by the board unless he has been granted or has an application pending for a variance or exemption pursuant to this part.

History: En. Sec. 144, Ch. 197, L. 1967; R.C.M. 1947, 69-4905; *amd.* Sec. 6, Ch. 556, L. 1979.

#### Compiler's Comments

*Saving clause.* Sec. 7, Ch. 556, L. 1979, pro-

vided: "This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this act." Effective July 1, 1979.

*Severability.* Sec. 8, Ch. 556, L. 1979, was a severability clause.

75-6-113. Penalty. Any person violating this part or any rule or order of the board or department issued under the provisions of this part shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$50 or more than \$500. Each day upon which a violation of this part occurs shall be considered a separate offense.

History: En. Sec. 146, Ch. 197, L. 1967; *amd.* Sec. 72, Ch. 349, L. 1974; *amd.* Sec. 6, Ch. 556, L. 1977; R.C.M. 1947, 69-4907(3).

## CHAPTER 7

### AQUATIC ECOSYSTEM PROTECTIONS

#### Part 1 — Streambeds

#### 5-7-103. Definitions.

5-7-103. Vested water rights preserved.  
5-7-104. Application of floodplain management.  
5-7-105. Junked motor vehicles as reinforcement prohibited — penalty.  
5-7-106. Sections 75-7-107 through 75-7-110 reserved.

#### 5-7-111. Notice of project.

5-7-111. Procedure for considering projects — team.

#### 5-7-112. Emergencies — procedure.

5-7-112. Arbitration panel — selection.

#### 5-7-113. Arbitration panel — costs.

5-7-113. Modification of plan — assignment of costs.

#### 5-7-114. Sections 75-7-117 through 75-7-120 reserved.

#### 5-7-121. Judicial review.

5-7-121. Public nuisance.

5-7-122. Initiating project without consent — penalty — restoration.

5-7-123. Violation of time provisions — penalty.

#### 5-7-201. Policy.

#### 5-7-202. Definitions.

5-7-202. Change in definition of lake by local government.

5-7-203. Work for which permit required.

5-7-204. Unauthorized work.

5-7-205. Nature of property rights under part.

5-7-206. Regulations for issuance of permits.

5-7-207. Factors favoring issuance of permit.

5-7-208. Regulations for particular lake.

5-7-209. Application for permit — fee.

5-7-210. Consultation with local planning board.

5-7-211. Issuance of permit.

5-7-212. Variance procedure.

5-7-213. Cooperation between governing bodies.

5-7-214. Judicial enforcement and review.

5-7-215. Penalty.

5-7-216. Funding.

5-7-217.

#### Part 2 — Lakeshores

#### 5-7-201. Policy.

#### 5-7-202. Definitions.

5-7-202. Change in definition of lake by local government.

5-7-203. Work for which permit required.

5-7-204. Unauthorized work.

5-7-205. Nature of property rights under part.

5-7-206. Regulations for issuance of permits.

5-7-207. Factors favoring issuance of permit.

5-7-208. Regulations for particular lake.

5-7-209. Application for permit — fee.

5-7-210. Consultation with local planning board.

5-7-211. Issuance of permit.

5-7-212. Variance procedure.

5-7-213. Cooperation between governing bodies.

5-7-214. Judicial enforcement and review.

5-7-215. Penalty.

5-7-216. Funding.

5-7-217.

## Part 1

### Streambeds

75-7-101. Short title. This part may be cited as "The Natural Streambed and Land Preservation Act of 1975".  
History: En. 26-1510 by Sec. 1, Ch. 463, L. 1975; R.C.M. 1947, 26-1510.

75-7-102. Policy. It is the policy of the state of Montana that its natural rivers and streams and the lands and property immediately adjacent to them within the state are to be protected and preserved to be available in their natural or existing state and to prohibit unauthorized projects and in so doing to keep soil erosion and sedimentation to a minimum, except as may be necessary and appropriate after due consideration of all factors involved. Further, it is the policy of this state to recognize the needs of irrigation and agricultural use of the rivers and streams of the state of Montana and to protect the use of water for any useful or beneficial purpose as guaranteed by The Constitution of the State of Montana.

History: En. 26-1511 by Sec. 2, Ch. 463, L. 1975; R.C.M. 1947, 26-1511.

#### Section

5-7-101. Short title.

5-7-102. Policy.



BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES  
OF THE STATE OF MONTANA

In the matter of the repeal ) NOTICE OF THE REPEAL  
of rule 16.20.241 specifying ) OF RULE 16.20.241  
laboratory fees for analyses )  
of public water supply systems)

TO: All Interested Persons

1. On May 13, 1982, the board published notice of a proposed repeal of rule 16.20.241 concerning laboratory fees for analyses of public water supply systems at page 889 of the 1982 Montana Administrative Register, issue number 9.

2. The board has repealed rule 16.20.241 found on page 16-910 of the Administrative Rules of Montana.

3. No comments or testimony were received.

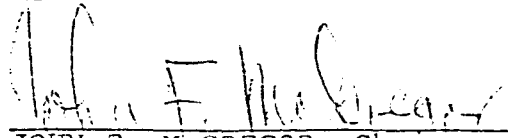
In the matter of the adoption ) NOTICE OF THE ADOPTION  
of a rule specifying fees for ) OF RULE  
analyses of drinking water ) 16.38.302  
by the department of health ) (Laboratory Fees --  
and environmental sciences ) Drinking Water)

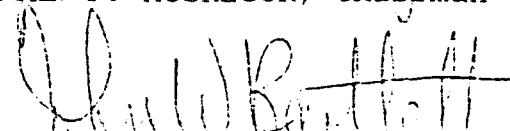
TO: All Interested Persons

1. On May 13, 1982, the board published notice of a proposed adoption of rule 16.38.302 concerning fees for analyses of drinking water by the department of health and environmental sciences at pages 890 and 891 of the 1982 Montana Administrative Register, issue number 9.

2. The board has adopted the rule as proposed.

3. No comments or testimony were received.

  
\_\_\_\_\_  
JOHN F. MCGREGOR, Chairman

  
By \_\_\_\_\_  
JOHN W. BARTLETT, Deputy Director  
Department of Health and  
Environmental Sciences

Certified to the Secretary of State June 21, 1982

STATE OF MONTANA

BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES

(1) I, JOHN F. MCGREGOR, M.D., Chairman of the Board of Health and Environmental Sciences of the State of Montana, by virtue of and pursuant to the authority vested in me by the Montana Administrative Procedure Act, do promulgate and adopt the annexed rules, to-wit:

NEW: 16.38.302 LABORATORY FEES -- DRINKING WATER

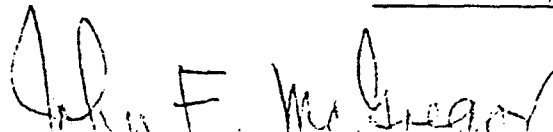
REP: 16.20.241 LABORATORY FEES

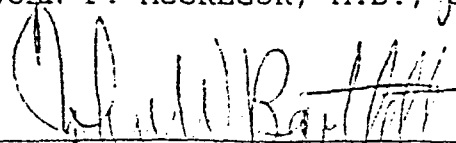
as permanent rules of this board.

(2) This order after first being recorded in the order register of the Department of Health and Environmental Sciences shall be forwarded to the Secretary of State for filing.

APPROVED AND ADOPTED June 17, 1982

CERTIFIED TO THE  
SECRETARY OF STATE June 21, 1982

  
\_\_\_\_\_  
JOHN F. MCGREGOR, M.D., Chairman

By   
\_\_\_\_\_  
JOHN W. BARTLETT, Deputy Director  
Department of Health and  
Environmental Sciences

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BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES  
OF THE STATE OF MONTANA

In the matter of the repeal ) NOTICE OF PUBLIC HEARING  
of rule 16.20.241 specifying ) ON REPEAL OF RULE  
laboratory fees for analyses ) 16.20.241  
of public water supply ) (Laboratory Fees for  
systems ) Public Water Supply Systems)

To: All Interested Persons

1. On June 15, 1982, at 9:30 a.m. a public hearing will be held in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the repeal of rule 16.20.241 specifying laboratory fees for analyses of public water supply systems.

2. The rule proposed to be repealed can be found on page 16-910 of the Administrative Rules of Montana.

3. The rule is proposed to be repealed because the Board is proposing a new schedule of fees for analyses of drinking water in this notice.

4. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Sandra R. Muckelston, Legal Division, Department of Health and Environmental Sciences, Cogswell Building - Room C216, Helena, MT., 59620, postmarked no later than June 14, 1982.

5. Sandra R. Muckelston, Helena, MT, has been designated to preside over and conduct the hearing.

6. The authority of the Board to repeal the rule is based on section 75-6-103, MCA, and the rule implements section 75-6-103, MCA.

In the matter of the adoption ) NOTICE OF PUBLIC HEARING  
of a rule specifying fees for ) FOR ADOPTION OF A RULE  
analyses of drinking water ) ON FEES FOR  
by the department of health ) ANALYSES OF DRINKING WATER  
and environmental sciences )

To: All Interested Persons

1. On June 15, 1982, at 9:30 a.m., public hearing will be held in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the adoption of a rule specifying fees for analyses of drinking water by the department of health and environmental sciences.

2. The proposed rule will replace rule 16.20.241 found at page 16-910 of the Administrative Rules of Montana.

3. The proposed rule provides as follows:

RULE I LABORATORY FEES -- DRINKING WATER Fees for analysis of drinking water by the department of health and environmental sciences are as follows:

(1) The fee for a standard microbiological (total coliform) analysis is \$6.

(2) The fee for a complete inorganic chemical analysis, consisting of an analysis for arsenic, barium, cadmium, chromium, lead, mercury, nitrate, selenium, silver, fluoride, calcium, sodium, pH, and total alkalinity, is \$98.

(3) The fee for a nitrate analysis is \$10.

(4) The fee for a pesticide-herbicide analysis, consisting of an analysis for endrin, lindane, methoxychlor, toxaphene, 2,4-D, and 2,4,5-TP Silvex, is \$232.

(5) The fee for a total trihalomethane analysis is \$273.

(6) The fees per analysis to determine the concentration of individual constituents are as follows:

<u>Analysis</u>	<u>Cost per Analysis</u>
Acidity	\$ 24.50
Alkalinity	10.50
Aluminum	8.50
Ammonia	10.05
Antimony	44.70
Arsenic	10.50
Barium	8.50
Beryllium	44.70
Biochemical Oxygen Demand (BOD)	55.10
Boron	17.50
Cadmium	3.90
Calcium	4.10
Chloride	11.40
Chromium	3.90
Chromium Hexavalent	74.40
Cobalt	44.70
Chemical Oxygen Demand (COD)	45.30
Color (2 tests - pH adjusted)	46.05
Copper	3.90
Cyanide	212.20
Fluoride	13.65
Iron	3.90
Lead	3.90
Lithium	44.70
Magnesium	4.10
Manganese	3.90
Mercury	7.95
Mercury Digestion	54.75
Metals Concentration (per sample)	2.30
Metals Digestion (except Mercury)	13.65
Molybdenum	44.70

Nickel	44.70
Nitrogen Kjeldahl	23.25
Oil and Grease	31.60
Ortho-Phosphorus	7.10
pH	1.40
Phenols	80.65
Total-Phosphorus	11.80
Potassium	4.10
Selenium	10.50
Silica	44.70
Silver	5.25
Sodium	4.10
Specific Conductance	1.90
Strontium	44.70
Sulfate	10.95
Sulfide	84.65
Tin	44.70
Total Suspended Solids	14.80
Turbidity	4.70
Vanadium	44.70
Zinc	3.90
Pesticides (Lindane, Endrin, Toxaphene, Methoxychlor) - first analysis per sample	75.20
each additional analysis per sample	11.40
Herbicides (2,4-D, Silvex) - first analysis per sample	109.00
each additional analysis per sample	13.65

(7) The fees specified in subsections (1) through (6) of this rule may be lowered by the department of health and environmental sciences when larger batches of samples warrant lower fees.

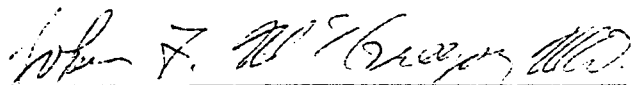
(8) When a laboratory analysis of drinking water is requested by a physician or dentist licensed pursuant to the laws of Montana or a health officer appointed pursuant to the laws of Montana, the analysis will be performed free of charge by the department of health and environmental sciences.

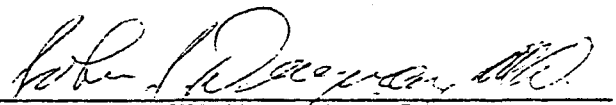
4. The Board is proposing this rule to establish one fee schedule for analyses of public and private water supplies. The Board is increasing the fees for the nitrate analysis and the complete inorganic chemical analysis in order to recover the costs of the analyses.

5. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Sandra R. Muckelston, Legal Division, Department of Health and Environmental Sciences, Cogswell Building - Room C216, Helena, MT, 59620, postmarked no later than June 14, 1982.

6. Sandra R. Muckelston, Helena, MT, has been designated to preside over and conduct the hearing.

7. The authority of the Board to make the proposed rule is based on section 75-6-103, MCA and the rule implements section 75-6-103, MCA.

  
\_\_\_\_\_  
JOHN F. MCGREGOR, M.D., Chairman

By   
\_\_\_\_\_  
JOHN J. DRYNAN, M.D., Director  
Department of Health and  
Environmental Sciences

Certified to the Secretary of State May 3, 1982

(2) Except as otherwise provided in the public health laws administered by the board or the department, the department may, through the attorney general or appropriate county attorney, sue in district court to enjoin any violation of the public health laws, rules, or orders adopted or issued under the public health laws administered by the board or department.  
 History: En. Sec. 11, Ch. 197, L. 1967; *amd.* Sec. 32, Ch. 349, L. 1974; *amd.* Sec. 2, Ch. 288, L. 1977; R.C.M. 1947, 69-4111(part).

**50-1-104. General penalty.** Anyone who violates a rule adopted by the board or the department for which no penalty is specified is guilty of a misdemeanor.  
 History: En. Sec. 221, Ch. 197, L. 1967; *amd.* Sec. 82, Ch. 349, L. 1974; R.C.M. 1947, 69-5701.

**Part 2**

**Department**

**50-1-201. Administration of state health plan.** The department is hereby established as the sole and official state agency to administer the state program for comprehensive health planning and is hereby authorized to prepare a plan for comprehensive state health planning. The department is authorized to confer and cooperate with any and all other persons, organizations, or governmental agencies that have an interest in public health problems and needs. The department, while acting in this capacity as the sole and official state agency to administer and supervise the administration of the official comprehensive state health plan, is designated and authorized as the sole and official state agency to accept, receive, expend, and administer any and all funds which are now available or which may be donated, granted, bequeathed, or appropriated to it for the preparation and administration and the supervision of the preparation and administration of the comprehensive state health plan.  
 History: En. 69-4110.1 by Sec. 1, Ch. 184, L. 1969; *amd.* Sec. 109, Ch. 349, L. 1974; R.C.M. 1947, 69-4110.1.

**50-1-202. General powers and duties.** The department shall:

- (1) study conditions affecting the citizens of the state by making use of birth, death, and sickness records;
- (2) make investigations, disseminate information, and make recommendations for control of diseases and improvement of public health to persons, groups, or the public;
- (3) at the request of the governor, administer any federal health program for which responsibilities are delegated to states;
- (4) inspect and work in conjunction with custodial institutions and Montana university system units periodically as necessary and at other times on request of the governor;
- (5) after each inspection made under subsection (4) of this section, submit a written report on sanitary conditions to the governor and to the director of institutions or commissioner of higher education and include recommendations for improvement in conditions if necessary;

- (6) advise state agencies on location, drainage, water supply, disposal of excreta, heating, plumbing, sewer systems, and ventilation of public buildings;
- (7) organize laboratory services and provide equipment and personnel for those services;
- (8) develop and administer activities for the protection and improvement of dental health and supervise dentists employed by the state, local boards of health, or schools;
- (9) develop and administer a program to protect the health of mothers and children;

(10) conduct health education programs;

- (11) provide consultation to school and local community health nurses in the performance of their duties;
- (12) consult with the superintendent of public instruction on health measures for schools;
- (13) develop and administer a program for services to handicapped children including diagnosis, medical, surgical, and corrective treatment, and after-care and related services;
- (14) provide consultation to local boards of health;
- (15) bring actions in court for the enforcement of the health laws and defend actions brought against the board or department;
- (16) accept and expend federal funds available for public health services;
- (17) have the power to use personnel of local departments of health to assist in the administration of laws relating to public health;
- (18) adopt rules imposing fees for the tests and services performed by the laboratory of the department. In adopting a rule imposing fees, the department may establish only a fee that will reimburse the department for the costs incurred in performing tests and services. All fees shall be deposited in the general fund.
- (19) adopt and enforce rules regarding the definition of communicable diseases and the reporting and control of communicable diseases; and
- (20) adopt and enforce rules regarding the transportation of dead human bodies.

History: En. Sec. 10, Ch. 197, L. 1967; *amd.* Sec. 31, Ch. 349, L. 1974; *amd.* Sec. 1, Ch. 288, L. 1977; R.C.M. 1947, 69-4110; *amd.* Sec. 7, Ch. 200, L. 1979; *amd.* Sec. 1, Ch. 219, L. 1979.

**50-1-203. Sanitary inspections.** (1) The department shall make sanitary inspections of schoolhouses, churches, theaters, jails, and other buildings or facilities where persons assemble. If the facility is found unsanitary, the department shall direct that conditions be corrected within a reasonable time. If the unsanitary conditions are not corrected within the time specified, the building or facility is a public nuisance.

(2) Either the department or a local board of health shall bring an action to correct the unsanitary conditions in the way provided by law for abating a public nuisance.

History: En. Sec. 18, Ch. 197, L. 1967; *amd.* Sec. 1, Ch. 336, L. 1971; *amd.* Sec. 108, Ch. 349, L. 1974; R.C.M. 1947, 69-4118.

**50-1-204. Quarantine measures.** The department may adopt and enforce quarantine measures against a state, county, or municipality to prevent the spread of communicable disease. A person who does not comply

LABORATORIES

BIENNIUM

Repair & Maintenance Budget

Current level contracts

Building and Grounds \$ 150.00

Office Equipment (typewriter contracts,  
calculator repairs) 480.00

Laboratory Equipment:

General repair & maintenance 5,497.00

Service & Certification Contracts:

Autoclaves & Dishwasher 1,110.00

Bio-hoods 1,260.00

Balance Maintenance & Certification 300.00

# 1 Varian Spectrophotometer 1,778.00

Additional service contracts requested:

Perkin-Elmer Inductively Coupled  
Plasma Emmission Source &  
attachments 9,450.00

Sigma Chromatography Data Station 2,322.00

Barnstead Still 1,500.00

# 2 Varian Spectrophotometer &  
recorders 2,307.00

TOTAL \$26,154.00



## Biennium Equipment Request

### Chemistry Laboratory

1. Hall 310 Electrical Conductivity Detector. Used for the analysis of trihalomethanes. The Chemistry Laboratory is currently the only laboratory in the state doing this required drinking water analysis. To replace unit originally purchased in 1974, transferred to new gas chromatograph in 1978. Electrical and mechanical designs are totally outdated; switches and temperature conductivity meter are erratic in operation; instrument is difficult to stabilize in operation; and replacement parts are no longer available. New detector would increase sample production and provide better results. \$5,500
  2. Dual-Channel Autoanalyzer II. Rebuilt replacement for autoanalyzer purchased from St. Peter's Hospital in 1974. New parts for this autoanalyzer have been unavailable since 1974. The point has been reached, because of age, where reconditioned components for this model are proving unreliable, and since it is a heavily used piece of equipment in the analysis of alkalinity and chloride in environmental samples, a reliable replacement is needed. \$13,400
  3. Nitrogen-Phosphorus Detector. New. Needed for the analysis of carbamate pesticides which are increasingly being used in place of pesticides such as endrin. Would add testing capabilities to the Trace Organics section. \$3,200
  4. CPU Board for Sigma 10 Integrator. The integrator is the data acquisition system for the analysis of pesticides, herbicides and trihalomethanes. Voltage spikes in the electrical line service to the integrator have caused the central processing unit (CPU) to malfunction. Unit must either be replaced, or if still operational when funds are available, placed on a line conditioner to eliminate spikes and resulting chip damage. \$1,900
- Total Request Chemistry Laboratory \$24,000

Biennium Equipment Request  
Microbiology Laboratory

1. Interference Contract Microscope. To replace microscope used in the identification of disease causing parasites and fungus. The present microscope is over 10 years old and no longer functions adequately for the diagnostic workload. The requested microscope will improve the quality of work and reduce personnel time needed for these examinations by eliminating multiple procedures required with use of the present microscope, and will allow more detailed and faster identifications. \$8,000
  
2. Enzyme Immunoabsorbant Assay Reader (EIA). New equipment, to allow automation of nearly all bacterial and virus serologies performed in the laboratory, such as rubella and syphilis. It will also allow the laboratory to perform other diagnostic work that is not available at this time. The EIA will assist with problems created with loss of personnel at the end of FY 81 and return serologic diagnostic capabilities to where they should be. \$12,000
  
3. Safety Centrifuge. To replace 20+ year old centrifuge which does not meet current safety standards for use when centrifuging hazardous infectious material. This centrifuge is sealed to ensure an aerosol-free environment during centrifugation. \$4,500

Total Request Microbiology Laboratory \$24,500

REPORT EDR100  
 DATE : 01/08/83  
 TIME : 16/25/25

OFFICE OF BUDGET & PROGRAM PLANNING  
 EXECUTIVE BUDGET SYSTEM  
 AGENCY/PROGRAM/CONTROL --- BUDGET WORKSHEET

1-FA

fy

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AGENCY : 5301 DEPT HEALTH & ENVIRON SCIENCES  
 PROGRAM : 07 LEGAL SERVICES PROGRAM  
 CONTROL : 00000

1982  
 ACTUAL

AC/OE	DESCRIPTION	00PP FY 84	1-FA FY 84	DIFF. FY 84	SUB-CMT. FY 84	00PP FY 85	1-FA FY 85	DIFF. FY 85	SUB-CMT. FY 85
0000	FULL TIME EQUIVALENT (FTE) 8,0	4,00	6,00	2,00		4,00	6,00	2,00	
1100	SALARIES	106,763	159,988	53,225		106,355	159,204	52,849	
1400	EMPLOYEE BENEFITS	15,374	20,909	5,535		15,496	23,345	7,849	
1500	HEALTH INSURANCE	3,840	5,760	1,920		3,840	5,760	1,920	
	TOTAL LEVEL	125,977	186,657	60,680		125,691	188,309	62,618	
2100	CONTRACTED SERVICES	2,057	2,741	684		2,176	2,902	726	
2200	SUPPLIES & MATERIALS	1,725	2,657	932		1,782	2,816	1,034	
2300	COMMUNICATIONS	2,358	2,766	408		2,741	3,246	505	
2400	TRAVEL	681	15	-666		710	15	-695	
2500	RENT	7,135	7,151	16		7,564	7,580	16	
2700	REPAIR & MAINTENANCE	1,808	2,030	2,030			2,151	2,151	
2800	OTHER EXPENSES	510	540	30		510	571	61	
	TOTAL LEVEL	14,466	17,900	3,434		15,483	19,281	3,798	
	TOTAL PROGRAM	140,443	204,557	64,114		141,174	207,590	66,416	
01100	GENERAL FUND	416,168		-416,168		415,720		-45,720	
06505	LEGAL DIVISION INTERNAL SERVICE	94,275	204,557	110,282		95,454	207,590	112,136	
	TOTAL PROGRAM	140,443	204,557	64,114		141,174	207,590	66,416	

exhibit 4  
 Jdn 28, 1983