

# 1976 MARS

## INTRODUCTION TO REGISTER

The Montana Administrative Procedure Act requires the compilation and publication of the Montana Administrative Register. The register is intended as a supplement to the Montana Administrative Code and is the means by which the code is updated and maintained to accommodate rule changes.

All rules adopted after December 31, 1972 will first appear in the register before subsequent transfer to and insertion in the code. These rules may take the form of new rules, rules transferred from another agency, or rules amending or repealing existing rules.

The register is compiled and published on the 25th day of each month and contains two sections, a rules section and a notice section.

Rules section: The rules section of the register contains all rules transferred to or adopted by an agency and filed with the Secretary of State since the compilation and publication of the preceding issue of the register, and in the case of the first issue of the register, since December 31, 1972.

Notice section: The notice section of the register contains all rule making notices filed with the Secretary of State since the compilation and publication of the preceding register and in the case of the first issue of the register, since December 31, 1972. The notices are statements to the public of an agency's intent to adopt a new rule, or to amend or repeal an existing rule. They contain a description of the rule involved and a notice of the time when, place where, and manner in which interested persons may present their views thereon. The formats for the notices are as stated in the Attorney General's model notice forms (MAC 1-1.6(2)-P650 through MAC 1-1.6(2)-P670). The contents are as prescribed in the rules of practice as set out in chapters 2 (or sub-chapters 2 in the case of autonomous agencies within a department which have assigned chapters) under each department's title in the code.

The register contains a rules and notice section for every agency subject to the Montana Administrative Procedure Act. Such agencies appear in the register in the same alphabetical and numerical order as they appear in the code. These positions of order or sequence in the register are indicated by labeled uplift dividers. For each agency, the notices will appear first, followed by the rules. The notices will be printed on buff tinted paper and the rules will appear on white stock, thus easily distinguishing the notice section from the rules section.

The first issue of the register and all subsequent issues will be appropriately indicated by a title page containing the issue number and date of the register and a table of contents, followed by all pages of the register. In addition, all pages of the register, will contain at the bottom an indication of the issue number and date of the register. In this manner, the user may determine under which issue a particular page was published.

#### INSTRUCTIONS ON HOW TO MAKE INSERTIONS OR DELETIONS IN THE REGISTER

Sec. 82-4206, R.C.M. 1947, provides that the Secretary of State, clerk of each court of record in the state, clerk of each county in the state and the librarians for the state law library and the University of Montana law library shall maintain a complete, current set of the code, including revisions thereto and additions or changes published in the register. To implement this requirement, the following instructions may be followed:

1. The register is a loose-leaf ring binder service which accommodates insertions and deletions. Issue number one and all subsequent issues of the register will contain a title page and table of contents. These title pages and tables of content for each issue will remain at the beginning of the register, in the order of their publication. Thus there will be no title page or table of contents within the text of the register. Rather, the beginning of a new issue will be indicated simply by the issue number and date of publication at the bottom center of every page in the register.

2. Following the tables of content will be the insertion of the appropriately labeled uplift dividers for each department. They will be inserted in alphabetical order, as is indicated by the title numbers in ascending order. For those departments which have autonomous boards or agencies within the department that have been assigned chapters, there will also be inserted uplift dividers appropriately labeled. These dividers will be inserted, in the ascending order of their chapter numbers and following the department dividers and all pages thereunder.

3. Immediately following each department and autonomous agency divider will be inserted the notices which, for easy identification purposes, have been printed on buff tinted paper. The appropriate notice number will be at the bottom right margin on each notice. Such number is comprised of the title number of the agency issuing the notice and an arabic number beginning with "1" for the first notice issued. These notices

are inserted in the ascending order of the notice number. The notices issued by the department begin with the number "1" as do the notices issued by an autonomous agency within the department. Such autonomous agencies will also have their notices inserted in ascending order, in their notice portion of the register.

4. Following the notice section for each department and agency thereunder will be inserted the pages containing all new, transferred, amendatory and repealing rules according to the ascending order of the page numbers at the lower right and left hand margins of the pages. These pages comprise the rules section of the register. Note that they will be in the same style and format as the pages of the code. This is to allow for their subsequent transfer to the code. The rules become effective 10 days after publication in the register, unless otherwise specified in the rule. In either case they are to be removed at that time and inserted in the code. With each package of rules for each issue of the register you will receive a transmittal sheet which indicates by title and page number which pages of the code have been superseded and should be removed. Opposite the superseded page number is a reference to the page number of the new page accompanying the transmittal sheet which is to be inserted in lieu of the page(s) it supersedes.

5. On or about the 25th day of each month the Secretary of State shall mail to all code subscribers the material which is to be included in the register for that month. This will include all notices and changed code pages (the rules section of the register) which the Secretary of State received for filing on or before the 15th day of that month. Should you not receive any notices or code pages for a particular department or agency in any month, this will mean that the Secretary of State received none from that department or agency and it may thereupon be presumed that such department or agency made no rule changes during that month.

6. This introduction to and instructions on how to maintain the register should comprise the first insertion into the register, at the very beginning of the binder. They need not be reinserted for each new issue of the register. Rather, they will not be inserted again until such time as the pages of the initial register become too voluminous for the binder(s). At such time, new binders and uplift dividers will be issued along with another set of the introduction and instructions to again be placed at the beginning of the new binder(s).



In summary, the overall positioning of the items as they are to be placed in the register is as follows:

1. Introduction and instructions on how to update the register.
2. Title pages and tables of content for each issue of the register.
3. Uplift dividers for each department.
  - a. notices issued by the department
  - b. pages containing rule changes made by the department
4. Uplift dividers for autonomous agencies within each department.
  - a. notices issued by that agency
  - b. pages containing rule changes made by the agency.

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 1

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# MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 2

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# MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 7

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(1) Introduction. An agency may be confronted with a situation where it finds an imminent peril to the public health, safety or welfare. Where it is necessary to put a rule into immediate effect, sections 82-4204(2) and 82-4205(2)(b) authorize the implementation of emergency rules without prior notice or hearing or upon abbreviated notice and hearing. Model Rule 11 spells out the requirements for temporary rules.

(a) Requirements for Making Emergency Rule Effective.

An agency may proceed without prior notice and hearing, or upon any abbreviated notice and hearing that it finds practicable, to adopt a rule without the notice otherwise required by the Act and these rules. In such case the agency shall:

(i) File a certificate and copy of the rule with the Secretary of State.

(ii) File with the certificate and rule the agency's finding that failure of the agency to act promptly will result in an imminent peril to the public health, safety or welfare. The finding shall be supported by a statement of specific facts and reasons.

(iii) Take appropriate measures to make the temporary rule known to the persons whom may be directly affected by the temporary rule.

(iv) Furnish copies of the temporary rule to a state wire service and to such other news media as the agency may deem appropriate to comply with the notice requirement of this rule.

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# Title 2

## Administration

BEFORE THE DEPARTMENT OF ADMINISTRATION  
AND THE MERIT SYSTEM COUNCIL  
OF THE STATE OF MONTANA

In the matter of the repeal of	)	NOTICE OF PROPOSED REPEAL
rules 2-3.34(6)-S3420 through	)	OF RULES 2-3.34(6)-S3420
2-3.34(34)-S34280 (Merit System	)	THROUGH 2-3.34(34)-S34280
Council substitutive rules) and	)	(MERIT SYSTEM COUNCIL
the correction of histories	)	SUBSTITUTIVE RULES) AND THE
citing proper authority sections	)	CORRECTION OF HISTORIES
of the R.C.M., 1947	)	CITING PROPER AUTHORITY
		SECTIONS OF THE R.C.M.,
		1947

NO PUBLIC HEARING  
CONTEMPLATED

TO: All Interested Persons

1. On March 17, 1976, the Merit System Council proposes to repeal rules MAC 2-3.34(6)-S3420 through 2-3.34(34)-S34280, contained in Sub-Chapters 6 through 34 of Montana Administrative Code and to correct the histories citing authority.

2. The Merit System Council rules considered for repeal are found on pages 2-46 through 2-59 of the Montana Administrative Code.

3. The rules repealed will be replaced by the adoption of new Merit System Council rules.

4. Interested parties may submit their data, views, or arguments concerning the proposed repeal of rules in writing to Clifford T. McGillvray, Administrator, Merit System Council, Capitol Station, Helena, Montana 59601. Written comments in order to be considered must be received by not later than 10:00 a.m., March 17, 1976.

5. If a person directly affected wishes to express his data, views, or arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Clifford T. McGillvray on or before 10:00 a.m., March 17, 1976.


6. If the Council receives requests for a public hearing on this proposed repeal from more than ten percent (10%) or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the Merit System Council to repeal the rules is based on Section 59-914, R.C.M., 1947.

(2)

*(Signature)*  
\_\_\_\_\_  
Clifford T. McGillvray  
Administrator  
Merit System Council

Certified to the Secretary of State - February 17, 1976

2-2/26/76 

MAC Notice No. 2-3-34-1

BEFORE THE DEPARTMENT OF ADMINISTRATION  
AND THE MERIT SYSTEM COUNCIL  
OF THE STATE OF MONTANA

In the matter of the adoption ) NOTICE OF PROPOSED ADOPTION  
of overall substitutive rules ) OF OVERALL SUBSTITUTIVE RULES  
for the Merit System Council ) FOR THE MERIT SYSTEM COUNCIL

NO PUBLIC HEARING  
CONTEMPLATED

TO: All Interested Persons

1. On March 17, 1976, the Merit System Council proposes to adopt new rules replacing all previous Merit System rules appearing in the Montana Administrative Code found on pages 2-46 through 2-59.

2. A complete copy of the proposed rules may be obtained by contacting the Merit System Council, Capitol Station, Helena, Montana 59601. A summary of the proposed rules follows:

- (a) The Montana Merit System, Its Purpose and Structure
- (b) Agency Personnel Policies and Procedures  
(Rules relating to classification, compensation, and positions to which the Merit System applies)
- (c) Recruitment, Examinations, and Registers  
(Rules relating to position announcements, disqualification from competition, examinations, veterans preference, records, ratings, suspension and reinstatement from Merit System registers)
- (d) Certification and Selection  
(Rules relating to employee certifications for state and local offices, promotional registers, eligibles, and selection)
- (e) Appointments, Career Advancements, Demotions, Reassignments, and Transfers and Reclassifications  
(Rules relating to probationary, temporary, provisional, emergency, and intermittent appointments of applicants and congressionally authorized employment and training program appointments; open competitive, non-competitive, provisional, and promotional examinations; agency initiated or voluntary demotions of Merit System employees; reassignments, transfers, and reclassification of Merit System employees.

- (f) Layoffs and Separations, Grievances, Appeals  
(Rules relating to employee tenure of office, resignations, reduction of force, suspensions, dismissal, retirement, reinstatement to a previous class of position, conflicting employment, grievances, and appeals)
- (g) Cooperation Between Merit Systems
- (h) Extension of Merit System  
(Rules relating to qualifying examinations)
- (i) Personnel Records and Reports  
(Rules relating to agency personnel records and Merit System records and reports)
- (j) Annual Vacation, Sick, Military, Jury Duty, Conference or Educational Leave, and Retirement
- (k) Classification and Compensation for Local Government Employees Only  
(Rules relating to promotional advancements, amount and frequency of salary advancements, special salary advancements, demotions, re-assignments, transfers and reclassification of local government employees only)

3. The purpose of the new Merit System rules is to revise and update the functions and duties of the Merit System Council in its relation to the state agencies.

4. Interested parties may submit their data, views, or arguments concerning the proposed rules in writing to Clifford T. McGillvray, Administrator, Merit System Council, Capitol Station, Helena, Montana 59601. Written comments in order to be considered must be received no later than 10:00 a.m., March 17, 1976.

5. If a person directly affected wishes to express his data, views, or arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Clifford T. McGillvray on or before 10:00 a.m., March 17, 1976.

6. If the Merit System Council receives requests for a public hearing on the proposed rules from more than ten percent (10%) or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made public in the Administrative Register.

7. Authority of the Merit System Council to make the proposed rules is based on Section 59-914, R.C.M., 1947.

*Clifford T. McGillvray*  
Clifford T. McGillvray, Administrator  
Merit System Council

Certified to the Secretary of State - February 17, 1976

BEFORE THE DEPARTMENT OF ADMINISTRATION  
AND THE  
BOARD OF ADMINISTRATION  
OF THE  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

In the matter of the adoption of rules relating to procedures for termination of Social Security coverage of coverage groups composed of employees of political subdivisions	) NOTICE OF PUBLIC HEARING FOR ) ADOPTION OF RULES PRESCRIBING ) PROCEDURE FOR TERMINATING ) SOCIAL SECURITY COVERAGE FOR ) EMPLOYEES OF POLITICAL ) SUBDIVISIONS
--	--

TO: ALL INTERESTED PERSONS

1. On April 12, 1976, at 11 o'clock A.M., a public hearing will be held at 1712 Ninth Avenue, Helena, Montana, to consider the adoption of Rules 1 through 9, relating to the procedure for terminating social security coverage of a coverage group composed of employees of political subdivisions of the State of Montana as permitted by 42 U.S.C. §418 (g).

2. The proposed rules do not replace or modify any section currently found in the Montana Administrative Code.

3. The proposed rules provide as follows:

Rule 1. POLITICAL SUBDIVISIONS ELIGIBLE FOR TERMINATION.

(1) The term "political subdivision" has the meaning ascribed to it in Section 59-1102 (f), RCM 1947.

(2) Any political subdivision which has entered into a plan and agreement to extend to its employees the protection accorded to others by the old age and survivors' insurance system embodied in the Social Security Act pursuant to Section 59-1104, RCM 1947, is eligible to initiate proceedings to terminate such social security coverage for its employees after social security coverage has been afforded pursuant to such plan and agreement for at least five (5) years.

Rule 2. INITIATION OF PROCEEDINGS.

Proceedings to terminate social security coverage of its employees may be initiated by an eligible political subdivision by the adoption of a resolution by the governing body of such political subdivision which shall state the desire of the governing body to terminate the existing plan and agreement for extending to its employees the benefits of Title II of the Social Security Act, and shall request the governor of the state to authorize a referendum among its employees who are afforded social security coverage under the existing plan and agreement, on the question of whether such employees desire the State of Montana to take all steps necessary to terminate their social security coverage as employees of the political subdivision.

### Rule 3. TRANSMISSION OF CERTIFIED COPY OF RESOLUTION.

The governing body of an eligible political subdivision which has adopted a resolution pursuant to Rule 2, shall cause a certified copy of such resolution to be delivered to the Administrator of the Public Employees' Retirement Division of the Department of Administration, who shall transmit the same to the governor.

### Rule 4. AUTHORIZATION OF REFERENDUM BY GOVERNOR.

Upon receipt of a certified copy of such resolution, the governor in his discretion may authorize a referendum, and designate an agency or individual to supervise its conduct, among employees of the political subdivision on the question of whether such employees desire the State of Montana to take all steps necessary to terminate their social security coverage as employees of the political subdivision.

### Rule 5. NOTICE OF REFERENDUM.

When a referendum has been authorized by the governor, the governing body of the political subdivision shall cause written notice of the time, place and subject matter of the referendum to be given to each employee of the political subdivision at least ninety (90) days prior to the date specified in the notice. The notice shall include a statement that if a majority of the employees covered by social security as employees of the political subdivision vote in favor of termination of such coverage, such termination of coverage would not occur for approximately thirty (30) months, and that once social security coverage is terminated, the political subdivision would be unable in the future to secure social security coverage for its employees.

### Rule 6. PROOF OF NOTICE.

Proof that notice of referendum was given as provided in Rule 5 shall be made in duplicate by affidavit of the official of the political subdivision charged by the governing body thereof with the duty of giving notice, to which shall be attached a copy of the notice. One affidavit shall be delivered to the agency or individual designated by the governor to supervise the conduct of the referendum, and the other affidavit shall be filed with the Administrator of the Public Employees' Retirement Division.

### Rule 7. ELIGIBILITY TO VOTE IN REFERENDUM.

All employees of the political subdivision who are afforded social security coverage by reason of their employment at the time of the referendum, whether or not they were employees at the time notice of the referendum was given, shall be entitled to vote in such referendum. No employee of the political subdivision whose services are excluded by the terms of the existing plan and agreement shall be entitled to vote in the referendum.

### Rule 8. CERTIFICATE OF RESULTS OF REFERENDUM.



The agency or individual designated by the governor to supervise the conduct of the referendum shall certify to the Administrator of the Public Employees' Retirement Division the result of the election. Such certificate shall set forth the number of persons eligible to vote in such referendum, the number of persons who voted in the referendum, and the number of votes in favor of, and opposed to, termination of social security coverage.

#### Rule 9. NOTICE OF TERMINATION OF COVERAGE.

If the results of the referendum show that a majority of the persons eligible to vote at such referendum, and not merely a majority of those who voted in such referendum, favored termination of their social security coverage, the Board of Administration of the Public Employees' Retirement System, as the state agency charged with the administration of the Social Security Program, shall give notice to the Secretary of Health, Education, and Welfare of the United States, pursuant to 42 U.S.C. §418 (g), that its agreement for extending social security coverage to the employees of the political subdivision will be terminated at the end of the calendar quarter next following the date of receipt of such notice by the Secretary or his delegate.

#### Rule 10. WITHDRAWAL OF NOTICE OF TERMINATION.

The Board of Administration will withdraw a notice of termination upon receipt of a certified copy of a resolution requesting such withdrawal duly adopted by the governing body of the political subdivision with respect to which it has given notice of termination of social security coverage to the Secretary of Health, Education, and Welfare, provided such certified copy is received by the Board of Administration at least sixty (60) days prior to the expiration of the two-year period referred to in Rule 9.

4. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing. Written comments must be received no later than April 12, 1976.

5. The Board of Administration of the Public Employees' Retirement System intends to adopt these rules in order to provide a procedure to implement the provisions of 42 U.S.C. §418 (g) authorizing a State to terminate its agreement with the Secretary of Health, Education, and Welfare, upon giving at least two years' advance notice, effective at the end of a calendar quarter specified in the notice, with respect to any coverage group designated by the State, but only if the agreement has been in effect with respect to such coverage group for not less than five years prior to the receipt of such notice.

6. Lawrence P. Nachtsheim, Administrator of the Public Employees' Retirement Division of the Department of Administration, 1712 Ninth Avenue, Helena, Montana 59601, has been designated by the Board of Administration of the Public Employees' Retirement System to preside over and conduct the hearing.

7. The authority of the Board of Administration of the Public Employees' Retirement System to make the proposed rules is based on Section 59-1107, RCM 1947.

BOARD OF ADMINISTRATION OF THE PUBLIC  
EMPLOYEES' RETIREMENT SYSTEM OF THE  
STATE OF MONTANA

BY Lawrence P. Hachstein  
Its Administrator

Certified to the Secretary of State March 11, 1976.  
(Month/Date)

# Title 4

## Agriculture

BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA


In the Matter of the Department )	NOTICE OF PROPOSED REPEAL
of Agriculture Repealing Rules )	OF RULES 4-2.6(1)-S600
4-2.6(1)-S600; 4-2.6(1)-S610; )	through 4-2.6(1)-S630
4-2.6(1)-S620 and 4-2.6(1)-S630,)	Centralized Services Divi-
Centralized Services Division, )	sion. NO PUBLIC HEARING
of the Department in the Montana)	CONTEMPLATED.
Administrative Code. )	

TO: All Interested Persons

1. On April 15, 1976, the Department of Agriculture proposes to repeal Rules 4-2.6(1)-S600; 4-2.6(1)-S610; 4-2.6(1)-S620; and 4-2.6(1)-S630, in order to amend and add new rules to the Centralized Services Division to better clarify the laws.
2. The proposed new rules as noticed in MAC Notice 4-2-27 will replace the above rules and copies of same may be obtained by writing to Mr. George Lackman, Director, 1300 Cedar Street, Airport Way Building West, Helena, Montana 59601.
3. Interested persons may submit their data, views, or arguments, concerning the proposed repealed rules in writing to Mr. George Lackman, Director, Department of Agriculture, 1300 Cedar Street, Airport Way Building West, Helena, Montana 59601.
4. If a person directly affected wishes to express his data, views, or arguments orally or in writing at a public hearing, he must make written request for a Public Hearing and submit his request along with any written comments to Mr. George Lackman before April 15, 1976.
5. If the Department receives requests for a public hearing on the Repeal of Rules 4-2.6(1)-S600 through 4-2.6(1)-S630 from more than ten percent (10%) or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. You will be notified of a public hearing.
6. The authority of the Department to Repeal the Rules is based on Section 3-209; 3-107; 3-315; 3-1906, R.C.M. 1947.

  
GEORGE LACKMAN, DIRECTOR

Certified to the Secretary of State March 12, 1976.

3-3/26/76. 

MAC Notice 4-2-26

BEFORE THE DEPARTMENT OF AGRICULTURE

OF THE STATE OF MONTANA

In the matter of the Department	)	NOTICE OF PROPOSED
of Agriculture adopting New Rules	)	ADOPTION OF NEW RULES
for the Centralized Services Div-	)	in Chapter 6, Central-
ision of the Department for the	)	ized Services Division.
Montana Administrative Code.	)	NO PUBLIC HEARING
		CONTEMPLATED.

TO: All Interested Persons

1. On April 15, 1976, the Department of Agriculture proposes to adopt rules and regulations for Chapter 6, Centralized Services Division, to comply with the Montana Administrative Code.

2. The proposed rules and regulations will be given MAC rule numbers and catchphrases upon adoption. A brief summary of each rule follows:

Sub-Chapter Grain

Rule I Appointment of Storage Space - Public Warehousemen shall not be compelled to accept and hold grain for storage in such quantities as to block his regular cash grain business.

Rule II Warehouse Receipts to be Issued - All warehousemen are required to issue each day a warehouse receipt for each lot of grain received for storage or make payment for grain, etc.

Rule III - Public Grain Warehouse Receipt issued under this act shall contain the written terms.

(a) A statement that the warehouse is operated under a license issued by the Department of Agriculture.

(b) A statement showing whether it is an original or duplicate or triplicate, or other copy.

(c) A statement showing the name of the elevator or public grain warehouse.

(d) A statement showing the name of the city or town where the elevator or public grain warehouse is located.

(e) The date the public grain warehouse receipt is issued.

(f) The number of the public grain warehouse receipt.

(g) A statement that the grain is "Received in Store" from the person or person, or firm or corporation named.

(h) A statement of gross weight, tare and net weight in pounds of the load and the gross weight, dockage, and net

weight, and sample report used for grade and protein analysis.

(i) A statement of the encumbrances, such as cash or other advances.

(j) A statement, unless otherwise indicated on the face thereof, the grain mentioned in the receipt has been stored with grain of the same grade, kind and quality.

(k) A statement that upon the return of the receipt properly endorsed by the person to whom the order was issued.

(l) A statement that the grain is properly insured for the benefit of the owner.

(m) The warehouse receipt must bear the name of the elevator or public grain warehouse issuing the same and the signatures of the agent or manager of the public grain warehouse.

(n) The face of the public warehouse grain receipt shall also provide for other statements and records.

(o) The back of the public grain warehouse receipt shall include printed statements.

(p) The back of the public grain warehouse receipt may provide for endorsement and other statement or records pertinent to accounting or bookkeeping data providing that such statements or records do not conflict with any state or federal law pertaining to public grain warehousing or the grading or testing of grain.

Rule IV Public Grain Warehouse Receipt Form - Two (2) copies of the grain warehouse receipt currently issued by the public grain warehousemen will accompany each application for a public grain warehouse license. One copy is to be filed with the Department of Agriculture and the other copy will be returned to the warehouseman with Department approval or corrections.

Rule V Public Grain Warehouse Receipts - Issued - When warehouse receipts are made out on duplicate or triplicate forms, the original copy shall be the warehouse receipt and shall be given to the person storing the grain covered by such receipts.

Rule VI Legal Public Warehouse Grain Receipt - A legal public warehouse grain receipt is a receipt issued by a licensed public grain warehouseman on a form containing all the provisions of Section 3-218, R.C.M. 1947. No public grain warehouse receipt shall be issued except for grain actually delivered to a public grain warehouse for storage.

A warehouse receipt which does not in fact represent grain actually delivered into a public grain warehouse for storage and the origin of which cannot be traced to the

actual delivery of the grain represented.

All of the grain in any public grain warehouse belongs to the holders of outstanding storage warehouse receipts except that which is in excess of the total of all outstanding storage obligations.

If for convenience the holder of two or more warehouse receipts covering similar grain, wishes to combine them into a lesser number, the new warehouse receipt or receipts so issued shall state the fact that it was issued in lieu of existing warehouse receipts.

Warehousemen who are grain growers and conduct such enterprises may receive their own grain and issue storage receipts for such grain in the same manner and without discriminating as though the warehouse and grain growing enterprises were of separate ownership.

Rule VII Licensing of Grain Merchandisers - Fees - Exemptions - "Grain Dealer" Any truck or tractor-trailor unit owned, leased, or controlled by the "grain dealer", and used in the business of buying grains for shipment or milling requires a license issued by the Department of Agriculture.

(a) Each and Every truck, tractor-trailor unit will be licensed by payment of a fifteen dollar (\$15.00) fee made payable to the Department of Agriculture.

(b) A license and a decal indicating license number will be securely placed on the windshield of the truck or tractor-trailor.

(c) Each and every truck, tractor-trailor unit license fee is fifteen dollars (\$15.00).

Rule VIII Shipments of Stored Grain To Point Outside the Boundaries of the State of Montana - Receipts or signed agreements from the owners of grain in an amount equal to the number of bushels the warehouseman has in storage outside the State of Montana on a farm approved by the Department of Agriculture.

(a) Warehouse receipts covering grain for storage outside of the state must have "Owner waivers redelivery at point of origin of grain represented by this receipt", printed or stamped on back.

(b) Waiver or agreement to accept terminal storage receipts must be made in triplicate, signed by the owner of the grain and by a duly authorized representative of the elevator company or warehouse.

(c) All grain must be held only in bonded and approved warehouses, fully insured for the benefit of the holder of Montana warehouse receipts.

(d) All grains held in terminal warehouses must be kept free of all liens, mortgages and encumbrances.

Rule IX Bond filed before issuance or renewal of license. Bond fee schedule. Requirements: Merchandisers of Grain; Public Warehouseman; Grain dealer; and other agents.

#### Sub- Chapter Seed Warehouse

Rule I Equipment Standards; Seed Processing Plants  
Licensed as: (i) First class seed processing plants shall have:

(a) facility separate from any commercial grain handling facility;

(b) an air screen cleaner with no less than three (3) screens;

(c) a dimensional separator or gravity type equipment that can be readily cleaned;

(d) a treator that will apply a uniform coating of chemical to seed if seed is to be treated; and

(e) handling of equipment, uniformly blending of lots of seed, sampling equipment.

(ii) commercial processing plant shall have:

(a) air screen cleaner, dimensional separator, treater for uniform coating of chemical, seed handling and processing equipment, equipment procedures to uniformly blend a lot, probes.

(iii) a custom cereal seed processing plant shall:

(a) be restricted to the cleaning of producer cereal crop seed, operate the existing cleaning equipment, prevent the contamination of seed being cleaned with other crop and/or weed seed by properly maintaining and cleaning the processing equipment, comply with requirements of Seed dealers, processors and warehousemen Act when cereal crop seed is sold.

(iv) The Montana Department of Agriculture shall:

(a) between July 1, 1976 and July 1, 1977, establish specific minimum equipment and/or purity standards for custom cereal processing plants. These plants shall comply with these standards by January 1, 1979. Provided that, the Department may issue a license variance not to exceed two years upon petition by the plant. The petition shall set forth that there are:

(ia) significant economic problems of the plant in meeting the standards; contributing factors relative to the location of the plant or; economic benefits provided by the plant to the area producers.

(v) public agriculture seed warehouse shall:

(a) provide appropriate storage space, provide proper equipment and facilities to prevent contamination and preserve identity of each lot of bulk seed.



Rule II Handling procedures. (i) all seed processing plants shall:

(a) account to the producer for all seed lots submitted to the plant; post a basic price schedule for seed processing operations; obtain reference seed samples; maintain identity and prevent contamination; reserve the right to refuse any material for processing or storage.

(ii) seed labelers shall:

(a) attach a legible label that provides the information required under Section 3-802.2 R.C.M. 1947 as amended.

(b) provide bulk seed shipments or sales lots shipped to another seed labeler;

(c) submit a sample label along with the application for license.

(iii) seed buyers shall:

(a) use a contract form which clearly states that terms of purchase and basis for payment; submit a sample contract and subsequent revisions to the Department.

(b) determine the percentage of pure seed before transporting seed out of state; weigh all seed at a scale designated in the contract, or agreed in writing by both parties.

(c) be responsible for actions of his employees while performing assigned duties.

(iv) public agricultural seed warehouses shall, through the warehousemen:

(a) issue a scale ticket for each load of agricultural seed received by the warehouse. Scale tickets are not to be issued or held in lieu of warehouse receipts.

(b) each day, issue a warehouse receipt for each lot of agricultural seed of one kind received from one owner during any one day may be construed to be a single lot.

(c) indicate the numbers of the scale tickets on the warehouse receipt for which it is issued.

(d) maintain the identity and integrity of each lot of agricultural seed when requested or when necessary to determine ownership, as it is delivered to the warehouse.

(e) use a public seed warehouse receipt form that meets the department's specifications. Terms will be included in this.

(f) legal public agricultural seed warehouse receipt is issued by a licensed public warehouseman on a form containing all the provisions of part 4(e) of this rule and shall not be issued except for agricultural seed actually delivered into a public warehouse for storage.

(g) limitation of rulings:

Rule III Types of Seeds That Processing Plants are Authorized and Licensed To Clean. (i) first class seed processing plants may clean all types of seed and may clean specified certified seed when so authorized by the certifying agency.

(ii) commercial seed processing plants may clean all

types of cereal crop seed and large-seeded legumes and may clean specified certified cereal crop seed and large-seeded legume seed when so authorized by the certifying agency.

(iii) custom cereal processing plants are restricted to cleaning non-certified cereal crop seed.

Rule IV Handling of Screenings. (i) screenings originating at an in-state processing plant shall; be stored in tight bins or containers so weed seed cannot be scattered by various means. Not after July 1, 1976, sell or give away screenings which contain prohibited noxious weed seed unless the viability of the prohibited noxious weed seed has been destroyed, except as exempted by state law for feed buyers.

(ii) to comply with the regulation, feed buyers must have a facility approved by the department that will destroy the viability of prohibited noxious weed seeds.

(iii) provision 2 does not prevent seed processing plants from utilizing other facilities that are capable of destroying the viability of prohibited noxious weed seeds provided that the facility has been approved by the department.

(iv) proper labeling should be used for the screenings, stating any warnings that are required by law.

(v) screenings originating outside of Montana shall; be processed to destroy the viability of all noxious weed seeds defined by state law before being transported into the state; transported in a tightly sealed container that will not allow the loss of the weed seeds.

Rule V Posting of License. (i) all licensed facilities shall have their license posted in a conspicuous place. All processing plants shall display a poster provided by the department designating whether the facility is a first class, commercial, or custom seed processing plant.

Rule VI Bonding and Insurance Requirements. (i) seed processing plants shall show evidence of a minimum of \$300,000 worth of product liability insurance.

(ii) seed labelers shall show evidence of a minimum of \$300,000 worth of product liability insurance.

(a) an individual who is only up-dating germination test data on the existing label by affixing a supplemental label bearing new germination data, the date and his name and address to the package shall be exempt from this requirement.

(iii) seed buyers shall provide a surety bond written on a form provided by the department. The amount of the bond shall be a minimum of \$10,000.

(iv) public agricultural seed warehouses shall provide a surety bond written on a form provided by the department. The amount of the bond shall be a minimum of \$10,000. In addition, each seed warehouse shall show evidence that they carry adequate insurance to cover the value of all stored agricultural seeds.

## Sub-Chapter Seed Rules

Rule I Labeling of Agricultural Seeds. (i) the local dealer may use the analysis label of the wholesaler or producer from who the seed was purchased without changing the name for a period of nine (9) months following the month in which the germination test was completed, providing that such label complies with the Montana labeling requirements and that it is attached to the original container. After this nine month period, a supplemental label may be affixed to the original label showing a new germination analysis, date of test and the name and address of the labeler who affixed the supplemental label. Not more than one supplemental label shall be visible.

(a) date of test shall mean the calendar month and year in which the germination test was completed.

(b) an up-to-date germination shall mean that no more than nine (9) calendar months may elapse between the last day of the month in which the germination was completed and the date of sale of the seed.

(ii) the party who placed seed on sale (either producer or dealer) is another person's place of business must label the seed according to the law.

(iii) display samples must be labeled according to the law.

(iv) the name and number of "restricted" noxious weed seed must be shown on the label until the number per pound exceeds the maximum number allowable.

(v) the pedigree of hybrid corn and the name of the breeder who developed each inbred line involved in the cross shall be filed with the authorized seed certification agency in Bozeman by the wholesaler or vendor of every lot of hybrid seed corn before such is offered for sale in Montana.

(vi) hybrid seed corn shall be used of the first generation of a cross involving two, three, or four different inbred lines of corn on their combination, and shall be restricted to seed of single crosses.

(vii) the name or number of which the hybrid seed corn is designated shall be plainly written or printed on the label of every lot, parcel or bag of seed corn sold as hybrid seed, in addition to the labeling requirements specified in the act.

Rule II Inspection of Grain and Seed Laboratory - Reports - Enforcement. (i) the Montana Seed Laboratory, Montana State University, Bozeman, Montana will test samples of seeds submitted for purity germination and miscellaneous tests. A fee schedule will be included in this rule.

Rule III Rules and regulations by Montana State University Certification Agencies. (i) the Montana Seed Growers Association at Bozeman, Montana is the official state agency for the certification of all field crops, except potatoes.

(ii) the Department of Agriculture and/or the Montana Seed

Growers Association will provide information to seed certification agencies in the United States of America and Canada in accordance with Plant Variety Protection Acts.

#### Sub-Chapter Commercial Mustard Seed

Rule I Standard Classes of Mustard Seed. (1) grade required;

(a) cultivated tame yellow mustard seed shall be classified as fancy or class 1 and shall include all varieties of tame cultivated "yellow mustard seed" except oriental mustard seed, and may include not more than five percent (5%) of tame cultivated mustard seed of other classes.

(b) cultivated tame brown mustard seed shall be classified as class 2 and shall include all varieties of tame cultivated "brown mustard seed" and may include not more than five percent (5%) of tame cultivated mustard seed of other classes.

(c) cultivated tame Montana oriental mustard seed shall be classified as class 3 and shall include tame cultivated "oriental mustard seed" and may include not more than five percent (5%) of tame cultivated mustard seed of other classes.

(d) cultivated tame mixed mustard seed shall be classified as class 4 and shall include any mixture of tame cultivated mustard seed not provided for in the other classes of yellow, oriental, and brown mustard seed.

Rule II Definitions and Specifications. (1) cultivated tame mustard seed which before the removal of dockage, consists of fifty percent (50%) or more of tame cultivated mustard seed. Not to include wild mustard seed.

(ii) percentage of dockage shall be calculated from the loss of weight by weighing back the cleaned seeds and shall be stated in whole and half percents.

(iii) determination of dockage shall be determined by using a S. Howes Eureka Cleaner or by any method or standard cleaning machine giving equivalent results.

(iv) wild oats found in cultivated yellow, brown or oriental after cleaning, with a Eureka cleaner shall be re-cleaned and retested by using the Federal Dockage Tester.

(v) rescreenings; any whole seed removed over the top sieve shall be reclaimed by hand sieving, using any size suitable for the purpose.

(vi) numerical grade - after removed from mechanical dockage. If after the removal of dockage by cleaning the sample shows 0.7% or less of inseparable weed seeds remaining in the cleaned sample it will be graded #1, #2, or #3, depending upon the amount allowed in each grade under the standards. The percentage of inseparable weed seeds or total foreign material other than dockage shall be stated as the factor or reasons for degrading the sample.

(vii) grain or other cultivated seed in dockage - when the dockage contains grain or cultivated seed other than tame mustard seed, a statement of the approximate amount in percentage shall be stated in remarks.

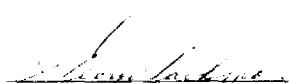
(viii) no grade mustard seed - sample of cultivated tame mustard seed which are too dirty or too wet shall be designated "No grade cannot clean" with a state of the reason of such designation.

3. Interested persons may submit their data, views, or arguments, concerning the proposed adopted rules in writing to Mr. George Lackman, Director, Department of Agriculture, 1300 Cedar Street, Airport Way, Building West, Helena, Montana 59601.

4. If a person directly affected wishes to express his data, views, or arguments orally or inwriting at a public hearing, he must make written request for a Public Hearing and submit his request along with any written comments to Mr. George Lackman before April 15, 1976.

5. If the Department receives requests for a public hearing on the adopted rules from more than ten percent (10%) or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. You will be notified of a public hearing.

6. The authority of the Department to adopt the rules is based on Section 3-1909; 3-315; 3-805; 3-209; 3-107, R. C. M. 1947.

  
GEORGE LACKMAN, DIRECTOR

Certified to the Secretary of State March 12, 1976.

BEFORE THE DEPARTMENT OF AGRICULTURE

OF THE STATE OF MONTANA

In the Matter of the Department )NOTICE OF PROPOSED REPEAL  
of Agriculture Repealing Rule )OF RULE 4-2.10(1)-S1010,  
4-2.10(1)-S1010, Feed and Ferti- )Feed and Fertilizer Division.  
lizer Division of the Department )NO PUBLIC HEARING IS CON-  
of Agriculture in the Montana )TEMPLATED  
Administrative Code. )

TO: All Interested Persons

1. On July 15, 1976, the Department of Agriculture proposes to repeal rule 4-2.10(1)-S1010, in order to clarify the laws for this division and update the Montana Administrative Codes to comply with the Model rules.

2. New rules for the Division will be adopted upon repeal of the present rule as stated in this notice.

3. Interested persons may submit their data, views, or arguments, concerning the proposed repealed rule in writing to Mr. George Lackman, Director, Department of Agriculture, 1300 Cedar Street, Airport Way Building West, Helena, Montana 59601.

4. If a person directly affected wishes to express his data, views, or arguments orally or in writing at a public hearing, he must make written request for a Public Hearing and submit his requests along with any written comments to Mr. George Lackman before July 15, 1976.

5. If the Department receives requests for a public hearing on the repealed rule 4-2.10(1)-S1010 from more than ten percent (10%) or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. You will be notified of a public hearing.

6. The authority of the Department to Repeal the rule is based on Section 3-2034 and 3-315, R.C.M. 1947.

  
GEORGE LACKMAN, DIRECTOR

Certified to the Secretary of State June 10, 1976

6-6/25/76

MAC Notice 4-2-28

BEFORE THE DEPARTMENT OF AGRICULTURE

OF THE STATE OF MONTANA

In the matter of the Department ) NOTICE OF PROPOSED ADOPTION  
of Agriculture adopting New Rules ) OF NEW RULES in Chapter 10,  
for the Feed and Fertilizer Divi- ) Feed and Fertilizer Divi-  
sion of the Department for the ) sion. NO PUBLIC HEARING  
Montana Administrative Code. ) CONTEMPLATED.

TO: All Interested Persons

1. On July 15, 1976, the Department of Agriculture proposes to adopt rules and regulations for Chapter 10, Feed and Fertilizer Division, to comply with the Montana Administrative Code and update this chapter for better clarification of the rules.

2. The proposed rules and regulations will be given MAC rule numbers and catchphrases upon adoption. A brief summary of each rule follows:

Sub-Chapter Fertilizer

Rule I. Guaranteed Analysis for fertilizer regulations recognized plant nutrients in addition to nitrogen, phosphoric acid and potash when mentioned in the labeling shall be registered and guaranteed. Proposed labels and direction for use of the fertilizer shall be furnished with the application for registration upon request. A warning of caution statement is required on the label for any product which contains 0.03% or more of boron in water soluble form.

Rule II. Guarantees for soil amendments - Lime products shall guarantee: the minimum calcium carbonate equivalent. Gypsum or other alkali soil treatment products shall guarantee: active ingredient and its percent purity.

Rule III. Licensing exemption - the department hereby exempt basic product manufacturers who sell exclusively registered products to registrants or licensees from the licensing requirement.

Rule IV. Labeling - slowly available nutrients, no fertilizer label shall bear a statement that connotes or infers the presence of a slowly available plant nutrient, unless the nutrient or nutrients are identified.

Rule V. Inspection, sampling and analysis. Notification of violation will be furnished to either the registrant or licensee responsible. When the registrant or licensee has their portion of an official sample analyzed and that analysis differs

from the department's analysis the registrant or licensee may request a referee analysis.

Rule VI. Investigational allowances and overall index value. A commercial fertilizer shall be deemed deficient if the analysis of nutrient is below the guarantee by an amount exceeding the values on the schedule for their rule.

#### Sub-Chapter Feed

Rule I. Definition and Terms for feed. The names and definitions for commercial feeds shall be the official definition of feed ingredients adopted by the Association of American Feed Control Officials.

Rule II. Commercial feeds shall be labeled with the information prescribed in this regulation on the principal display panel of the product.

Rule III. The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith.

Rule IV. The guarantees for crude protein, equivalent protein from non-protein nitrogen, crude fat, crude fiber and mineral guarantees (when required) will be in terms of percentage of analysis by weight.

Rule V. The name of each ingredient of collective term for the grouping of ingredients when required to be listed, shall be the name as defined in the official definitions of Feed Ingredients as published in the Official Publication of American Feed Control Officials, the common or usual name, or one approved by the department.

Rule VI. Directions for use and pre-cautionary statements on the labeling of all commercial feeds and customer formula feeds containing additives (including drugs, special purpose additives, or non-nutritive additives) shall follow necessary requirements.

Rule VII. Non-protein nitrogen products defined in the OPA of American Feed Control Officials are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein and are not to be used in commercial feeds for other animals and birds.

Rule VIII. Prior to approval of a registration application and/or approval of a label for commercial feed which contains



additives (including drugs, other special purpose additives, or non-nutritive additives) - distribution may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.

Rule IX. Adulterants - the terms poisonous or deleterious substances include but are not limited to the various types of mineral mixtures, flourine ingredients, sulfur dioxide, sulfurous acid; etc.

Rule X. For the purposes of enforcement the department adopts the following as current manufacturing practices for medicated feeds as published in the code of federal registers.

#### Sub-Chapter Pet Foods

Rule I. Definitions for pet food regulations principal display panel - ingredient statements, immediate container, etc.

Rule II. Labeling format - Statement of net content and product name must be shown on the principal display panel. All other required information may be placed elsewhere on the label but shall be sufficiently conspicuous as to render it easily read by the average purchaser under ordinary conditions of purchase and sale. Various other labeling requirements will be made also.

Rule II. Brand and Product Names - No flavor designation shall be used on a pet food label unless the designation flavor is detectable by a recognized test method, or is one the presence of which provides a characteristic distinguished by the pet.

Rule III. Ingredients - maximum moisture in all pet foods shall be guaranteed and shall not exceed 78.00% or the natural moisture content of the constituent ingredients of the product whichever is greater.

Rule IV. Directions to use - the label of the pet food product which is suitable only for intermittent or supplemental feeding or for some other limited purpose shall: bear a clear and conspicuous disclosure to that effect; or contain specific feeding directions which clearly state that the product should be used only in conjunction with other foods.

Rule V. Drugs and Pet Food Additives - an artificial color may be used in pet food only if it has been shown to be harmless to pets. The medicated labeling format recommended by Association of American Feed Control Officials shall be used.

(4)

3. Interested persons may submit their data, views, or arguments, concerning the proposed adopted rules in writing to Mr. George Lackman, Director, Department of Agriculture, 1300 Cedar Street, Airport Way, Building West, Helena, Montana 59601.

4. If a person directly affected wishes to express his data, views, or arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit his request along with any written comments to Mr. George Lackman before July 15, 1976.

5. If the Department receives requests for a public hearing on the adopted rules from more than ten percent (10%) or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. You will be notified of a public hearing.

6. The authority of the Department to adopt the rules is based on Section 3-2034 & 3-1723.1 R.C.M. 1947.

  
GEORGE LACKMAN, DIRECTOR

Certified to the Secretary of State June 10, 1976.

Before The Department of Agriculture  
of the State of Montana

In the Matter of the Department )	NOTICE OF PROPOSED REPEAL
of Agriculture Repealing all )	of Rules in Chapters 16,
present rules for Chapters 16, )	26, 30 and 38 of the Depart-
26, 30, and 38 of the Depart- )	ment. NO PUBLIC HEARING
ment for the Montana Admini- )	IS CONTEMPLATED.
strative Code. )	

TO: All Interested Persons

1. On August 15, 1976, the Department of Agriculture proposes to repeal rules 4-2.16(1)-01600; 4-2.16(1)-P1610; 4-2.26(1)-S2600; 4-2.30(1)-S3000; 4-3.38(1)-03800 and 4-3.38(1)-P3800, in order to clean up Title 4, Sub-Title 2 and Sub-Title 3 of the department rules to comply with the Model Rules.

2. Rules under Sub-Title 2 of Title 4 are being repealed to comply with the Model Rules, these rules are clearly covered under the Organizational and Procedural rules of the department.


Rules under Sub-Title 3 of Title 4 are being repealed since these rules are clearly covered in the law under Section 27-240 R.C.M. 1947, and do not require repeating in the Montana Administrative Codes.

3. Interested persons may submit their data, views, or arguments, concerning the proposed repealed rules in writing to Mr. George Lackman, Director, Department of Agriculture, 1300 Cedar Street, Airport Way, Building West, Helena, Montana 59601.

4. If a person directly affected wishes to express his data, views, or arguments orally or in writing at a public hearing, he must make written request for a Public Hearing and submit his requests along with any written comments to Mr. George Lackman before August 15, 1976.


5. If the Department receives requests for a public hearing on the repealed rules from more than ten percent (10%) or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. You will be notified of a public hearing.

6. The authority of the Department to Repeal the rules is based on Sections 82A-107; 82A-108; 82A-304; 82-4203 and 3-2913 R.C.M. 1947.

7-7/26/76 

MAC Notice No. 4-2-30

(2)



GEORGE LACKMAN, DIRECTOR

Certified to the Secretary of State July 12, 1976.

7-7/26/76

MAC Notice No. 4-2-30

BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

In the matter of the Department	)	NOTICE OF PROPOSED AMEND-
of Agriculture Amending Rules	)	MENT of rules 4-2.18(2)-
for the Horticulture Division	)	S1820 and 4-2.18(10)-S18070
of the Department of Agriculture	)	Chapter 18, Horticulture
for the Montana Administrative	)	Division. No Public Hear-
Code.	)	ing Contemplated.

TO: All Interested Persons

1. On August 16, 1976, the Department of Agriculture proposes to amend rules 4-2.18(2)-S1820 and 4-2.18(10)-S18070 of Chapter 18.

2. The proposed amendment would make the following changes in the present rules:

4-2.18(2)-S1820 Storage Charge for Dry Beans - Warehouseman

(2) The storage charges for beans placed in storage shall not exceed ~~four cents (4¢)~~ six cents (6¢) per hundred pounds per month or fraction thereof after the first fifteen days. The handling charge shall ~~be not exceed five cents (5¢)~~ eight cents (8¢) per hundred pounds. ~~The cleaning charge shall be not exceed fifteen cents (15¢)~~ twenty-five (25¢) per hundred pounds gross and ~~ten cents (10¢)~~ fifteen cents (15¢) per hundred pounds for each additional cleaning.

4-2.18(10)-S18070 Inspection of All Fruits, Vegetable --  
Collection of Fees

Phytosanitary Certificate - minimum of ~~\$2.50~~ \$1.50 and not to exceed \$10.00.

State Lot Certificate - minimum of ~~\$1.00~~ \$1.50 and not to exceed ~~\$10.00~~ \$15.00.

3. Interested persons may submit their data, views, or arguments concerning the proposed amendment in writing to Mr. George Lackman, Director, Department of Agriculture, 1300 Cedar Street, Airport Way, Building West, Helena, Montana 59601.

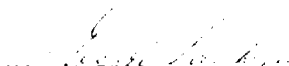
4. If a person directly affected wishes to express his data, views, or arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit his request along with any written comments to Mr. George Lackman before August 16, 1976.

5. If the Department receives requests for a public hearing

(2)

on the amended rules from more than ten percent (10%) or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. You will be notified of a public hearing.

6. The authority of the Department to amend the rules is based on Section 3-710 and 3-1201 R.C.M. 1947.

  
\_\_\_\_\_  
GEORGE LACKMAN, DIRECTOR

Certified to the Secretary of State July 12, 1976.

BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

In the matter of the Department	)	NOTICE OF PROPOSED AMEND-
of Agriculture Amending rules	)	MENT of rule 4-2.6(6)-S665,
for the Centralized Services	)	Chapter 6, Centralized
Division of the Department of	)	Services Division. No Pub-
Agriculture for the Montana	)	lic Hearing Contemplated.
Administrative Code.	)	

TO: All Interested Persons

1. On October 14, 1976, the Department of Agriculture proposes to amend rule 4-2.6(6)-S665 for Chapter 6.

2. The proposed amendment would make the following changes in the present rule:

~~4-2.6(6)-S665 Bonding and Insurance Requirements. (1) Seed processing plants shall show evidence of a minimum of \$300,000 worth of product liability insurance.~~

~~(2) Seed labelers shall show evidence of a minimum of \$300,000 worth of product liability insurance.~~

~~(a) (1) an~~ An individual who is only up-dating germination test data on the existing label by affixing a supplemental label bearing new germination data, the date and his name and address to the package shall be exempt from this requirement.

~~(3) (2)~~ Seed buyers shall provide a surety bond written on a form provided by the Department, countersigned by a duly licensed resident agent of Montana. The amount of the bond shall be a minimum of \$10,000. (schedule C of the Bond).

~~(4) (3)~~ Public agricultural seed warehouses shall provide a surety bond written on a form provided by the Department, countersigned by a duly licensed resident agent of Montana. The amount of the bond shall be a minimum of \$10,000. In addition, each seed warehouse shall show evidence that they carry adequate insurance to cover the value of all stored agricultural seeds. (Schedule C).

3. Interested persons may submit their data, views, or arguments concerning the proposed amendment in writing to Mr. George Lackman, Director, Department of Agriculture, 1300 Cedar Street, Airport Way - Building West, Helena, Montana 59601.

4. If a person directly affected wishes to express his data, views, or arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit his request along with any written comments to Mr. George Lackman before October 14, 1976.

5. If the Department receives requests for a public hear-

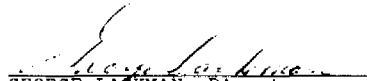
9-9/24/76

MAC Notice No. 4-2-32


(2)

ing on the amended rules from more than ten percent (10%) or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. You will be notified of a public hearing.

6. The authority of the Department to amend the rules is based on Section 3-315, R.C.M. 1947.

  
\_\_\_\_\_  
GEORGE LACKMAN, Director

Certified to the Secretary of State September 9, 1976.

9-9/24/76 

MAC Notice No. 4-2-32



BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

In the Matter of the Department) NOTICE OF PROPOSED AMENDMENT  
of Agriculture Amending rules ) of rule 4-2.6(10)-S681,  
for the Centralized Services ) Chapter 6, Centralized Ser-  
Division of the Department of ) vices Division. No Public  
Agriculture for the Montana ) Hearing Contemplated.  
Administrative Code. )

TO: All Interested Persons

1. On November 14, 1976, the Department of Agriculture proposes to amend rule 4-2.6(10)-S681 for Chapter 6.

2. The proposed amendment would make the following changes in the present rule:

4-2.6(10)-S681 INSPECTION BY GRAIN AND SEED LABORATORY-REPORTS - ENFORCEMENT. (1) The Montana Seed Laboratory, Montana State University, Bozeman, Montana will test samples of seeds submitted for purity germination and miscellaneous test. All samples of seed analyzed and tested shall be at the following rates:

<u>Kinds of Seed</u>	<u>Purity Only</u>	<u>Germi. Only</u>	<u>Comb Test</u>
Alfalfa, Clovers, Timothy, Flax-seed			
Cereals.....	\$2.00	\$1.50	\$3.50
Wheatgrasses, Bromgrass, Fescues.....	3.00	1.50	4.50
Redtop, Bluegrass, Orchardgrass.....	4.00	2.00	6.00
Vegetable seeds.....	2.00	1.50	3.50
Flower seeds.....	3.50	2.00	5.50

Mixed seeds - mixture which contains two (2) or more kinds of seeds each in excess of five percent (5%).

Mixture of two or three kinds.....	\$4.50	\$2.00	\$6.50
Mixture of four or more kinds.....	6.00	3.00	9.00

Miscellaneous Tests

Noxious weed seed examination (Montana).....	\$2.00
Noxious weed seed examination (All States).....	3.00
Mottled seed count (sweetclover).....	3.00
Extra copy of test report.....	.25
Samples of seed requiring immediate attention will be charged for at fifty percent (50%) above regular rates.	

Alfalfa.....	\$4.00	\$3.00	\$7.00
Beans.....	3.00	4.00	7.00
Beets.....	4.00	5.00	9.00
Bentgrass.....	6.00	4.00	10.00

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MAC Notice No. 4-2-33

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Bluegrass.....	\$6.00	\$4.00	\$10.00
Bromegrass.....	5.00	3.00	8.00
*Cereals.....	4.00	3.00	7.00
Clovers.....	4.00	3.00	7.00
Corn.....	4.00	3.00	7.00
Fescues.....	5.00	3.00	8.00
Foxtails (Creeping & Meadow).....	9.00	6.00	15.00
Milletts.....	4.00	3.00	7.00
*Needlegrass.....	5.00	3.00	8.00
Orchardgrass.....	6.00	4.00	10.00
Peas.....	4.00	5.00	9.00
Redtop.....	6.00	4.00	10.00
Reed Canarygrass.....	5.00	3.00	8.00
Ryegrass.....	5.00	3.00	8.00
Sorghums.....	4.00	3.00	7.00
Sudangrass.....	4.00	3.00	7.00
Sweetclover.....	4.00	3.00	7.00
Timothy.....	5.00	4.00	9.00
Trefoil.....	4.00	3.00	7.00
<u>Wheatgrasses</u>			
Crested.....	6.00	3.00	9.00
Intermediate.....	6.00	3.00	9.00
Pubescent.....	6.00	3.00	9.00
Slender.....	6.00	3.00	9.00
Tall.....	6.00	3.00	9.00
Thickspike.....	6.00	3.00	9.00
*Western.....	6.00	3.00	9.00
Wildrye, Russian.....	6.00	3.00	9.00

RUSH..... 50% additional

<u>Tetralolium Test (T.Z.)</u>	<u>Cereals and small</u>	
	<u>legumes</u>	7.00
	<u>Large seeded leg-</u>	
	<u>umes and grasses</u>	9.00

Mixtures:

2 Kinds.....	6.00	4.00	10.00
3 Kinds.....	8.00	6.00	14.00
4 Kinds.....	10.00		

Barley Stripe Mosaic Virus Test (BSMV) 15.00

\* May contain a dormant seed

DORMANT SEED DETERMINATION (in addition to Germination charges)

<u>Cereals.....</u>	2.00
<u>Grasses.....</u>	5.00

Samples of time consuming nature, due to excess dirt, chaff, etc. will be charged an hourly rate of \$8.00.

3. Interested persons may submit their data, views, or

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MAC Notice No. 4-2-33

arguments concerning the proposed amendment in writing to Mr. George Lackman, Director, Department of Agriculture, 1300 Cedar Street, Airport Way - Building West, Helena, Montana 59601.

4. If a person directly affected wishes to express his data, views, or arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit his request along with any written comments to Mr. George Lackman before November 14, 1976.

5. If the Department receives requests for a public hearing on the amended rules from more than ten percent (10%) or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. You will be notified of a public hearing.

6. The authority of the Department to amend the rules is based on Section 3-315, R.C.M. 1947.

  
GEORGE LACKMAN, Director

Certified to the Secretary of State October 8, 1976.

BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

In the matter of the Department )	NOTICE OF PROPOSED REPEAL
of Agriculture Repealing a rule )	of Rule 4-2.34(1)-S3400
for the Apiculture Division of )	in Chapter 34 of the Depart-
the Department of Agriculture )	ment. NO PUBLIC HEARING
for the Montana Administrative )	CONTEMPLATED.
Code. )	

TO: All Interested Persons

1. On November 14, 1976, the Department of Agriculture proposes to repeal rule 4-2.34(1)-S3400 and rearrange the sections in the histories of the other rules in this chapter for better clarification.

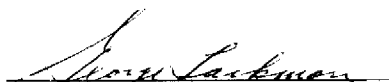
2. The proposed repealed rule is not of any public value and does not have any real need to be in the Montana Administrative Codes since it is just an explanation of the sections of the law that require the other rules to be made and enforced.

3. Interested persons may submit their data, views, or arguments, concerning the proposed repealed rules in writing to Mr. George Lackman, Director, Department of Agriculture, 1300 Cedar Street, Airport Way, Building West, Helena, Montana 59601.

4. If a person directly affected wishes to express his data, views, or arguments orally or in writing at a public hearing, he must make written request for a Public Hearing and submit his request along with any written comments to Mr. George Lackman before November 14, 1976.

5. If the Department receives requests for a public hearing on the Repeal of Rule 4-2.34(1)-S3400 from more than ten percent (10%) or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. You will be notified of a public hearing.

6. The authority of the Department to Repeal the rules is based on Section 3-3112, R.C.M. 1947.

  
GEORGE LACKMAN, Director

Certified to the Secretary of State October 8, 1976.

10-10/25/76

MAC Notice No. 4-2-34

# Title 6

## State Auditor

BEFORE THE  
STATE AUDITOR, EX OFFICIO  
INSURANCE COMMISSIONER, EX OFFICIO  
INVESTMENT COMMISSIONER  
STATE OF MONTANA

In the matter of the amendment )	NOTICE OF PROPOSED
of Rule 6-2.10(1)-S1090(2) )	AMENDMENT OF MAC
precluding default or penalty )	6-2.10(1)-S1090(2)
provisions in "stock" purchase )	BASIS OF SELLING EXPENSES
and subscription agreements )	(Default Provision)
rather than "securities" pur- )	
chase and subscription )	NO PUBLIC HEARING
agreements as presently drafted.)	CONTEMPLATED

TO: ALL INTERESTED PERSONS

1. On February 17, 1976, the State Auditor and Ex Officio Investment Commissioner proposes to amend Rule 6-2.10(1)-S1090(2) which now precludes default or penalty provisions in "securities" purchase and subscription agreements.

2. The proposed amendment would change the word "securities" and insert the word "stock". Rule 6-2.10-S1090(2) as proposed to be amended is as follows (matter to be stricken is interlined, new matter is underlined):

Rule 6-2.10(1)-S1090 BASIS OF SELLING EXPENSES

(1) In the sale of securities, other than those of an investment company defined in the Investment Company Act of 1940 and other than securities listed on a national securities exchange, commissions to broker-dealers or salesmen, and all other expenses of sale chargeable to the purchaser, shall be based only on cash actually paid by the purchaser and not upon the amount of securities or subscription taken.

(2) There shall be no default or penalty provisions in any securities stock purchase agreement or securities stock subscription agreement.

3. This modification is necessary solely to correct a scrivener's error which occurred when this rule was originally adopted.

4. Interested persons may submit their data, views, or arguments concerning the proposed amendments in writing to E. V. "Sonny" Omholt, State Auditor, State Capitol, Helena, Montana 59601. Written comments in order to be considered must be received by not later than February 17, 1976.

5. If a person directly affected wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Omholt by February 17, 1976.

6. If the Department receives requests for a public hearing on the proposed rule from more than ten percent (10%), or twenty-five or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the Department to make the proposed rule change is based on Section 15-2024(1), R.C.M. 1947.

E. V. Danny Dahl  
State Auditor

Certified to the Secretary of State JANUARY 14<sup>th</sup>, 1976.

Title 8  
Business  
Regulation



BEFORE THE DEPARTMENT OF BUSINESS REGULATION  
OF THE STATE OF MONTANA  
MILK CONTROL DIVISION

In the Matter of the Amend- )	NOTICE OF PROPOSED AMENDMENT
ment of Rule 8-2.12(6)- )	OF RULE 8-2.12(6)-S1220
S1220 Regarding Levying an )	(Licensee Assessments)
Assessment upon Licensees, )	NO PUBLIC HEARING CONTEMPLATED
(Statewide) )	

TO: All Interested Persons

(1) On April 15, 1976, the Department of Business Regulation proposes to amend Rule 8-2.12(6)-S1220 relating to an Assessment to be levied upon licensees subject to the Milk Control Act. The proposed Rule will become effective July 1, 1976.

(2) The purpose of the Assessment is to secure funds to administer and enforce the Milk Control Act (Title 27, Chapter 4, R.C.M. 1947).

(3) The authority for the Department of Business Regulation to adopt the proposed Rule and levy the Assessment is based on Section 27-409, R.C.M. 1947, as amended.

(4) The proposed Rule provides as follows:

"8-2.12(6)-S1220 LICENSEE ASSESSMENTS -

(1) Pursuant to Section 27-409, R.C.M. 1947, as amended, the following Assessments for the purpose of deriving funds to administer and enforce the Milk Control Act during the Fiscal Year beginning July 1, 1976, and ending June 30, 1977, are hereby levied upon the Milk Control Act licensees of this Department.

(a) A fee of eight cents (\$0.08) per hundredweight on the total volume of all milk subject to the Milk Control Act produced and sold by a Producer Distributor.

(b) A fee of eight cents (\$0.08) per hundredweight on the total volume of all milk subject to the Milk Control Act sold in this State by a Distributor home based in another State. Said fee is to be paid either by the foreign Distributor or his Jobber who imports such milk for sale within this State.

(c) A fee of four cents (\$0.04) per hundredweight on the total volume of all milk subject to the Milk Control Act sold by a Producer.

(d) A fee of four cents (\$0.04) per hundredweight on the total volume of milk subject to the Milk Control Act sold by a Distributor, excepting that which is sold to another Distributor."

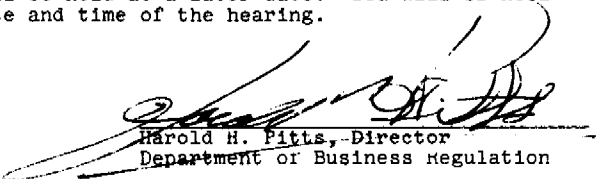
(5) Rule 8-2.12(6)-S1220 will be subject to yearly amendment to reflect necessary adjustments to the Assessments levied to insure that sufficient but not excessive funds may be collected. Please note that there is no change in the amount of assessment proposed for Fiscal 1976-1977. The purpose of this amendment is merely to change the effective dates from July 1, 1975 thru June 30, 1976 to July 1, 1976 thru June 30, 1977.

(6) Projected Budget data demonstrating the necessity for levying fees in the amount specified in proposed Rule 8-2.12(6)-S1220 are available for inspection during regular business hours at the offices of the Department of Business Regulation, 805 North Main Street, Helena, Montana, 59601.

(7) Interested parties may submit their data, views or arguments concerning the proposed Rule in writing to Mr. Harold Pitts, Director, Department of Business Regulation, 805 North Main Street, Helena, Montana, 59601. Written comments, in order to be considered, must be received not later than April 14, 1976.

(8) If a person directly affected wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has, to Mr. Pitts at the above address on or before April 14, 1976.


(9) If the Department receives requests for a public hearing on the proposed Rule from more than ten percent (10%) or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. You will be notified of the date and time of the hearing.



Harold H. Pitts, Director  
Department of Business Regulation

(3)

Certified to the Secretary of State March 12, 1976.

3-3/26/76 

MAC Notice No. 8-2-21

BEFORE THE DEPARTMENT OF BUSINESS REGULATION

STATE OF MONTANA

In the matter of the adoption )	NOTICE OF PROPOSED ADOPTION
of rules pertaining to citizen )	OF RULES PERTAINING TO
participation in the operation )	CITIZEN PARTICIPATION
of the Department. )	
)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Interested Persons

1. On April 15, 1976, the Department of Business Regulation proposes to adopt rules 8-2.2(2)-P210, 8-2.2(2)-P220, 8-2.2(2)-P230, 8-2.2(2)-P240, 8-2.2(2)-P250, 8-2.2(2)-P260 and 8-2.2(2)-P270. The proposed rules do not replace or modify any existing section currently found in the Montana Administrative Code.

2. The proposed rules provide as follows:

8-2.2(2)-P210 POLICIES AND OBJECTIVES IN PROVIDING CITIZEN PARTICIPATION IN THE OPERATION OF THE DEPARTMENT OF BUSINESS REGULATION (1) Participation of the public is to be provided for, encouraged, and assisted to the fullest extent practicable consistent with other requirements of state law and the rights and requirements of personal privacy. The major objectives of such participation include greater responsiveness of governmental actions to public concerns and priorities, and improved public understanding of official programs and actions. Prior to the granting or denying of certain licenses, the Department of Business Regulation shall, where the decision is of significant public interest, give adequate notice that the decision is to be made and provide an opportunity for public participation in the making of the decision.

8-2.2(2)-P220 GUIDELINES FOR DETERMINATION OF SIGNIFICANT PUBLIC INTEREST (1) The following will be deemed of a significant public interest to require notice and the availability of an opportunity for public participation in the decision-making process:

(a) The adoption, amendment or repeal of any regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or procedures or practice requirements of the Department of Business Regulation; or

(b) The granting or denying of a license for which a hearing is required under provisions of Montana law.

(2) In all other cases, whether or not the decision is one of significant public interest will be determined by the person within the Department who is proposing the decision, according to the following considerations:

- (a) Whether the decision regards a matter which is controversial;
- (b) The number of persons who will be affected by the decision;
- (c) The fiscal impact the decision will have;
- (d) Whether a high level of citizen interest has been witnessed by the Department.

#### 8-2.2(2)-P230 GUIDELINES FOR DEPARTMENT PROGRAMS (1)

A continuing departmental program for public participation shall include methods of implementing each of the functions listed in this rule. The exact method may vary in relation to resources available, public response, or the nature of issues involved:

(a) Informational materials - Each division of the department shall provide continuing policy, program and technical information at the earliest practicable times and at places easily accessible to interested or affected persons and organizations so that they can make informed and constructive contributions to department decision making. News releases and other publications may be used for this purpose as well as informational discussions and meetings with interested citizens' groups. Special efforts shall be made to summarize complex technical materials for public and media use.

(b) Assistance to public - Each division shall have a procedure for providing technical and informational assistance to concerned groups and individuals. Requests for information shall be promptly handled.

(c) Notification - Each division shall maintain, for its appropriate area of responsibility, a current list of interested persons and organizations including any who have requested inclusion on such list for the distribution of information such as that listed in paragraph (a) of this rule. This shall be in addition to the lists now maintained as required by the Montana Administrative Procedure Act. The department shall, in addition, notify any interested persons of any public hearing or other decision-making proceedings prior to decision making and wherever possible shall supplement this notification with informal notice to all interested persons or groups having requested such notice in advance.

(d) Access to Information - The department files, other than personnel files and those files required by law or requirements of personal privacy to remain confidential, are open to public inspection in accordance with established Department of Business Regulation policy. These files are located at the department office in Helena. Copies of specific documents are

available either free or for a reasonable copying charge plus employee time.

(e) Rulemaking - In addition to any other requirements, the department shall comply with the requirements of the Montana Administrative Procedure Act.

(f) Other measures - The listing of specific measures in this section shall not preclude additional methods for obtaining, encouraging or assisting public participation.

#### 8-2.2(2)-P240 NOTICE AND MEANS FOR PUBLIC PARTICIPATION

(1) If it is determined that significant public interest is involved, one or more of the following steps, as applicable, shall be taken to assist public participation in decision-making:

(a) a proceeding or hearing shall be held in compliance with the provisions of the Montana Administrative Procedure Act, Title 82, Chapter 42, R.C.M. 1947;

(b) a public hearing, after appropriate notice is given, shall be held pursuant to any other provision of state law or a local ordinance or regulation;

(c) a news release, legal advertisement, or other method of publication shall be given to news media within the area to be affected which shall include the name of the Department, the name of a person within the Department most familiar with the proposed action, the address, and phone number where interested persons may submit their data, views or arguments, orally or in written form, concerning the proposed action.

#### 8-2.2(2)-P250 CONFERENCES WITH THE DIRECTOR OR DIVISION ADMINISTRATORS

(1) Any individual or group of individuals may make appointments to confer with the Director or Division Administrators regarding any matter of concern to those individuals and which is subject to the jurisdiction of the Department of Business Regulation. Such appointments may be made by contacting the Director's Office in Helena, (406) 449-3163.

8-2.2(2)-P260 OPEN MEETINGS (1) All meetings of the Department shall be open to the public subject to the provisions of Section 85-3402, R.C.M. 1947.

8-2.2(2)-P270 GENERAL (1) Citizens desiring information about anything contained in these rules or about anything concerning the Department of Business Regulation and public participation should contact the appropriate Division Administrator. Their names and addresses are as follows:

Harold H. Pitts, Director, Department of Business Regulation, 805 North Main, Helena, Montana 59601

Isabelle Pistelak, Administrator, Centralized Services Division, 805 North Main, Helena, Montana 59601

Dick Disney, Administrator, Consumer Affairs Division, 805 North Main, Helena, Montana 59601

Leslie W. Alke, Administrator, Financial Division, 805 North Main, Helena, Montana 59601

K. M. Kelly, Administrator, Milk Control Division, 805 North Main, Helena, Montana 59601

Gary Delano, Administrator, Weights and Measures Division, 805 North Main, Helena, Montana 59601

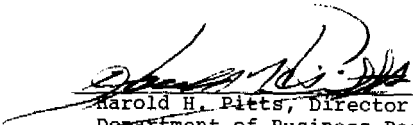
(all may be reached by telephone at (406) 449-3163).

3. Interested parties may submit their data, views or arguments concerning the proposed rules in writing to Harold H. Pitts, Director of the Department of Business Regulation, 805 North Main Street, Helena, Montana 59601. Written comments in order to be considered must be received no later than April 15, 1976.

4. If a person directly affected wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Harold H. Pitts, on or before April 15, 1976.

5. If the Department receives requests for a public hearing on the proposed rules from more than twenty-five persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

6. The authority of the Department to make the proposed rules is based on Sections 82-4227 and 82-4228, R.C.M. 1947.

  
Harold H. Pitts, Director  
Department of Business Regulation

Certified to the Secretary of State March 12, 1976.

BEFORE THE DEPARTMENT OF BUSINESS REGULATION  
OF THE STATE OF MONTANA

In the Matter of the Amend-	)	NOTICE OF PROPOSED AMEND-
ment of Rule 8-2.2(1)-P200,	)	MENT OF RULE 8-2.2(1)-P200
Incorporating the Model	)	and PROPOSED ADOPTION OF
Rules by Reference, and the	)	RULES 8-2.2(1)-P201,
Adoption of Rules 8-2.2(1)-	)	8-2.2(1)-P202, 8-2.2(1)-
P201, 8-2.2(1)-P202,	)	P203, 8-2.2(1)-P204,
8-2.2(1)-P203, 8-2.2(1)-	)	8-2.2(1)-P205 and 8-2.2(1)-
P204, 8-2.2(1)-P205, and	)	P206 (INCORPORATION OF
8-2.2(1)-P206, Enumerating	)	MODEL RULES WITH EXCEPTIONS)
Departmental Exceptions to	)	NO PUBLIC HEARING CONTEM-
the Model Rules.	)	PLATED

TO: All Interested Persons

1. On July 12, 1976, the Department of Business Regulation proposes to amend Rule 8-2.2(1)-P200 and proposes to adopt Rules 8-2.2(1)-P201, 8-2.2(1)-P202, 8-2.2(1)-P203, 8-2.2(1)-P204, 8-2.2(1)-P205 and 8-2.2(1)-P206, providing for the incorporation of the model rules with certain exceptions.

2. The proposed amendment of rule 8-2.2(1)-P200 would alter that Section by providing for the adoption of the model rules, subject to the exceptions set forth in the proposed new rules.

3. Sections 8-2.2(1)-P201, 8-2.2(1)-P202, 8-2.2(1)-P203, 8-2.2(1)-P204, 8-2.2(1)-P205 and 8-2.2(1)-P206 would incorporate the exceptions previously contained in Rule 8-2.2(1)-P200, with minor changes in phrasing, and incorporation of new rule numbers rather than sub-paragraphs to a single rule.

4. A complete copy of the proposed amendment and proposed new rules may be obtained by contacting Mr. Harold H. Pitts, Director, Department of Business Regulation, 805 North Main Street, Helena, Montana 59601.

5. Among the issues to be considered by the Department are whether or not the proposed substitution and revision of these procedural rules provides more meaningful disclosure of departmental procedure.

6. Interested parties may submit their data, views or arguments, pursuant to Section 82-4228(3), R.C.M. 1947, either orally or in writing to Mr. Harold H. Pitts, Director, Department of Business Regulation, 805 North Main Street, Helena,

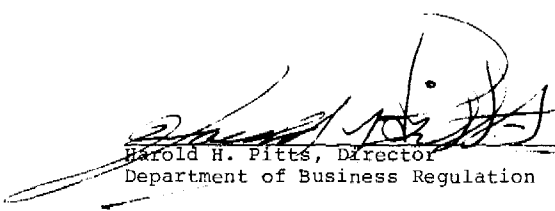


(2)

Montana 59601. Written comments, in order to be considered, must be received not later than July 9, 1976.

7. If the Department receives requests for a public hearing on the proposed rule from more than ten percent (10%) or twenty-five (25) or more of the persons directly affected, a public hearing will be held at a later date. Notification will be made by publication in the Administrative Register and by direct notice to persons presenting timely requests for hearing.

8. The authority of the Department to make the proposed amendment and adoption is based on Section 82-4203, R.C.M. 1947.



Harold H. Pitts, Director  
Department of Business Regulation

Certified to the Secretary of State June 10, 1976.


In the matter of the Repeal ) NOTICE OF PROPOSED REPEAL  
of Rule 8-2.4(1)-\$400(1)(g) ) OF RULE 8-2.4(1)-\$400(1)(g)  
Requiring Certain Disclosures ) (UNLAWFUL ACTS OR PRACTICES)  
in Meat Sale Advertising. ) NO PUBLIC HEARING CONTEM-  
PLATED

1. On July 15, 1976, the Department of Business Regulation proposes to repeal Rule 8-2.4(1)-S400(1)(q), requiring disclosure of the price per pound of meat sold in packages containing several different cuts or kinds of meat.

3. Interested parties may submit their data, views or arguments concerning the proposed repeal orally or in writing to Mr. Harold H. Pitts, Director, Department of Business Regulation, 805 North Main Street, Helena, Montana 59601. Written comments, in order to be considered, must be received by no later than July 12, 1976.

5. If the Department receives requests for a public hearing on this proposed repeal from more than ten percent (10%), or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register and by mail to the requesting persons.

Harold H. Pitts, Director  
Department of Business Regulation

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MAC Notice No. 8-2-24

BEFORE THE STATE BANKING BOARD  
OF THE STATE OF MONTANA

In the Matter of the Amendment )  
of Rules 8-3.22(2)-P2220, )  
8-3.22(2)-P2230, 8-3.22(6)-S1000, ) NOTICE OF PUBLIC  
8-3.22(6)-S1010, 8-3.22(6)-S1020, and ) HEARING  
8-3.22(6)-S1030, Relating to Authori- )  
zation for New State Chartered Banks. )

TO: All Interested Persons

1. A public hearing will be held in the Third Floor Conference Rooms of the Veteran's Memorial Building, 225 North Roberts, Helena, Montana, on Wednesday, February 23, 1977, at 9:00 o'clock a.m., or as soon thereafter as interested parties can be heard, to consider amendments to the State Banking Board's rules concerning authorization for new state chartered banks.

2. The rules proposed to be amended and their respective subject matters are as follows:

- a. 8-3.22(2)-P2220 - Investigation Responsibility;
- b. 8-3.22(2)-P2230 - Application Procedure for a Certificate of Authorization for a State Chartered Bank;
- c. 8-3.22(6)-S1000 - Persuasive Showing of Reasonable Public Necessity and Demand;
- d. 8-3.22(6)-S1010 - Management of Proposed Bank;
- e. 8-3.22(6)-S1020 - Capital Adequacy of Proposed New Banks;
- f. 8-3.22(6)-S1030 - Banks - F.D.I.C. Insurance Required.

3. The full text of the proposed rules as amended may be obtained by writing or calling the Chairman of the State Banking Board, 805 North Main Street, Helena, Montana 59601, phone 449-3163.

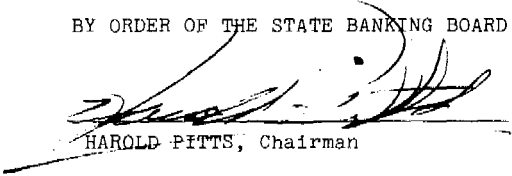
4. Interested persons may present their data, views, or arguments pursuant to Section 82-4228(2), R.C.M. 1947, either orally or in writing at the hearing or by mailing the same to the State Banking Board, 805 North Main Street, Helena, Montana 59601.

5. James H. McFarland, Esquire, 805 North Main Street, Helena, Montana 59601, has been designated by the Board to preside over and conduct the hearing.

(2)

6. The authority of the State Banking Board to conduct this hearing and make the proposed amendments is based on Section 5-611, R.C.M. 1947, as amended.

BY ORDER OF THE STATE BANKING BOARD



HAROLD PETTS, Chairman

Certified to the Secretary of State December 15, 1976.

Chapter 14  
Milk Control,  
Board of

BEFORE THE BOARD OF MILK CONTROL  
OF THE STATE OF MONTANA

In the Matter of the Amendment of	)	
Rule 8-3.14(14)-S1440, (Paragraph 1	)	NOTICE OF PUBLIC
through Paragraph 14) to Consider	)	HEARING FOR AMENDMENT
Amendments to Producer Formulas,	)	OF RULE 8-3.14(14)-
Distributor Formula, Distributor	)	S1440 (PRICING RULES)
Margins and prices for Three (3)	)	
Quart Containers.	)	
(Statewide, July 23, 1976)	)	
	)	DOCKET #31

TO: All Interested Persons

1. On July 23, 1976, at 9:00 A.M., MDT, or as soon thereafter as interested parties can be heard, a Public Hearing will be held in the Capital Club Room of the Colonial Hilton Motor Hotel and Convention Center, said hearing room located in the East wing of the Hotel, Helena, Montana, to consider amendments to Rule 8-3.14(14)-S1440 (PRICING RULES).

2. This Hearing is held on motion of the Board and requests from the industry and will continue from time-to-time until sufficient evidence is obtained.

3. The purpose of this Hearing is as follows:

- (a) To consider amendment of any and all paragraphs of the Rule.
- (b) To consider a special price for the three (3) quart container.
- (c) To consider increasing or decreasing the producer's Class I, II and III formulas for pricing raw milk.
- (d) To consider amendments to the distributor's formula.
- (e) To consider increasing or decreasing the distributor's margin.
- (f) To consider any and all other amendments to said Rule that may be proposed at the Hearing.

4. Interested persons may present their data, views or arguments pursuant to Section 82-4228(2), R.C.M. 1947, either orally or in writing at the Hearing or by mailing the same to the Board of Milk Control, 805 North Main Street, Helena, Montana 59601.

5. James H. McFarland, Esquire, 805 North Main Street, Helena, Montana 59601 has been designated by the Board and the Department of Business Regulation to preside over and conduct the Hearing.

6. Copies of the Detailed Notice of Public Hearing including facts within the Board's own knowledge may be had by writing or calling the Milk Control Division, Department of Business Regulation, 805 North Main Street, Helena, Montana 59601, Phone (406) 449-3163.

7. The authority of the Board of Milk Control to conduct this Hearing is based on Section 27-407, R.C.M. 1947, as amended.

BY ORDER OF THE BOARD OF MILK CONTROL

*Genevieve Remillard*  
Genevieve Remillard, Chairman

BY: *K. M. Kelly*  
K. M. Kelly, Administrator

CERTIFIED TO THE SECRETARY OF STATE *June 15*, 1976.

BEFORE THE BOARD OF MILK CONTROL  
OF THE STATE OF MONTANA

In the Matter of the Amendment of	)	NOTICE OF PUBLIC
Rule 8-3.14(14)-S1440, (Paragraph	)	HEARING FOR AMENDMENT
6 (b) and (g)) to Consider Amend-	)	OF RULE 8-3.14(14)-
ments to the Distributor Formula,	)	S1440 (PRICING RULES)
Distributor and Retailer Margins.	)	
(Statewide, October 29, 1976)	)	DOCKET #33

TO: All Interested Persons

1. On October 29, 1976 at 9:00 A.M., MDT, or as soon thereafter as interested parties can be heard, a Public Hearing will be held in the Capital Club Room of the Colonial Motor Hotel and Convention Center, said hearing room located in the East Wing of the hotel, Helena, Montana, to consider amendments to Rule 8-3.14(14)-S1440 (PRICING RULES).

2. This hearing is held as a result of requests from the industry and will continue from time-to-time until sufficient evidence is obtained.

3. The purpose of this hearing is as follows:

(a) To consider amendments to the distributor's formula.

(b) To consider decreasing the distributor's margin.

(c) To consider decreasing the retailer's margin.

(d) To consider separate or different prices in market areas IV and VI.

4. The Board takes official notice of judgments rendered in Cause No. 29982 Cloverleaf v. Milk Control Board, dated June 24, 1964, Lewis and Clark County, Cause No. 52907, dated August 21, 1964, Silver Bow County, Safeway v. Milk Control Board, and Cause No. 30483, Phillips v. Milk Control Board, dated October 6, 1965.

5. Interested persons may present their data, views or arguments pursuant to Section 82-4228(2), R.C.M. 1947, either orally or in writing at the hearing or by mailing the same to the Board of Milk Control, 805 North Main Street, Helena, Montana 59601.

6. Thomas H. Mahan, Esquire, Northwestern Bank Building Helena, Montana 59601, has been designated by the Board and the Department of Business Regulation to preside over and conduct the hearing.



(2)

7. Copies of the Detailed Notice of Public Hearing, including facts within the Board's own knowledge, may be had by writing or calling the Milk Control Division, Department of Business Regulation, 805 North Main Street, Helena, Montana 59601, phone (406) 449-3163.

8. The authority of the Board of Milk Control to conduct this hearing is based on Section 27-407, R.C.M. 1947, as amended.

BY ORDER OF THE BOARD OF MILK CONTROL

*Genevieve Remillard*  
Genevieve Remillard, Chairman

By: *K M Kelly*  
K. M. Kelly, Administrator

CERTIFIED TO THE SECRETARY OF STATE Sept 15, 1976.

Title 12

Fish and Game

BEFORE THE STATE FISH AND GAME COMMISSION  
OF THE STATE OF MONTANA

In the matter of the Adoption )	NOTICE OF ADOPTION OF
of Rules 12-2.18(6)-S1830 and )	RULES 12-2.18(6)-S1830
12-2.18(6)-S1840 Relating to )	and 12-2.18(6)-S1840.
Fish Planting Policy )	NO PUBLIC HEARING
	CONTEMPLATED

TO ALL INTERESTED PERSONS:

1. At the first meeting after the 15th day of April, 1976, the State Fish and Game Commission proposes to adopt Rules 12-2.18(6)-S1830 and 12-2.18(6)-S1840 as follows:

Rule 12-2.18(6)-S1830. General Policy for Fish Planting

(1) All personnel acting under the jurisdiction of the Montana Fish and Game Commission shall comply with the policy established in this sub-chapter for planting fish in the State of Montana. The provisions contained herein supersede all previous provisions relating to fish planting.

(2) The annual fish distribution plan shall be reviewed and approved by the Administrator and the Chief of the Bureau of Management and Research of the Fisheries Division, Montana Department of Fish and Game. Changes during the year may be made only with their written approval. Fish distribution is subject to an official order of the Montana Fish and Game Commission and the Director.

(3) No state-raised fish shall be planted into any waters of Montana where public access for fishing is denied. Fish shall not be placed in stream locations closer than one-half mile from portions of the stream where public access is denied; this restriction does not apply to state-owned access areas.

(4) Introduction of fish not indigenous to a particular drainage may be made only after careful study to ensure these fish will be beneficial to that area.

(5) The species and size most economical in terms of fishing quality or return to the creel shall be used in planting programs when possible.

(6) The planting of catchable-size trout (7 inches and longer) for immediate harvest is not considered resource management but a means of providing additional man-days of recreation. In addition to the rules for stream planting, the following general criteria must be met in order to plant or continue to plant a stream or lake with catchable-size trout:

(a) For each six fish planted there must be an average increase of at least one fisherman day on the water stocked. The statewide fishing pressure survey is a satisfactory means for making this determination. (2)

(b) At least 40 percent of the planted fish must be creeled. Attainment of the requirement (a) above will satisfy this requirement until a creel census can be made.

(c) For a new plant to be made or an existing plant to be increased, anglers must have an average catch of less than one-half game fish per hour as determined by creel census. A "directed" warden creel census of at least 100 fisherman hours, by at least 15 different fishermen during the regular fishing season will suffice for this determination.

(7) The periodic planting of fish for population manipulation, rather than immediate harvest, is a type of resource management. If such planting is to be continued in a water after a trial period the following criteria shall be met.

(a) The planted fish after growing to a desirable size for harvest shall have measurably increased some segment of the fish population of the water planted. This is to avoid plants that merely replace wild fish.

(b) The planted fish shall comprise a significant portion of the harvest from that water.

(c) "Water" as used in (a) and (b) above includes a bay or other natural area of a lake or reservoir or a section of a stream.

Rule 12-2.18(6)-S1840. Specific Policy for Stream Planting. (1) Catchable-size trout may be planted in streams only where they will not cause substantial environmental damage or where planting will not reduce the pounds of game fish available for anglers. In general, they may be planted only in streams that do not have a thriving wild trout population.

(2) It is assumed some streams, for which population data is unavailable, have less than thriving trout populations. In such streams an annual plant of up to 1,000 catchable-size trout per 10 miles of stream will be considered not to cause substantial environmental damage. A plant of this magnitude may be continued if in the judgment of the Regional Fisheries Manager, (a) the stream has a less than thriving population, and (b) catchable-size trout are needed.

(3) An established annual plant of 500 or fewer catchable-size trout may be continued until it is determined the plant causes environmental damage or the return to the creel is unsatisfactory.

(3)

(4) No catchable plants may be made in numbers exceeding those prescribed in paragraphs (2) and (3) until the criteria in paragraph (1) have been established by fish population studies.

(5) To ensure maximum return, stream plants of catchable-size trout shall be made only between the end of spring high water and August 15 each year. Exceptions may be made for unforeseen conditions and for waters open the entire year.

2. The proposed rule does not replace or modify any section currently found in the Montana Administrative Code.

3. Interested parties may submit their data, views or arguments covering the proposed rule in writing to Wesley R. Woodgerd, Director, Department of Fish and Game, Sam Mitchell Building, Helena, Montana 59601. Written comments in order to be considered must be received by not later than the 15th day of April, 1976.

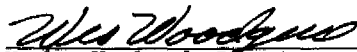
4. If any person directly affected wishes to express his data, views or arguments orally or in writing at a public hearing, he must make a written request for a public hearing and submit this request, along with any written comments, to Mr. Woodgerd at the above stated address prior to the 15th day of April, 1976.

5. If the Director receives requests for a public hearing on the adoption of the foregoing rule from 25 or more of the persons directly affected, a public hearing will be held at a later date. Notification will be given of the date and time of the hearing.

6. Ten percent (10%) of those persons directly affected have been determined to be in excess of 25.

7. The authority of the State Fish and Game Commission to make the proposed rule is based upon Section 26-104.

Dated this 25th day of February, 1976.



Wesley Woodgerd, Director  
Department of Fish and Game  
Secretary to the Commission

BEFORE THE STATE FISH AND GAME COMMISSION  
OF THE STATE OF MONTANA

In the matter of the Amendment	)	NOTICE OF AMENDMENT OF
of Rule 12-2.10(6)-S1080	)	RULE 12-2.10(6)-S1080
Relating to Regulations for	)	NO PUBLIC HEARING
Outfitters and Guides	)	CONTEMPLATED

TO ALL INTERESTED PERSONS:

1. At the first meeting after the 15th day of April, 1976, the State Fish and Game Commission proposes to amend Rule 12-2.10(6)-S1080 as follows:

Rule 12-2.10(6)-S1080 REGULATIONS FOR OUTFITTERS AND GUIDES (1) through (3) remains the same.

(4)(a) Guide requirements are hereby waived to holders of ~~B-2~~ B-10, B-5, and B-6 licenses in special deer and antelope areas during the period B-5 and B-6 license holders may hunt except guide requirements are not waived in areas open to a general hunting season on any animal other than deer and antelope.

(4)(b) remains the same.

(4)(c) repeal.

(4)(d) through (4)(h)(iii) remains the same.

(4)(h)(iv) While any nonresident person who is a guide or outfitter is guiding or outfitting for deer, elk or other big game hunting parties in those areas other than those specified in subsection (iii) hereof -- a Class ~~B-2~~ B-10 (Nonresident) Big Game License.

(4)(h)(v) remains the same.

2. The proposed Rule modifies Rule 12-2.10(6)-S1080 currently found on page 12-31 in the Montana Administrative Code.

3. Interested parties may submit their data, views or arguments covering the proposed rule in writing to Wesley R. Woodgerd, Director, Department of Fish and Game, Sam Mitchell Building, Helena, Montana 59601. Written comments in order to be considered must be received by not later than the 15th day of April, 1976.

4. If any person directly affected wishes to express his data, views, or arguments orally or in writing at a public hearing, he must make a written request for a public hearing and submit this request, along with any written comments, to Mr. Woodgerd at the above stated address prior to

3-3/26/76

MAC Notice No. 12-2-32


the 15th day of April, 1976.

5. If the Director receives requests for a public hearing on the amendment of the foregoing rule from 25 or more persons directly affected, a public hearing will be held at a later date. Notification will be given of the date and time of the hearing.

6. Ten percent (10%) of those persons directly affected have been determined to be in excess of 25.

7. The authority of the State Fish and Game Commission to make the proposed rule is based upon Section 26-913, R.C.M. 1947.

Dated this 25th day of February , 1976.

  
Wesley Woodgerd, Director  
Department of Fish and Game  
Secretary to the Commission

BEFORE THE STATE FISH AND GAME COMMISSION  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF AMENDMENT OF
Amendment of Rule	)	RULE 12-2.26(1)-S2600
12-2.26(1)-S2600 Relating	)	NO PUBLIC HEARING
to Public Use Regulation	)	CONTEMPLATED

TO ALL INTERESTED PERSONS:

1. At its first meeting after April 15, 1976, the State Fish and Game Commission proposes to amend Rule 12-2.26(1)-S2600 as follows:

Rule 12-2.26(1)-S2600 PUBLIC USE REGULATIONS  
(Underline indicates new material)

- (1) through (1)(a) (Remains the same)
- (1)(b) is rewritten as follows: No person may permit a pet animal to run at large in a designated public recreation area. Persons in possession of pet animals must restrain them and keep them under control on a leash. The leash may not exceed fifteen (15) feet in length and must be in hand or anchored at all times. This rule applies from April 1 through September 15 of each year unless the area is otherwise posted.
- (1)(c) through (1)(e) (Remains the same)
- (1)(f) No person or persons shall be permitted to maintain occupancy of camping facilities or space in any one designated recreation area for a period longer than fourteen (14) days during any thirty (30) day period. Such thirty (30) day periods shall run consecutively during the year commencing with the first day each person camps in the designated recreation area each year. No person may leave a set up camp, trailer, camper or other vehicle unattended for more than forty-eight (48) hours unless otherwise posted.
- (1)(g) through (1)(i) (Remains the same)
- (1)(j) No person shall destroy, deface, injure, remove or otherwise damage any natural or improved property or shall willfully or negligently cut, destroy or mutilate any tree, shrub or plant or any geological, historical, or archaeological feature, but this shall not be interpreted to include flowers, berries, cones or dead wood.
- (1)(k) through (1)(m) (Remains the same)
- (1)(n) No person shall dump dead fish or animals or



parts thereof, human excrement, refuse, rubbish, or wash water (except in receptacles provided for this purpose) nor pollute or litter in any other manner a public recreational area. Sewage wastes from self-contained trailers, campers or other portable toilets shall be disposed of only in posted sanitary trailer dump stations. Wash water may be disposed of in sealed vault latrines. No household or commercial garbage or trash brought in as such from other property shall be disposed of in any designated public recreation area.

(1)(o) through (1)(q) (Remains the same)

(1)(r) Disorderly conduct such as drunkenness, use of vile or profane language, fighting, indecent exposure, or operation of a motor vehicle in a manner as to create a nuisance or annoyance to others or loud or noisy behavior during the hours of darkness is prohibited; and in addition to any other penalty provided, the participant may be expelled from the area.

(1)(s) through (1)(y) (Remains the same)

(1)(z) Public recreation areas as posted, will be closed nightly, except for emergency ingress and egress.

2. The proposed Rule modifies Rule 12-2.26(1)-S2600 currently found on page 12-77 in the Montana Administrative Code.

3. Interested parties may submit their data, views or arguments covering the proposed rule in writing to Wesley R. Woodgerd, Director, Department of Fish and Game, Sam Mitchell Building, Helena, Montana 59601. Written comments in order to be considered must be received by not later than the Commission meeting date.


4. If any person directly affected wishes to express his data, views or arguments orally or in writing at a public hearing, he must make a written request for a public hearing and submit this request, along with any written comments, to Mr. Woodgerd at the above stated address prior to the 16th day of April, 1976.


5. If the Director receives requests for a public hearing on the adoption of the foregoing rule from more than 25 of the persons directly affected, a public hearing will be held at a later date. Notification will be given of the date and time of the hearing.

6. Ten percent (10%) of those persons directly affected have been determined to be in excess of 25.

7. The authority of the State Fish and Game Commission to make the proposed rule is based upon Section 62-306 R.C.M. 1947.

Dated this 25th day of February, 1976.

  
\_\_\_\_\_  
Wesley Woodgerd, Director  
Department of Fish and Game  
Secretary to the Commission

3-3/26/76 

MAC Notice No. 12-2-33

BEFORE THE STATE FISH AND GAME COMMISSION  
OF THE STATE OF MONTANA

In the matter of the Amendment )	NOTICE OF AMENDMENT OF
of Rule 12-2.10(14)-S10190 )	RULE 12-2.10(14)-S10190
Relating to Water Safety )	NO PUBLIC HEARING
Regulations )	CONTEMPLATED

TO ALL INTERESTED PERSONS:

1. At its first meeting after the 16th day of June, 1976, the State Fish and Game Commission proposes to amend Rule 12-2.10(14)-S10190 as follows:

12-2.10(14)-S10190 WATER SAFETY REGULATIONS (1) In the interest of public health, safety or protection of property, the following regulations concerning the public use of certain waters of the state of Montana are hereby adopted and promulgated by the Montana Fish and Game Commission:

(a) The following waters are closed to the use of any motor propelled water craft except in case of use for official patrol, search and rescue craft, or for scientific purposes:

Lake-Lois---Pewell-County

Wood Lake - Lewis & Clark County

Arapooish Access Area - Big Horn County

Feys Reservoir - Toole County

Axtman Reservoir - Toole County

Fitzpatrick Reservoir - Toole County

Henry Reservoir - Toole County

Twin Lakes - Ravalli County

Big Hole River

Smith River

Forest Lake - Meagher County

Harpers Lake - Missoula County

Frenchtown Pond - Missoula County

Bear Mouth Rest Area Pond - Granite County

Branum Pond - Custer County

Park Lake - Jefferson County

Bearpaw Lake - Hill County

South Sandstone Reservoir - Fallon County

(b) The following waters are closed to the use of all boats propelled by machinery of over 10 horsepower, except in cases of use for search and rescue, official patrol, or for scientific purposes:

(i) All rivers and streams in the following counties east of the Continental Divide:  
Silver Bow Park-Exception: Yellowstone down-  
Beaverhead river from Interstate 90 Bridge  
Jefferson at Livingston  
Gallatin Broadwater-Exception: Missouri  
Madison downriver from Toston Dam

(ii) Other waters of the state as follows:

Beaver Creek Reservoir - Hill County

(c) The following waters are limited to a controlled no wake speed. No wake speed is defined as a speed whereby there is no "white" water in the track or path of the vessel or in created waves immediate to the vessel.

Bigfork Bay - Flathead County

Upper Carter Pond - Fergus County

Lower Carter Pond - Fergus County

Cooney Reservoir - Carbon County - all of Willow Creek arm as buoyed.

Canyon Ferry Reservoir - Lewis & Clark County & Broadwater County - in the area of Yacht Basin, Cave Bay and Goose Bay within 300 feet of the docks or as buoyed.

Clearwater River - Missoula County - from Camp Paxson swim dock downstream to first bridge.

Hauser Reservoir - Lewis & Clark County - in the area of Lakeside Marina within 300 feet of the docks or as buoyed.

(d) through end remain the same.

2. The proposed amendment modifies Rule 12-2.10(14)-S10190 found on page 12-46 in the Montana Administrative Code.

3. Interested parties may submit their data, views or arguments covering the proposed rule in writing to Wesley R. Woodgerd, Director, Department of Fish and Game, Sam Mitchell Building, Helena, Montana 59601. Written comments in order to be considered must be received by not later than the 16th day of June, 1976.

4. If any person directly affected wishes to express his data, views or arguments orally or in writing at a public hearing, he must make a written request for a public hearing and submit this request, along with any written comments, to Mr. Woodgerd at the above stated address prior to the 15th day of June, 1976.


5. If the Director receives requests for a public hearing on the adoption of the foregoing rule from 25 or more of the persons directly affected, a public hearing will be held at a later date. Notification will be given of the

date and time of the hearing.

6. Ten percent (10%) of those persons directly affected have been determined to be in excess of 25.

7. The authority of the State Fish and Game Commission to make the proposed rule is based upon Section 26-104.9, R.C.M. 1947.

Dated this 13th day of May , 1976.

  
Wesley Woodgerd, Director  
Department of Fish and Game  
Secretary to the Commission

BEFORE THE STATE FISH AND GAME COMMISSION  
OF THE STATE OF MONTANA

In the Matter of the Amendment )	NOTICE OF AMENDMENT OF
of Rule 12-2.10(6)-S1080 )	RULE 12-2.10(6)-S1080
Relating to Regulations for )	NO PUBLIC HEARING
Outfitters and Guides )	CONTEMPLATED

TO ALL INTERESTED PERSONS:

1. At its first meeting after the 18th day of August, 1976, the State Fish and Game Commission proposes to amend Rule 12-2.10(6)-S1080 as follows: (underline indicates new material, interline is deleted material)

Rule 12-2.10(6)-S1080 REGULATIONS FOR OUTFITTERS AND GUIDES (1) through (4)(h)(ii) remain the same. (4)(h)(iii) Any nonresident person who is a guide or outfitter and is guiding or outfitting for deer or antelope hunting parties in those areas or districts of the eastern portion of the state of Montana where there is only deer and antelope seasons available -- A Class B-5 (Nonresident) Deer License, B-7 (Nonresident) Deer License, and/or a B-8 (Nonresident) Deer B License and/or a Class B-6 (Nonresident) Antelope License, or a B-10 (Nonresident) Big Game Combination License. (4)(h)(iv) through end remain the same.

2. The proposed Rule modifies Rule 12-2.10(6)-S1080 currently found on page 12-31 in the Montana Administrative Code.

3. Interested parties may submit their data, views or arguments covering the proposed rule in writing to Wesley R. Woodgerd, Director, Department of Fish and Game, 1420 E. 6th Avenue, Helena, Montana 59601. Written comments in order to be considered must be received by not later than the 18th day of August, 1976.


4. If any person directly affected wishes to express his data, views or arguments orally or in writing at a public hearing, he must make a written request for a public hearing and submit this request, along with any written comments, to Mr. Woodgerd at the above stated address prior to the 18th day of August, 1976.

5. If the Director receives requests for a public hearing on the amendment of the foregoing rule from 25 or more of the persons directly affected, a public hearing will be held at a later date. Notification will be given of the date and time of the hearing.

6. Ten percent (10%) of those persons directly affected have been determined to be in excess of 25.

7. The authority of the State Fish and Game Commission to make the proposed rule is based upon Section 26-913, R.C.M. 1947.

Dated this 24th day of June , 1976.

  
Wesley Woodgerd, Director  
Department of Fish and Game  
Secretary to the Commission

BEFORE THE STATE FISH AND GAME COMMISSION  
OF THE STATE OF MONTANA

In the matter of the Amendment ) NOTICE OF PUBLIC HEARING  
of Rule 12-2.10(2)-S1060 ) FOR AMENDMENT OF RULE  
Relating to Opening Dates ) 12-2.10(2)-S1060

TO ALL INTERESTED PERSONS:

1. At its first meeting after the 14th day of December, 1976, the State Fish and Game Commission proposes to amend the above cited rule as follows: (interline indicates deletion, underline indicates addition)

Rule 12-2.10(2)-S1060 OPENING DATES ~~{1}~~ The Commission policy on opening dates shall be as follows:

~~{a}~~ (1) General big game season -- ~~First-Sunday following-October-16.~~

<del>1971---October-17</del>	<del>1977---October-23</del>
<del>1972---October-22</del>	<del>1978---October-22</del>
<del>1973---October-21</del>	<del>1979---October-21</del>
<del>1974---October-20</del>	<del>1980---October-19</del>
<del>1975---October-19</del>	<del>1981---October-18</del>
<del>1976---October-17</del>	

The Fourth Sunday in October.

~~{b}~~ (2) Antelope season -- ~~One Two~~ weeks preceding the big game season.

~~{c}~~ (3) Back country season -- September 15.

(4) Other seasons - As announced by the Commission.

2. The proposed Rule modifies Rule 12-2.10(2)-S1060 currently found on page 12-30 in the Montana Administrative Code.

3. Interested parties may submit their data, views or arguments covering the proposed rule in writing to Wesley R. Woodgerd, Director, Department of Fish and Game, 1420 East 6th Avenue, Helena, Montana 59601. Written comments in order to be considered must be received by not later than the 16th day of December, 1976.

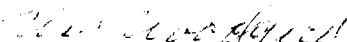
4. If any person directly affected wishes to express his data, views or arguments orally or in writing at a public hearing, the opportunity will be made available on the 16th day of December, 1976, at public hearing in the Commission Room at the Fish and Game building, 1420 East 6th Avenue, Helena, Montana at 9:00 a.m.



5. The Commission has designated F. W. Wright to preside over and conduct the hearing.

6. The authority of the State Fish and Game Commission to make the proposed rule is based upon Section 26-104.3, R.C.M. 1947.

Dated this 10th day of November , 1976.

  
\_\_\_\_\_  
Wesley Woodgerd, Director  
Department of Fish and Game  
Secretary to the Commission

BEFORE THE STATE FISH AND GAME COMMISSION  
OF THE STATE OF MONTANA

In the matter of the Amendment )	NOTICE OF AMENDMENT OF
of Rule 12-2.6(1)-S610 Relating )	RULE 12-2.6(1)-S610
to Regulations for Issuance of )	NO PUBLIC HEARING
Falconer's Licenses )	CONTEMPLATED

TO ALL INTERESTED PERSONS:

1. At its first meeting after the 14th day of December, 1976, the State Fish and Game Commission proposes to amend Rule 12-2.6(1)-S610 as follows:

Rule 12-2.6(1)-S610 REGULATIONS FOR ISSUANCE OF FALCONER'S LICENSES The proposed amendments are in summary form. A complete copy of the proposed amendments is available at the Director's office, Department of Fish and Game, 1420 East 6th Avenue, Helena, Montana.

- (1) Three classes of falconry permits are established: apprentice, general, and master.
- (2) Indoor facilities are required in addition to outdoor facilities.
- (3) Necessary handling equipment is more clearly defined.
- (4) Success on a falconer's examination is required.
- (5) Markers for captive raptors are required.
- (6) Other provisions are included relating to maintenance, transportation, taking of raptors, current possession of raptors, release of raptors, temporary care, retention of feathers.

2. The proposed Rule modifies Rule 12-2.6(1)-S610 currently found on page 12-11.1 in the Montana Administrative Code.

3. Interested parties may submit their data, views, or arguments covering the proposed rule in writing to Wesley R. Woodgerd, Director, Department of Fish and Game, 1420 East 6th Avenue, Helena, Montana 59601. Written comments in order to be considered must be received by not later than the 16th day of December, 1976.

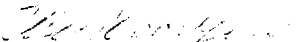
4. If any person directly affected wishes to express his data, views or arguments orally or in writing at a public hearing, he must make a written request for a public hearing and submit this request, along with any written comments, to Mr. Woodgerd at the above stated address prior to the 16th day of December, 1976.

5. If the Director receives requests for a public hearing on the adoption of the foregoing rule from 25 or more of the persons directly affected, a public hearing will be held at a later date. Notification will be given of the date and time of the hearing.

6. Ten percent (10%) of those persons directly affected have been determined to be in excess of 25.

7. The authority of the State Fish and Game Commission to make the proposed rule is based upon Section 26-501.1, R.C.M. 1947.

Dated this 10th day of November, 1976.

  
\_\_\_\_\_  
Wesley Woodgerd, Director  
Department of Fish & Game  
Secretary to the Commission

Title 16  
Health and Env.  
Sciences

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

In the matter of the amendment )	NOTICE OF PUBLIC HEARING
of rule MAC 16-2.6(6)-S6100 )	FOR AMENDMENT OF RULE
prescribing marriage record )	MAC 16-2.6(6)-S6100
form )	(Marriage Record Form)

1. On February 18, 1976, at 9:00 a.m., a public hearing will be held in Rooms 142-143, Cogswell Building, Capitol Complex, Helena, Montana, to consider the amendment of rule MAC 16-2.6(6)-S6100 prescribing the marriage record form.

2. The proposed amendment replaces present rule MAC 16-2.6(6)-S6100 found in the Montana Administrative Code.

3. A summary of the proposed rule follows; a complete copy of the proposed rule may be obtained by contacting the Records and Statistics Bureau, Department of Health and Environmental Sciences, Cogswell Building, Helena, Montana, 59601.

The proposed amendment prescribes the marriage application form, marriage record form, and consent for minor form. The marriage record form shall consist of Items 1 through 31 and shall be submitted to the department as required by Section 69-4432, R.C.M. 1947. Items 1 through 31 relate to information pertaining to the name, residence, birth, parents, race, sex, education and previous marriages of the groom and bride and information pertaining to the marriage. Items 32 through 41 relate to information pertaining to children and legal matters and provides for the signatures of the parties.

The information which is requested on the form is prescribed by Sections 48-305, 48-144 and 69-4432, R.C.M. 1947. Section 48-305, adopted by the 1975 Legislature, requires the department to prescribe the marriage application form, the marriage license and certificate and consent form. The proposed amendment provides that the marriage licenses and certificates currently being used by the clerks of the district courts will continue to be used by the clerks.

4. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing.

5. The Department of Health and Environmental Sciences will preside over and conduct the hearing.

6. The authority of the Department to make the proposed

(2)

amendment is based on Sections 48-305 and 69-4432, R.C.M.  
1947.

A. C. Knight  
A. C. KNIGHT, M.D., F.C.C.P.  
Acting Director

Certified to the Secretary of State January 9, 1976

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

In the matter of the amendment )	NOTICE OF PROPOSED AMENDMENT
of rule MAC 16-2.22(1)-S2221 )	OF RULE MAC 16-2.22(1)-S2221
relating to community homes )	(Community Homes for the
for the developmentally dis- )	Developmentally Disabled)
abled )	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On February 18, 1976, the Department of Health and Environmental Sciences proposes to amend rule MAC 16-2.22(1)-S2221 relating to community homes for the developmentally disabled.

2. The proposed amendment will specify that the Department of Social and Rehabilitation Services and the Department of Health and Environmental Sciences have the responsibility of licensing community homes for the developmentally disabled and delineates the procedures for obtaining a license to operate a community home for the developmentally disabled. The proposed amendment establishes health and safety standards relating to maintenance, housekeeping, food handling, laundry, garbage disposal, water supply, sewerage systems, equipment and supplies and fire safety. The proposed amendment deletes those standards which are the responsibility of the Department of Social and Rehabilitation Services. The proposed amendment deletes the standards relating to administration, organization, personnel policies and records, admission transfer and discharge, records and reports, medications, nutritional requirements, furnishings, building and grounds, resident bedrooms, and living, dining and recreation areas. Because of the length of the proposed rule, the text of the rule is not printed herein. A copy of the complete rule may be obtained by contacting the Hospital and Medical Facilities Division, Department of Health and Environmental Sciences, 1424 Ninth Avenue, Helena, Montana, 59601.

3. All issues relevant to the proposed amendment shall be considered by the department.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to: Dr. A. C. Knight, Acting Director, Department of Health and Environmental Sciences, Cogswell Building, Helena, Montana, 59601. Written comments in order to be considered by the department must be received no later than February 13, 1976.

5. If a person directly affected wishes to express his

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data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Dr. A. C. Knight on or before February 13, 1976.

6. If the department receives requests for a public hearing on the proposed rule from more than ten percent (10%) or twenty-five or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the department to make the proposed rule is based on Section 71-2007, R.C.M. 1947.

A. C. Knight  
A. C. KNIGHT, M.D., Acting Director

Certified to the Secretary of State January 9, 1976



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

In the matter of the amendment	)	NOTICE OF PUBLIC HEARING
of rule MAC 16-2.14(2)-S14261	)	FOR AMENDMENT OF RULE
setting forth requirements for	)	MAC 16-2.14(2)-S14261
the operation of motor vehicle	)	
wrecking facilities and the	)	(Motor vehicle wrecking
control and disposal of junk	)	facilities and
vehicles	)	junk vehicle disposal)

1. On March 24, 1976, at 9:00 a.m., a public hearing will be held in Rooms 142-143, Cogswell Building, Capitol Complex, Helena, Montana, to consider the amendment of rule MAC 16-2.14(2)-S14261 setting forth requirements for the operation of motor vehicle wrecking facilities and the control and disposal of junk vehicles.

2. The proposed amendment replaces present rule MAC 16-2.14(2)-S14261 in the Montana Administrative Code. The proposed amendment specifies a licensing procedure for new applications and renewal of licenses for motor vehicle wrecking facilities and provides for certification by an appropriate local government official concerning zoning ordinances for a proposed facility. The proposed amendment provides that slabs are not considered rough dimensional lumber and that plastics or other materials are not acceptable for shielding purposes and provides for shielding in exceptional situations for a facility existing prior to July 1, 1973. The proposed amendment establishes standards for the operation of motor vehicle wrecking facilities and county operated or contracted graveyards. The proposed amendment also establishes itemized accounting budget procedures for the county junk vehicle programs. Because of the length of the proposed rule, the text of the rule is not printed herein. A copy of the complete rule may be obtained by contacting the Solid Waste Management Bureau, Department of Health and Environmental Sciences, Cogswell Building, Capitol Complex, Helena, Montana, 59601.

3. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing.

4. Dr. A. C. Knight, M.D., Acting Director of the Department of Health and Environmental Sciences will preside over and conduct the hearing.

5. The authority of the Department to make the proposed amendment is based on Section 69-6808, R.C.M. 1947.

(2)

*for John H. Harrison md*  
\_\_\_\_\_  
M. C. KNIGHT, M.D., F.C.C.P.  
Acting Director

Certified to the Secretary of State February 10, 1976

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

In the matter of the amendments ) NOTICE OF PUBLIC HEARING  
to rules MAC 16-2.14(10)-S14340 ) FOR AMENDMENTS OF RULES  
and 16-2.14(10)-S14341, relating ) MAC 16-2.14(10)-S14340  
to subdivision review fees and ) AND 16-2.14(10)-S14341  
solid waste disposal plans ) (Subdivisions — Fees and  
Solid Waste Disposal Plans)

1. On Monday, March 22, 1976, at 9:00 a.m., a public hearing will be held in Rooms 142-143, Cogswell Building, Capitol Complex, Helena, Montana, to consider the amendments to rules MAC 16-2.14(10)-S14340 and 16-2.14(10)-S14341 relating to subdivision review fees and the approval of solid waste disposal plans.

2. The proposed amendment to rule MAC 16-2.14(10)-S14340 does not replace any existing language in the current provisions of that rule. The proposed amendment to rule MAC 16-2.14(10)-S14341 replaces the present language contained in that rule.

3. A complete copy of the proposed amendments may be obtained by contacting the Subdivision Bureau, Department of Health and Environmental Sciences, Board of Health Building, Capitol Complex, Helena, Montana, 59601. A summary of the proposed amendments follows:

The proposed amendment to rule MAC 16-2.14(10)-S14340 would add a new subsection (e) to subsection (7) of the rule. The new subsection (e) would require landowners who intend to dispose of solid waste on their own property to submit a plan describing how the solid waste will be disposed of and sufficient soils and hydrology information to enable the Subdivision Bureau to determine the water pollution potential of the proposed site.

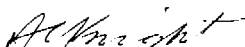
The proposed amendment to rule MAC 16-2.14(10)-S14341 describes in greater detail the fees that must be paid for subdivision review under the provisions of Section 69-5005, R.C.M. 1947. The proposed fee schedule language relates directly to the complexity of the review that must be conducted by the Subdivision Bureau in examining the proposed water supply, sewage disposal and solid waste disposal systems for a subdivision.

4. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing.

(2)

5. Dr. A. C. Knight, M.D., Acting Director of the Department of Health and Environmental Sciences will preside over and conduct the hearing.

6. The authority of the Department to make the proposed amendments is based on Section 69-5005, R.C.M. 1947.

  
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A. C. KNIGHT, M.D., F.C.C.P.  
Acting Director

Certified to the Secretary of State February 10, 1976

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

In the matter of the amendment ) NOTICE OF PUBLIC HEARING  
of rule MAC 16-2.14(1)-S14082 ) FOR AMENDMENT OF RULE  
requiring standards of per- ) MAC 16-2.14(1)-S14082  
formance for new stationary ) (Standard of Performance  
sources ) for New Stationary Sources)

1. On August 6, 1976, at 1:30 p.m., a public hearing will be held in the Governor's Conference Room, Capitol Building, Helena, Montana, to consider the amendment of rule MAC 16-2.14(1)-S14082 requiring standards of performance for new stationary sources.

2. The proposed rule modifies present rule MAC 16-2.14(1)-S14082 found in the Montana Administrative Code. The proposed amendment adds new kinds of sources for which performance standards have been set in accordance with revised federal regulations.

3. Rule MAC 16-2.14(1)-S14082, as proposed to be amended, is as follows (new matter is underlined):

"16-2.14(1)-S14082 STANDARD OF PERFORMANCE FOR NEW STATIONARY SOURCES (1) This rule shall apply to the following new stationary sources: fossil fuel-fired steam generators, incinerators, portland cement plants, nitric acid plants, sulfuric acid plants, asphalt concrete plants, petroleum refineries, storage vessels for petroleum liquids, secondary lead smelters, secondary brass and bronze ingot production plants, iron and steel plants, sewage treatment plants, primary copper smelters, primary lead smelters, primary zinc smelters, primary aluminum reduction plants, wet process phosphoric acid plants, superphosphoric acid plants, diammonium phosphate plants, triple superphosphate plants, granular triple superphosphate plants, coal preparation plants, and steel plant electric arc furnaces as defined in section (2) of this rule.

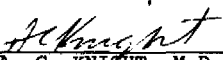
(2) All new stationary sources shall comply with the provisions of Title 40, Part 60, Code of Federal Regulations, July 1, 1975, as amended at 40 FR 33152-33166, August 6, 1975, 40 FR 43850-43854, September 23, 1975, 40 FR 46250-46271, October 6, 1975, 40 FR 53340-53349, November 17, 1975, 40 FR 58416-58420, December 16, 1975, 40 FR 59204-59205, December 22, 1975, 41 FR 2232-2235, and 2332-2341, January 15, 1976, and 41 FR 3826-3830, January 26, 1976, with the following exception: 40 CFR 60.10 is deleted. Copies of the federal regulations are available at the air quality bureau of the department, Cogswell Building, Helena, Montana, phone 449-3454."

4. Interested persons may present their data, views or

arguments, whether orally or in writing, at the hearing.

5. The Board of Health and Environmental Sciences will preside over and conduct the hearing.

6. The authority of the Board to make the proposed rule is based on Section 69-3909, R.C.M. 1947.

  
\_\_\_\_\_  
A. C. KNIGHT, M.D., F.C.C.P.  
Secretary, Board of Health and  
Environmental Sciences

Certified to the Secretary of State June 10, 1976

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

In the matter of the adoption )  
of rule MAC 16-2.14(1)-S14084 ) NOTICE OF PUBLIC HEARING  
requiring emission standards ) FOR ADOPTION OF RULE  
for hazardous air pollutants ) MAC 16- 2.14(1)-S14084  
(Emission Standards for  
Hazardous Air Pollutants)

1. On August 6, 1976, at 1:30 p.m., a public hearing will be held in the Governor's Conference Room, Capitol Building, Helena, Montana, to consider the adoption of rule MAC 16-2.14(1)-S14084 requiring emission standards for hazardous air pollutants.

2. The proposed rule does not replace or modify any section currently found in the Montana Administrative Code.

3. The proposed rule provides as follows:

"16-2.14(1)-S14084 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (1) This rule shall apply to the owner or operator of any stationary source for which an emission standard for hazardous air pollutants is prescribed by section (2) of this rule.

(2) The owner or operator of any stationary source shall comply with the provisions of Title 40, Part 61, Code of Federal Regulations, July 1, 1975, as amended at 40 FR 48292-48311, October 14, 1975.

(3) A listing of affected stationary sources as defined in 40 CFR 61 shall be maintained by and available from the air quality bureau of the department. Copies of the federal regulations are also available from the air quality bureau of the department, Cogswell Building, Helena, Montana, phone 449-3454."

4. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing.

5. The Board of Health and Environmental Sciences will preside over and conduct the hearing.

6. The authority of the board to make the proposed rule is based on Section 69-3909, R.C.M. 1947.

*A. C. Knight*  
A. C. KNIGHT, M.D., F.C.C.P.  
Secretary, Board of Health and  
Environmental Sciences

(2)

Certified to the Secretary of State June 10, 1976



# Title 20

## Institutions

BEFORE THE DEPARTMENT OF INSTITUTIONS  
OF THE STATE OF MONTANA

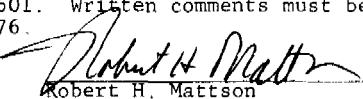
In the matter of the adoption )	NOTICE OF PROPOSED
of Rules MAC 20-2.2(1)P200 - )	ADOPTION OF RULES
P3020 promulgating procedural )	Overall Departmental Rules
rules for the Department. )	NO PUBLIC HEARING
	CONTEMPLATED

TO: All Interested Persons

1. On December 15, 1976, the Department of Institutions proposes to adopt overall Departmental Rules MAC 2.2(1)P200 - MAC 20-2.2(2)-P3020.

2. The proposed rules would prescribe procedures for the Department. As these rules are too lengthy to be included in this notice, copies may be obtained from the Legal Services, Department of Institutions, 1539 11th Avenue, Helena, Montana, 19605, 449-3930.

3. Interested parties may submit their data, views or arguments concerning the proposed rules in writing to Nick Rotering, Legal Services, Department of Institutions, 1539 11th Avenue, Helena, Montana, 59601. Written comments must be received by December 15, 1976.

  
Robert H. Mattson  
Director  
Department of Institutions

Certified to the Secretary of State November 15, 1976.

BEFORE THE DEPARTMENT OF INSTITUTIONS  
OF THE STATE OF MONTANA

In the matter of the adoption )	NOTICE OF PUBLIC HEARING
of Rule MAC 20-2.4(1)-S400 )	FOR THE ADOPTION OF RULES
describing the Work-Educational )	describing the Work-Educa-
Furlough program. )	tional Furlough Program

TO: All Interested Persons

1. On December 8, 1976, at 1:00 p.m., a public hearing will be held at 1539 11th Avenue, Helena, Montana, to consider the adoption of MAC Rules 20-2.4(1)-S400, relating to the application for and participation in the Work-Educational Furlough program by inmates of the Montana State Prison.

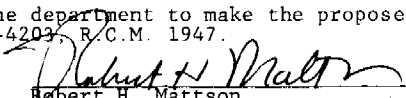
2. As these rules are too bulky to be printed in their entirety in this notice, copies may be obtained from the Corrections Division, Department of Institutions, 1539 11th Avenue, Helena, Montana, 59601.

3. The authority of the Department of Institutions to adopt these rules is based on Section 95-2217, R.C.M. 1947.

4. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing.

5. Nick Rotering, Department of Institutions will pre-side over and conduct the hearing.

6. The authority of the department to make the proposed rules is based on Section 82-4203, R.C.M. 1947.

  
Robert H. Mattson  
Director  
Department of Institutions

Certified to the Secretary of State November 15, 1976.

Title 22  
Community  
Affairs

BEFORE THE DEPARTMENT OF  
COMMUNITY AFFAIRS OF THE  
STATE OF MONTANA

In the matter of the amendment)	NOTICE OF PUBLIC HEARING
of Rules 22-2.4B(30)-S4090 and)	FOR ADOPTION OF AMENDMENTS
22-2.4B(30)-S4100 regulating )	OF RULES (Montana Sub-
the form, accuracy, and de- )	division and Platting Act)
scriptive content of records )	
of Survey )	

TO: All Interested Persons

1. On Friday, February 6, 1976, at 1:30 p.m. a public hearing will be held in the Highway Auditorium, Highway Building, Sixth and Roberts, Helena, Montana to consider adoption of amendments to rules relating to the administration of the Montana Subdivision and Platting Act (section 11-3859 through 11-3876, R.C.M. 1947).

2. The amendments as proposed will read as follows:

22-2.4B(30)-S4090 UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY (1) A certificate of survey may not be filed by the county clerk and recorder unless it complies with the following requirements:


(a) Certificates of survey shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be ~~8 1/2-inches-by-14-inches~~, 18 inches by 24 inches ~~or-24-inches-by-36-inches~~ overall to include a 1 1/2 inch margin on the binding side.

(b) One signed cloth-backed copy and one reproducible copy on a stable base polyester film or equivalent shall be submitted.

(c) Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.

(2) The certificate of survey shall show or contain, on its face or on separate sheets referenced on the face of the certificate of survey:

(a) A title block, including the quarter section, section, township, range, principal meridian and county of the surveyed land. Space shall be provided on the certifi-

1-1/26/76 

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cate of survey for the clerk and recorder's filing information. A certificate of survey shall not bear the title "plat," "subdivision," or any title other than "Certificate of Survey."

(b) Name(s) of the owner(s) of the land surveyed and the names of any adjoining platted subdivisions and numbers of any adjoining certificates of survey previously recorded and ties thereto.

(c) Date survey was completed and a brief description of why the certificate of survey was prepared, such as creation of a new parcel, retracement of section line, retracement of existing tract of land.

(d) North point

(e) ~~Scale (may not be less than 1" = 200')~~

Scale may not be less than 1" = 200' unless the size or configuration of the tract(s) surveyed would necessitate reducing the scale to minimize the number of sheets. When it is necessary to use a scale less than 1" = 200' the scale shall be sufficient to legibly represent the required data.

(f) All monuments found, set, reset, replaced or removed describing their kind, size, location and giving other data relating thereto.

(g) ~~Bearing or~~ Witness monuments, basis of bearing, bearings and length of lines.

(h) The bearings, distances and curve data of all perimeter boundary lines shall be indicated ~~outside the boundary line~~. When the parcel surveyed is bounded by an irregular shoreline or a body of water, the bearings and distances of a ~~closing~~ meander traverse shall be given.

(i) Data on all curves sufficient to enable the re-establishment of the curves on the ground. These data shall include:

(i) Radius of curve.

~~(ii) Central angle.~~

~~(iii) Arc length.~~

(ii)

~~(iv) Notation of non-tangent curves.~~

(iii)

(j) Lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute.

(k) The areas of any parcels created by the survey.

(l) A metes and bounds legal description of the land surveyed.

~~(m) A certificate of the registered land surveyor responsible for the survey that the certificate of survey has been prepared in conformance to the Montana Subdivision and Platting Act (sections 11-3859 through 11-3876, R.C.M. 1947) and the regulations adopted pursuant thereto.~~

The signature and seal of the registered land surveyor in responsible charge of the survey. The affixing of his seal constitutes a certification by the surveyor that the certificate of survey has been prepared in conformance to the Montana Subdivision and Platting Act (sections 11-3859 through 11-3876, R.C.M. 1947) and the regulations adopted pursuant thereto.

(n) Memorandum of oaths administered pursuant to section 11-3875, R.C.M. 1947.

(3) Procedures for divisions of land exempted from public review as subdivisions -- use of exemptions for the purpose of evading the act. Unless the method of disposition is adopted for the purpose of evading the Montana Subdivision and Platting Act, divisions of land meeting the criteria set out in section 11-3862(6), R.C.M. 1947, are not subdivisions subject to review under the Act. To assure that the method of disposition is not used to evade the act the following requirements must be met in the use of exemptions:

(a) The exemptions contained in section 11-3862(6), R.C.M. 1947, do not apply to the resubdivision or redesign of subdivisions platted and filed with the county clerk and recorder. Any such resubdivision or redesign must be reviewed and approved by the governing body and an approved amended plat thereof must be filed with the county clerk and recorder.

(b) Certificates of survey of a division of land which would otherwise be a subdivision but which is exempted from public review under section 11-3862(6), R.C.M. 1947, may not be filed by the county clerk and recorder unless it bears the acknowledged certificate of the property owner stating that the division of land in question is exempted

from review as a subdivision and citing the applicable exemption.

(c) Where the exemption relied upon requires that the property owner enter into a covenant running with the land, the certificate of survey may not be filed unless it bears a signed and acknowledged copy of the covenant.

(d) Exemption for "occasional sales." Only one occasional sale may be made within any 12-month period from any tract or from contiguous tracts of land created of public record on or after July 1, 1973, and held in single or undivided ownership. No portion of a tract or parcel of land may be the subject of an occasional sale more than once within any 12-month period. A certificate of survey for an occasional sale may not be filed unless it bears an acknowledged certificate of the property owner that the above criteria are met.

(e) Gifts or sales to members of the landowner's immediate family. Only one conveyance of a parcel of land to any one member of the grantor's immediate family is eligible for exemption from review and approval of the governing body under section 11-3862(6)(b), R.C.M. 1947. A certificate of survey for a gift or sale to a member of the grantor's immediate family may not be filed by the clerk and recorder unless it bears an acknowledged certificate of the property owner that this criterion is met.

(f) Certificates of survey showing the creation of new parcels of land pursuant to exemptions for gifts or sales to a member of the grantor's immediate family or for occasional sales may not be filed by the clerk and recorder unless they are accompanied by an instrument of conveyance of the parcel being created.

(g) Divisions of land which are exempted from treatment as subdivisions under section 11-3862(b) and (d) of the Subdivision and Platting Act are not thereby exempted from review and approval of the State Department of Health and Environmental Sciences pursuant to sections 69-5001 through 69-5009, R.C.M. 1947.

(4) Procedures for filing certificates of survey of divisions of land entirely exempted from the requirements of the Act. The divisions of land described in section 11-3862 (4), (5), and (8), R.C.M. 1947, are not required to be surveyed nor must a certificate of survey or subdivision plat thereof be filed with the clerk and recorder. A certificate of survey of such a division may, however, be filed with the clerk if it meets the requirements for form and content for certificates contained in this section and bears a



certificate of the surveyor performing the survey stating the applicable exemption from the Act.

22-2.4B(30)-S4100 UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS (1) A final subdivision plat may not be approved by the governing body nor filed by the county clerk and recorder unless it complies with the following requirements:

(a) Final subdivision plats shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be ~~either 10 inches by 24 inches or~~ 24 inches by 36 inches overall to include a 1½ inch margin on the binding side.

(b) One signed cloth-backed copy and one reproducible copy on a stable base polyester film or equivalent shall be submitted.

(c) Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.

(2) The final plat submitted for approval shall show or contain, on its face or on separate sheets referenced on the plat:

(a) A title block indicating the quarter-section(s), section, township, range, principal meridian, and county of the subdivision. The title of the plat shall contain the words "plat" and "subdivision."

(b) Name(s) of the owner(s) of the land surveyed and the names of any adjoining platted subdivisions and numbers of any adjoining certificates of survey previously recorded and ties thereto.

(c) North point.

(d) ~~Scale--(may not be less than 1" = 200')~~

Scale may not be less than 1" = 200' unless the size or configuration of the tract(s) surveyed would necessitate reducing the scale to minimize the number of sheets. When it is necessary to use a scale less than 1" = 200' the scale shall be sufficient to legibly represent the required data.

(e) All monuments found, set, reset, replaced or removed describing their kind, size, location and giving other data relating thereto.

(f) ~~Bearing~~-or Witness monuments, basis of bearing, bearings and lengths of lines.

(g) The bearings, distances and curve data of all perimeter boundary lines shall be indicated, ~~outside the boundary line~~. When the subdivision is bounded by an irregular shoreline or body of water, the bearings and distances of a ~~closing~~ meander traverse shall be given.

(h) Data on all curves sufficient to enable the re-establishment of the curves on the ground. These data shall include:

(i) Radius of curve.

~~(iii)-Central-angle-~~

~~(iii)~~ Arc length.

(ii)

~~(iv)~~ Notation of non-tangent curves.

(iii)

(i) Lengths of all lines shall be shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute.

(j) The location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary.

(k) All lots and blocks in the subdivision, designated by number, the dimensions of each lot and block, the area of each lot, and the total acreage of all lots. (Excepted parcels shall be marked "Not included in this subdivision" or "Not included in this plat," as appropriate, and the boundary completely indicated by bearings and distances.)

(l) All streets, alleys, avenues, roads and highways; their widths, bearings; the width and purpose of all rights-of way; and the names of all streets, roads and highways.

(m) The location, dimensions and areas of all parks, common areas, and all other grounds dedicated for public use.

(n) Acreage of the subdivision, gross and net.

(o) All monuments to be of record must be adequately described and clearly identified on the plat. Where additional monuments are to be set subsequent to the filing of the plat, the location of such additional monuments shall be shown by a distinct symbol noted on the plat. All monuments or other evidence found during retracements that would influence the positions of any corner or boundary indicated on the plat must be clearly shown.

~~(p) A certificate of the registered land surveyor responsible for the survey that the final plat has been prepared in conformance to the Montana Subdivision and Platting Act (sections 11-3859 through 11-3876, R.C.M. 1947) and the regulations adopted pursuant thereto.~~

The signature and seal of the registered land surveyor in responsible charge of the survey. The affixing of his seal constitutes a certification by the surveyor that the final plat has been prepared in conformance to the Montana Subdivision and Platting Act (sections 11-3859 through 11-3876, R.C.M. 1947).

(q) Memorandum of oaths administered pursuant to section 11-3875, R.C.M. 1947.

(3) The following documents shall accompany the approved final plat when filed with the county clerk and recorder:

(a) Certification of dedication of streets, parks or playgrounds, or other public improvements, or of cash donation in lieu of dedication, when applicable.

(b) Certification by a licensed title abstractor showing the names of the owners of record of land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land.

(c) Copies of any covenants or deed restrictions relating to public improvements.

(d) Certification by the State Department of Health and Environmental Sciences that it has approved the plans and specifications for sanitary facilities.

(e) Copies of articles of incorporation and by-laws for any property owners' association.

(f) Certification by the subdivider indicating which

required public improvements have been installed and a copy of any subdivision improvements agreement securing the future construction of any additional public improvements to be installed.

(g) Copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of a registered professional engineer that all required improvements which have been installed are in conformance with the attached plans.

(h) Certification by the governing body expressly accepting any dedicated lands and improvements. Acceptance of dedication shall be ineffective without such certification.

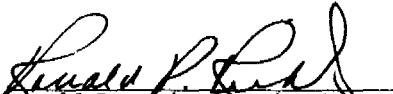
(i) Certificate of examining land surveyor where applicable.

(j) Copy of the state highway permit when a new street will intersect with a state highway.

3. Interested persons may present their data, views or arguments either orally or in writing at the hearing or may submit written comments to the Planning Division before February 17, 1976.

4. Richard M. Weddle, has been designated by the Department to preside over and conduct the hearing.

5. The authority of the Department to make the proposed adoption is based on Section 11-3862(10), R.C.M. 1947.

  
Ronald P. Richards, Director  
Department of Community Affairs

Certified to the Secretary of State January 12, 1976.

BEFORE THE DEPARTMENT OF  
COMMUNITY AFFAIRS OF THE  
STATE OF MONTANA

In the matter of the amendment)	NOTICE OF PUBLIC HEARING
of Rules 22-2.4B(30)-S4090 and)	FOR ADOPTION OF AMENDMENTS
22-2.4B(30)-S4100 regulating )	OF RULES (Montana Sub-
the form, accuracy, and de- )	division and Platting Act)
scriptive content of records )	
of Survey )	

TO: All Interested Persons

1. On Friday, March 5, 1976, at 1:30 p.m. a public hearing will be held in the Highway Auditorium, Highway Building, Sixth and Roberts, Helena, Montana to consider adoption of amendments to rules relating to the administration of the Montana Subdivision and Platting Act (section 11-3859 through 11-3876, R.C.M. 1947).

2. The amendments as proposed will read as follows (matter to be stricken is interlined, new matter is underlined):

22-2.4B(30)-S4090 UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY (1) A certificate of survey may not be filed by the county clerk and recorder unless it complies with the following requirements:

(a) Certificates of survey shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be ~~8 1/2 inches by 14 inches~~, 18 inches by 24 inches ~~or 24 inches by 36 inches~~ overall to include a 1 1/2 inch margin on the binding side.

(b) One signed cloth-backed copy and one reproducible copy on a stable base polyester film or equivalent shall be submitted.

(c) Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.

(2) The certificate of survey shall show or contain, on its face or on separate sheets referenced on the face of the certificate of survey:

(a) A title block, including the quarter section, section, township, range, principal meridian and county of

the surveyed land. Space shall be provided on the certificate of survey for the clerk and recorder's filing information. A certificate of survey shall not bear the title "plat," "subdivision," or any title other than "Certificate of Survey."

(b) Name(s) of the owner(s) of the land surveyed and the names of any adjoining platted subdivisions and numbers of any adjoining certificates of survey previously recorded and ties thereto.

(c) Date survey was completed and a brief description of why the certificate of survey was prepared, such as creation of a new parcel, retracement of section line, retracement of existing tract of land.

(d) North point

(e) ~~Scale (may-not-be-less-than-1"=200')~~

Scale may not be less than 1" = 200' unless the size or configuration of the tract(s) surveyed would necessitate reducing the scale to minimize the number of sheets. When it is necessary to use a scale less than 1" = 200' the scale shall be sufficient to legibly represent the required data.

(f) All monuments found, set, reset, replaced or removed describing their kind, size, location and giving other data relating thereto.

(g) The location of any corners of sections or divisions of sections pertinent to the survey.

~~h (g) Bearing-or~~ Witness monuments, basis of bearing, bearings and length of lines.

~~i (h) The bearings, distances and curve data of all perimeter boundary lines shall be indicated, outside-the boundary-line.~~ When the parcel surveyed is bounded by an irregular shoreline or a body of water, the bearings and distances of a ~~closing~~ meander traverse shall be given.

~~j (i) Data on all curves sufficient to enable the re-establishment of the curves on the ground. These data shall include:~~

~~(i) Radius of curve.~~

~~{ii}--Central-angle-~~

~~{iii}~~ Arc length  
(ii)

~~{iv}~~ Notation of non-tangent curves.  
~~(iii)~~

k (j) Lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute.

~~{k}~~ ~~The areas of any parcels created by the survey.~~

(l) A metes and bounds legal description of the ~~land~~ perimeter boundary of the tract surveyed.

(m) All parcels created by the survey, designated by number or letter, the dimensions and area of each parcel. (Excepted parcels shall be marked "Not included in this Certificate of Survey" and the boundary completely described by bearings and distances.)

n ~~(m) A certificate of the registered land surveyor responsible for the survey that the certificate of survey has been prepared in conformance to the Montana Subdivision and Platting Act (sections 11-3859 through 11-3876, R.C.M. 1947) and the regulations adopted pursuant thereto.~~

The signature and seal of the registered land surveyor in responsible charge of the survey. The affixing of his seal constitutes a certification by the surveyor that the certificate of survey has been prepared in conformance to the Montana Subdivision and Platting Act (section 11-3859 through 11-3876, R.C.M. 1947) and the regulations adopted pursuant thereto.

o (m) Memorandum of oaths administered pursuant to section 11-3875, R.C.M. 1947.

(3) Procedures for divisions of land exempted from public review as subdivisions -- use of exemptions for the purpose of evading the act. Unless the method of disposition is adopted for the purpose of evading the Montana Subdivision and Platting Act, divisions of land meeting the criteria set out in section 11-3862(6), R.C.M. 1947, are not subdivisions subject to review under the Act. To assure that the method of disposition is not used to evade the act the following requirements must be met in the use of exemptions:

(a) The exemptions contained in section 11-3862(6), R.C.M. 1947, do not apply to the resubdivision or redesign of subdivisions platted and filed with the county clerk and recorder. Any such resubdivision or redesign must be reviewed and approved by the governing body and an approved amended plat thereof must be filed with the county clerk

and recorder.

(b) Certificates of survey of a division of land which would otherwise be a subdivision but which is exempted from public review under section 11-3862(6), R.C.M. 1947, may not be filed by the county clerk and recorder unless it bears the acknowledged certificate of the property owner stating that the division of land in question is exempted from review as a subdivision and citing the applicable exemption.

(c) Where the exemption relied upon requires that the property owner enter into a covenant running with the land, the certificate of survey may not be filed unless it bears a signed and acknowledged copy of the covenant.

(d) Exemption for "occasional sales." Only one occasional sale may be made within any 12-month period from any tract ~~or from contiguous tracts of land created of public record on or after July 17, 1973, and held in single or undivided ownership.~~ No portion of a tract or parcel of land may be the subject of an occasional sale more than once within any 12-month period. A certificate of survey for an occasional sale may not be filed unless it bears an acknowledged certificate of the property owner that the above criteria are met.

(e) Gifts or sales to members of the landowner's immediate family. Only one conveyance of a parcel of land to any one member of the grantor's immediate family is eligible for exemption from review and approval of the governing body under section 11-3862(6)(b), R.C.M. 1947. A certificate of survey for a gift or sale to a member of the grantor's immediate family may not be filed by the clerk and recorder unless it bears an acknowledged certificate of the property owner that this criterion is met.

(f) The exemption for occasional sales may not be used if the proposed conveyance would leave a remaining parcel of less than 20 acres which is not also exempted from subdivision review by section 11-3862(6), R.C.M. 1947.

g (f) Certificates of survey showing the creation of new parcels of land pursuant to exemptions for gifts or sales to a member of the grantor's immediate family or for occasional sales may not be filed by the clerk and recorder unless they are accompanied by an instrument of conveyance of the parcel being created.

h (g) Divisions of land which are exempted from treatment as subdivisions under section 11-3862(b) and (d) of the Subdivision and Platting Act are not thereby exempted from review and approval of the State Department of Health



and Environmental Sciences pursuant to section 69-5001 through 69-5009, R.C.M. 1947.

(4) Procedures for filing certificates of survey of divisions of land entirely exempted from the requirements of the Act. The divisions of land described in section 11-3862(4), (5), and (8), R.C.M. 1947, are not required to be surveyed nor must a certificate of survey or subdivision plat thereof be filed with the clerk and recorder. A certificate of survey of such a division may, however, be filed with the clerk if it meets the requirements for form and content for certificates contained in this section and bears a certificate of the surveyor performing the survey stating the applicable exemption from the Act.

22-2.4B(30)-S4100 UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS (1) A final subdivision plat may not be approved by the governing body nor filed by the county clerk and recorder unless it complies with the following requirements:

(a) Final subdivision plats shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be ~~either 16 inches by 24 inches or~~ 24 inches by 36 inches overall to include a 1½ inch margin on the binding side.

(b) One signed cloth-backed copy and one reproducible copy on a stable base polyester film or equivalent shall be submitted.

(c) Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.

(2) The final plat submitted for approval shall show or contain, on its face or on separate sheets referenced on the plat:

(a) A title block indicating the quarter-section(s), section, township, range, principal meridian, and county of the subdivision. The title of that plat shall contain the words "plat" and "subdivision."

(b) Name(s) of the owner(s) of the land surveyed and the names of any adjoining platted subdivisions and numbers of any adjoining certificates of survey previously recorded and ties thereto.

(c) North point.

(d) ~~Scale--(may-not-be-less-than-1"-=200')-~~

Scale may not be less than 1" = 200' unless the size or configuration of the tract(s) surveyed would necessitate reducing the scale to minimize the number of sheets. When it is necessary to use a scale less than 1" = 200' the scale shall be sufficient to legibly represent the required data.

(e) All monuments found, set, reset, replaced or removed describing their kind, size, location and giving other data relating thereto.

(f) ~~Bearing-or~~ Witness monuments, basis of bearing, bearings and lengths of lines.

(g) The bearings, distances and curve data of all perimeter boundary lines shall be indicated.~~outside-the boundary-line-~~ When the subdivision is bounded by an irregular shoreline or body of water, the bearings and distances of a ~~closing~~ meander traverse shall be given.

(h) Data on all curves sufficient to enable the re-establishment of the curves on the ground. These data shall include:

(i) Radius of curve.

~~(iii)~~ ~~Central-angle-~~

~~(iii)~~ Arc length.

(ii)

~~(iv)~~ Notation of non-tangent curves.

(iii)

(i) Lengths of all lines shall be shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute.

(j) The location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary.

(k) All lots and blocks in the subdivision, designated by number, the dimensions of each lot and block, the area of each lot, and the total acreage of all lots. (Excepted parcels shall be marked "Not included in this subdivision" or "Not included in this plat," as appropriate, and the boundary completely indicated by bearings and distances.)

(l) All streets, alleys, avenues, roads and highways; their widths, bearings; the width and purpose of all rights-of way; and the names of all streets, roads and highways.

(m) The location, dimensions and areas of all parks, common areas, and all other grounds dedicated for public use.

(n) Acreage of the subdivision, gross and net.

(o) A metes and bounds legal description of the perimeter boundary of the tract surveyed.

p (e) All monuments to be of record must be adequately described and clearly identified on the plat. Where additional monuments are to be set subsequent to the filing of the plat, the location of such additional monuments shall be shown by a distinct symbol noted on the plat. All monuments or other evidence found during retracements that would influence the positions of any corner or boundary indicated on the plat must be clearly shown.

~~g (p) A certificate of the registered land surveyor responsible for the survey that the final plat has been prepared in conformance to the Montana Subdivision and Platting Act (sections 11-3859 through 11-3876, R.C.M. 1947) and the regulations adopted pursuant thereto.~~

The signature and seal of the registered land surveyor in responsible charge of the survey. The affixing of his seal constitutes a certification by the surveyor that the final plat has been prepared in conformance to the Montana Subdivision and Platting Act (sections 11-3859 through 11-3876, R.C.M. 1947) and the regulations adopted pursuant thereto.

r (q) Memorandum of oaths administered pursuant to section 11-3875, R.C.M. 1947.

(3) The following documents shall accompany the approved final plat when filed with the county clerk and recorder:

(a) Certification of dedication of streets, parks or playgrounds, or other public improvements, or of cash donation in lieu of dedication, when applicable.

(b) Certification by a licensed title abstractor showing the names of the owners of record of land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the

subdivider, and any lien holders or claimants of record against the land.

(c) Copies of any covenants or deed restrictions relating to public improvements.

(d) Certification by the State Department of Health and Environmental Sciences that it has approved the plans and specifications for sanitary facilities.

(e) Copies of articles of incorporation and by-laws for any property owners' association.

(f) Certification by the subdivider indicating which required public improvements have been installed and a copy of any subdivision improvements agreement securing the future construction of any additional public improvements to be installed.

(g) Copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of a registered professional engineer that all required improvements which have been installed are in conformance with the attached plans.

(h) Certification by the governing body expressly accepting any dedicated lands and improvements. Acceptance of dedication shall be ineffective without such certification.

(i) Certificate of examining land surveyor where applicable.

(j) Copy of the state highway permit when a new street will intersect with a state highway.

3. Interested persons may present their data, views or arguments either orally or in writing at the hearing or may submit written comments to the Planning Division before March 15, 1976.

4. Richard M. Weddle, has been designated by the Department to preside over and conduct the hearing.

5. The authority of the Department to make the proposed adoption is based on Section 11-3862(10), R.C.M. 1947.

  
Ronald P. Richards, Director  
Department of Community Affairs

Certified to the Secretary of State February 17, 1976.

# Chapter 10

## County Printing, Board

BEFORE THE BOARD OF COUNTY PRINTING  
STATE OF MONTANA

In the matter of the amend-	)	NOTICE OF PUBLIC HEARING
ment of Rule 22-3.10(6)-S1050	)	FOR AMENDMENT OF RULE
increasing all printing fees	)	22-3.10(6)-S1050 (Schedule
by twenty percent.	)	of Prices)

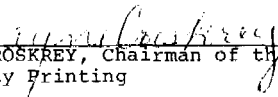
1. On August 20, 1976, at 10:00 a.m., a public hearing will be held in the Governor's Reception Room of the State Capitol, Helena, Montana to consider the amendment of Rule 22-3.10(6)-S1050, increasing the fees to be charged for all county printing and legal advertising.

2. The proposed amendment replaces the present fee schedule found in Rule 22-3.10(6)-S1050 of the Montana Administrative Code. The proposed amendment would increase the schedule of fees charged by the County Printing Board for all county printing and legal advertising. Such prices shall be the maximum prices to be charged and shall include the paper stock specified, completion of all printing and other work, and delivery to the county courthouse.

3. Interested persons may present their data, views or arguments whether orally or in writing at the hearing.

4. Wayne Croskrey, P.O. Box 2468, Great Falls, Montana 59403, as Chairman of the Board of County Printing, has been designated by the Board to preside over the conduct of the hearing.

5. The authority of the Board to make the proposed amendment is based on section 16-1229, R.C.M. 1947.

  
WAYNE CROSKREY, Chairman of the Board  
of County Printing

Certified to the Secretary of State July 15, 1976

BEFORE THE BOARD OF COUNTY PRINTING  
STATE OF MONTANA

In the matter of the amend- ) NOTICE OF PUBLIC HEARING  
ment of Rule 22-3.10(6)-S1050 ) FOR AMENDMENT OF RULE  
increasing all maximum county ) 22-3.10(6)-S1050 (Schedule  
printing fees. ) of Prices)

1. On November 19, 1976, at 10:00 a.m., a public hearing will be held in the Conference Room of the Department of Community Affairs, 1424 Ninth Avenue, Helena, Montana to consider the amendment of Rule 22-3.10(6)-S1050, increasing the fees to be charged for all county printing and legal advertising.

2. The proposed amendment replaces the present fee schedule found in Rule 22-3.10(6)-S1050 of the Montana Administrative Code. The proposed amendment would increase the schedule of fees charged by the County Printing Board for all county printing and legal advertising. Such prices shall be the maximum prices to be charged and shall include the paper stock specified, completion of all printing and other work, and delivery to the county courthouse.

3. Interested persons may present their data, views, or arguments whether orally or in writing at the hearing.

4. Wayne Croskrey, P.O. Box 2468, Great Falls, Montana 59403, as Chairman of the Board of County Printing, has been designated by the Board to preside over the conduct of the hearing.

5. The authority of the Board to make the proposed amendment is based on section 16-1229, R.C.M. 1947.

6. A schedule of this proposed Maximum Price Increase can be picked up at 1424 9th Avenue, Helena, Montana.

*Wayne Croskrey*  
WAYNE CROSKREY, Chairman of  
the Board of County Printing

Certified to the Secretary of State Oct 14, 1976

# Chapter 14

## Coal, Board of



BEFORE THE COAL BOARD  
STATE OF MONTANA

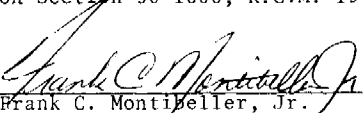
In the matter of the adop-	)	NOTICE OF ADOPTION OF
tion of Rule 22-3.14(2)-	)	RULE 22-3.14(2)-P1410.
P1410, relating to rules of	)	NO PUBLIC HEARING CON-
procedure.	)	TEMPLATED.

TO: All Interested Persons


1. On February 17, 1976, the Coal Board proposes to adopt Rule 22-3.14(2)-P1410 as follows:

Rule 22-3.14(2)-P1410. Incorporation of Model Rules.

- (1) The Coal Board has herein adopted and incorporated the Attorney General's Model Procedural Rules 1 through 38 by reference to such rules as stated in MAC 1-1.6(2)-P640 through MAC 1-1.6(2)-P6320 of this code.
2. The proposed rule does not replace or modify any section currently found in the Montana Administrative Code.
3. Interested parties may submit their data, views or arguments covering the proposed rules in writing to Mr. Frank Montibeller, Administrative Officer, Coal Board, Department of Community Affairs, Capitol Station, Helena, Montana 59601. Written comments in order to be considered must be received no later than February 17, 1976.
4. If any person directly affected wishes to express his data, views or arguments orally or in writing at a public hearing, he must make a written request for a public hearing and submit this request, along with any written comments to Mr. Montibeller at the above stated address prior to February 17, 1976.
5. If the Administrator receives requests for a public hearing on the proposed rule from more than ten percent (10%) or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register. Ten percent (10%) of those persons directly affected has been determined to be in excess of 25.
6. The authority of the Montana Coal Board to adopt the proposed rule is based upon Section 50-1806, R.C.M. 1947.

  
\_\_\_\_\_  
Frank C. Montibeller, Jr.  
Administrative Officer  
Coal Board

Certified to the Secretary of State January 14, 1976.

1-1/26/76 

MAC Notice No. 22-3-14-2

# Chapter 18

## Housing, Board of

BEFORE THE MONTANA BOARD OF HOUSING

In the matter of the Adoption	)	NOTICE OF PUBLIC HEARING
of Substantive Rules of the	)	FOR ADOPTION OF PROGRAM
Montana Board of Housing:	)	RULES RELATING TO BOARD
	)	FINANCING PROGRAMS.

TO ALL INTERESTED PERSONS:

1. On May 21, 1976 at 10:00 a.m. a public hearing will be held in the Highway Auditorium of the Highway Building located in Helena to consider the adoption of program rules concerning the operation of the Board's financing programs.

2. The proposed rules do not replace or modify any section currently found in the Montana Administrative Code.

3. Complete copies of the proposed rules may be obtained by contacting Kent L. Mollohan, Division of Housing, Department of Community Affairs, 1410 Gallatin Avenue, Helena, Montana 59601, telephone 449-2804.

A summary of the proposed rules follows:

1. Purpose and Objective. This rule states the authority for adopting program rules and sets forth the broad purposes and objectives of the Board.

2. Lower Income Persons and Families. This rule sets forth the consideration used by the Board in establishing income limits for lower income persons and families, and notes some special conditions applicable to these limits.

3. Financing Programs. This rule notes the programs authorized to be undertaken, the methods and considerations to be employed by the Board in operating these programs, the controlling documents for these programs, the intent to restrict the benefits and financial return of participants in the operation of these programs, and the applicability of federal rules and regulations.

4. Conditions of Financial Assistance. This rule enumerates a variety of conditions that will be imposed on all programs operated by the Board.

5. Qualified Lending Institutions. This rule notes the procedures, conditions and requirements for obtaining approval as a qualified lending institution in the operation of the Board's programs.

6. Housing Sponsors. This rule notes the conditions and requirements to be imposed on Housing Sponsors.

4. Interested parties may present their data, views or arguments whether orally or in writing at the hearing.

5. Mr. William A. Groff, Director, Department of Revenue, Sam Mitchell Building, Helena, Montana 59601 has been designated to preside over and conduct the hearing.

6. The authority of the Board to make the proposed rules is based on Sections 35-504 and 35-505, R.C.M.

\_\_\_\_\_  
Date

\_\_\_\_\_  
William A. Groff, Chairman  
Montana Board of Housing

CERTIFIED TO THE  
SECRETARY OF STATE 4/7, 1976

**Title 23**

**Justice**

BEFORE THE STATE FIRE MARSHAL BUREAU  
DEPARTMENT OF JUSTICE  
STATE OF MONTANA

In the matter of adoption of ) NOTICE FOR ADOPTION OF AMEND-  
amendments to Chapter 10B ) MENTS TO CHAPTER 10B (FIRE  
relating to the Fire Marshal ) MARSHAL BUREAU  
Bureau. ) NO PUBLIC HEARING CONTEM-  
 ) PLATED

TO: All Interested Persons

1. On November 15, 1976 the Fire Marshal Bureau proposes to adopt amendments to Chapter 10B as follows:

2. Sub-chapters 1 through 6 corrections in histories of rules to delete 82-1202.2, R.C.M. 1947 which was repealed in the 1975 legislative session and deleting references to prices of National Fire Protection Association pamphlets.

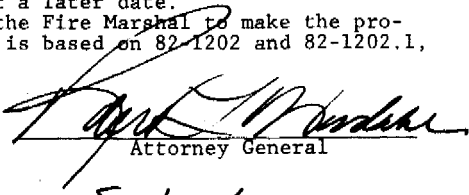
3. In sub-chapter 10 correcting histories for the above repealed section 82-1202.2; removing all language and requirements for renewals or renewal fees, and adding additional language in MAC 23-2.10B(10)-S10320 and 23-2.10B(10)-S10360.

4. In sub-chapter 10 the repealing of MAC 23-2.10B(10)-S10220, 23-2.10B(10)-S10290 and incorporating these in 23-2.10B(10)-S10390 Granting or Denial. Repealing of MAC 23-2.10B(10)-S10230, 23-2.10B(10)-S10300 and incorporating these in 23-2.10B(10)-S10400 Fees and Duplication. Repealing of MAC 23-2.10B(10)-S10240, 23-2.10B(10)-S10330 and incorporating these in 23-2.10B(10)-S10420 Enforcement. Repealing of MAC 23-2.10B(10)-S10250, 23-2.10B(10)-S10340 and incorporating these in 23-2.10B(10)-S10430 Revocation or Penalties.

5. Interested parties may submit their data, views or arguments concerning the proposed amendments in writing to William A. Penttila, Fire Marshal, Department of Justice, 528 Sanders, Helena, Montana 59601. Written comments, in order to be considered, must be received by not later than November 15, 1976.

6. If the Fire Marshal receives requests for a public hearing on the proposed amendments from more than ten percent (10%) or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date.

7. The authority of the Fire Marshal to make the proposed amendments to the rules is based on 82-1202 and 82-1202.1, R.C.M. 1947.

  
Attorney General

Certified to the Secretary of State September 27, 1976

10-10/25/76

MAC Notice No. 23-2-22

BEFORE THE DEPARTMENT OF  
JUSTICE OF THE  
STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PROPOSED ADOPTION  
of the rules setting forth ) OF AMENDMENTS FOR RULES  
matters as indicated below. ) (Amendments indicated be-  
 ) low) NO PUBLIC HEARING  
 ) CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Department of Justice proposes to adopt the amendments of the rules listed in (1) below, setting forth the policies of the Driver Examination Section, Montana Highway Patrol Bureau, Division of Motor Vehicles, Department of Justice.

(1) 23-2.6AI(2)-S630, 23-2.6AI(2)-S640, 23-2.6AI(2)-S650, 23-2.6AI(2)-S680, 23-2.6AI(2)-S690, 23-2.6AI(2)-S6030, 23-2.6AI(2)-S6040, 23-2.6AI(2)-S6100, 23-2.6AI(2)-S6120, and 23-2.6AI(2)-S6122.

2. The proposed amendments are summarized below. A complete copy of the proposed amendments are available at the office of the Montana Highway Patrol Bureau, 1014 National Avenue, Helena, Montana 59601.

(1) 23-2.6AI(2)-S630 STANDARDS FOR LICENSING AND EX-AMINING, has been amended as follows:

(a) Item #1(g), an exception was made to the requirements that all mental patients answer question #6 on the drivers license application.

(b) Item #1(h), the last sentence in (h) was deleted as being surplus language.

(c) Item #2(c)(d)&(e), was amended as regards age limits for chauffeur from 21 years to 18 years.

(d) Item #2(g), was amended as being no longer applicable.

(e) Item #3, was amended to provide that any person could witness an applicants "mark".

(f) Item #4(a), was amended to be in compliance with Section 31-131(a) regarding verification of signatures, parents.

(g) Item #4(d) (added), sets forth the acceptable signature for juvenile applicants for a drivers license.

(h) Item #4(g) (was h), is amended to provide that a husband or wife if under 18 may be signed for by parents or parent of either.

(i) Item #7(d), amended to add to the restriction of the person whose vision lies between 20/40 and 20/70, the restriction no driving in inclement weather.

(j) Item #7(e), was amended by omitting specific restrictions in the case of persons whose vision lies between

20/70 and 20/100.

(k) Item #10(d), is amended by changing the minimum passing score for the "signs" test from 70% to 80%.

(l) Item #11(d) sub (x), was amended by changing three (3) day vehicle to ten (10) day vehicle as regards license plate requirements.

(m) Item #11(b) was further amended by adding unsafe vehicle as reason for road test refusal.

(2) 23-2.6AI(2)-S640 PROOF OF NAME AND DATE OF BIRTH FOR DRIVER LICENSE APPLICATION, was amended by indicating items of primary identification which are singularly acceptable and items of secondary identification which require two (2) or more for acceptance.

(3) 23-2.6AI(2)-S650 UNDERAGE APPLICATION AND LICENSE, was amended by providing a definition of hardship as applied to the issuance of driver licenses under age 15.

(4) 23-2.6AI(2)-S680 GRACE PERIOD FOR RENEWALS, was amended by changing sixty (60) days to two (2) months.

(5) 23-2.6AI(2)-S690 TIME PERIOD FOR RENEWALS AND EXAMINATIONS, was amended by removal of the statement omitting examination on expired receipts.

(6) 23-2.6AI(2)-S6030 MAIL RENEWALS, was amended by making the second of subsequent mail renewal subject to the discretion of the Chief Examiner.

(7) 23-2.6AI(2)-S6040 MILITARY PERSONS, was amended to clarify the states persons on full time active duty with the National Guard.

(8) 23-2.6AI(2)-S6100 EXAMINERS DUTIES, has been amended to broaden the description of examiners duties.

(9) 23-2.6AI(2)-S6120 IDENTIFICATION CARDS, has been amended to provide a month for cancellation for identification cards.

(10) 23-2.6AI(2)-S6122 STANDARDS FOR MOTORCYCLE LICENSING AND EXAMINING, has been amended to provide clearer language authorizing motorcycle learners license.

3. Interested parties may submit their data, views or arguments concerning the proposed amended rules in writing to the Highway Patrol Bureau, Department of Justice, Helena, Montana 59601.

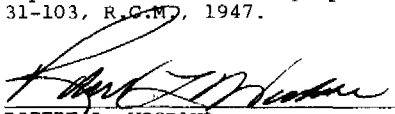
4. If a person directly affected wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Highway Patrol Bureau on or before November 15, 1976.

5. If the department receives requests for a public hearing on the proposed amended rules from more than ten percent (10%), or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register. Ten percent of those persons directly affected has been determined to be 47,500 persons based on the



475,000 licensed drivers in the State of Montana.

6. The authority of the department to make the proposed amendments is based on Section 31-103, R.C.M., 1947.

  
ROBERT L. WOODAHL  
Attorney General

Certified to the Secretary of State October 8, 1976.

BEFORE THE DEPARTMENT OF  
JUSTICE OF THE  
STATE OF MONTANA

In the matter of the amendment) NOTICE OF PROPOSED ADOPTION  
of the rules setting forth ) OF AMENDMENTS FOR RULES,  
matters as indicated below. ) (Amendments indicated be-  
 ) low) NO PUBLIC HEARING  
 ) CONTEMPLATED

TO: All interested Persons

1. On November 15, 1976, the Department of Justice proposes to adopt the amendments of the rules listed in (1) below, setting forth the policies of the Driver Improvement Unit, Montana Highway Patrol Bureau, Division of Motor Vehicles, Department of Justice.

(1) 23-2.6AI(6)-S6140, 23-2.6AI(6)-S6150, 23-2.6AI(6)-S6180, 23-2.6AI(6)-S6220, 23-2.6AI(6)-S6240

2. The proposed amendments are summarized below. A complete copy of the proposed amendments are available at the office of the Montana Highway Patrol Bureau, 1014 National Avenue, Helena, Montana 59601.

(1) 23-2.6AI(6)-S6140 DRIVER IMPROVEMENT COMMITTEE, has been amended in the first paragraph by replacing the reference to Traffic Captain with the words Commissioned Officer.

(2) 23-2.6AI(6)-S6150 CUSTODIANS OF RECORDS, has been amended by the addition of the words, the Assistant Chief Examiner, thereby making Driver License Sergeants custodians of the records.

(3) 23-2.6AI(6)-S6180 DRIVER IMPROVEMENT/HABITUAL OFFENDER POINT SYSTEMS AND DRIVER IMPROVEMENT PROGRAM, has been amended by changing the point value of Violation Code 1140 from two (2) points to ten (10) points. It was further amended by re-wording for clarification the description of Driver Improvement program following the list of points.

(4) 23-2.6AI(6)-S6220 IMMEDIATE CANCELLATION, has been amended by clarifying the person or persons who have signed the consent form.

(5) 23-2.6AI(6)-S240 ACTIONS RESULTANT FROM STATEMENTS OR INFORMATION, has been amended in Item 2 & 2(b) by clarifying the word epilepsy through the addition of epileptic or epileptic type seizures. It is further amended in Item 6 by changing the suspension period for alteration of a license from six (6) months to three (3) months. It is further amended by reversing the position of Item 6 and 7.

3. Interested parties may submit their data, views or arguments concerning the proposed amended rules in writing to the Highway Patrol Bureau, Department of Justice, Helena, Montana 59601.

4. If a person directly affected wishes to express his

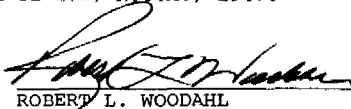
10-10-/25/76

MAC Notice No. 23-2-24

data, views or arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Highway Patrol Bureau on or before November 15, 1976.

5. If the department receives request for a public hearing on the proposed amended rules from more than ten percent (10%), or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register. Ten percent of those persons directly affected has been determined to be 47,500 persons based on the 475,000 licensed drivers in the State of Montana.

6. The authority of the department to make the proposed amendments is based on Section 31-103, R.C.M., 1947.

  
ROBERT L. WOODAHL  
Attorney General

Certified to the Secretary of State October 8, , 1976.

BEFORE THE DEPARTMENT OF  
JUSTICE OF THE  
STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PROPOSED ADOPTION  
of the rules setting forth ) OF AMENDMENTS FOR RULES,  
matters as indicated below. ) (Amendments indicated be-  
 ) low) NO PUBLIC HEARING  
 ) CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Department of Justice proposes to adopt the amendments of the rules listed in (1) below, setting forth the policies of the Operations Section, Montana Highway Patrol Bureau, Division of Motor Vehicles, Department of Justice.

(1) 23-2.6AII(2)-S610 and 23-2.6AII(2)-S620

2. The proposed amendments are summarized below. A complete copy of the proposed amendments are available at the office of the Montana Highway Patrol Bureau, 1014 National Avenue, Helena, Montana 59601.

(1) 23-2.6AII(2)-S610 DEFINITIONS, has been amended in Items 3, 5, 6, 7, 8, & 10 by removing references to specific ranks and replacing those references with the words Commissioned Officer or Member. It is further amended in Item 19 by re-defining Highway Patrol Officer, and further amended in Item 20 by adding additional abbreviations.

(2) 23-2.6AII(2)-S620 APPLICANTS FOR HIGHWAY PATROL, has been amended in Item 1(b) & (c) by altering the height and weight requirements, and further amended in Item 5(a)(b)(c) & (d) by altering the required percentage points. It is further amended in Item 6(d) by altering the height and weight requirements.

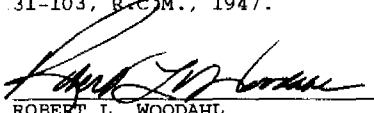
3. Interested parties may submit their data, views or arguments concerning the proposed amended rules in writing to the Highway Patrol Bureau, Department of Justice, Helena, Montana 59601.

4. If a person directly affected wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Highway Patrol Bureau on or before November 15, 1976.


5. If the department receives requests for a public hearing on the proposed amended rules from more than ten percent (10%), or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register. Ten percent of those persons directly affected has been determined to be 47,500 persons based on the 475,000 licensed drivers in the State of Montana.

(2)

6. The authority of the department to make the proposed amendments is based on Section 31-103, R.C.M., 1947.

  
ROBERT L. WOODAHL  
Attorney General

Certified to the Secretary of State October 8, 1976.

10-10/25/76 

MAC Notice No. 23-2-25

BEFORE THE DEPARTMENT OF  
JUSTICE OF THE  
STATE OF MONTANA

In the matter of the amendment )	NOTICE OF PROPOSED ADOPTION
of the rules setting forth )	OF AMENDMENTS FOR RULES,
matters as indicated below. )	(Amendments indicated be-
)	low) NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Department of Justice proposes to adopt the amendments of the rules listed in (1) below, setting forth the policies of the Traffic Section, Montana Highway Patrol Bureau, Division of Motor Vehicles, Department of Justice.

(1) 23-2.6AVI(2)-S610, 23-2.6AVI(2)-S620, and 23-2.6AVI(2)-S6010

2. The proposed amendments are summarized below. A complete copy of the proposed amendments are available at the office of the Montana Highway Patrol Bureau, 1014 National Avenue, Helena, Montana 59601.

(1) 23-2.6AVI(2)-S610 DEFINITIONS, has been amended in Items 3, 5, 6, 7, 8, & 10 by removing references to specific ranks and replacing those reference with the word Commissioned Officer or Members. It is further amended in Item 19 by re-defining Highway Patrol Officer. It is further amended in Item 20 by adding additional abbreviations.

(2) 23-2.6AVI(2)-S620 AUTHORIZED EMERGENCY VEHICLES, has been extensively amended by re-defining emergency vehicles as specified in the corresponding section of law.

(3) 23-2.6AVI(2)-S6010 POSTING BOND MONIES WITH COURT, has been amended by adding a new paragraph prohibiting the acceptance of bond after the violator has been released.

3. Interested parties may submit their date, views, or arguments concerning the proposed amended rules in writing to the Highway Patrol Bureau, Department of Justice, Helena, Montana 59601.

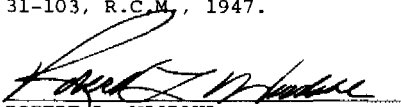
4. If a person directly affected wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Highway Patrol Bureau on or before November 15, 1976.

5. If the department receives requests for a public hearing on the proposed amended rules from more than ten per cent (10%), or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register. Ten percent of those persons directly affected has been determined to be 47,500 persons based on

(2)

the 475,000 licensed drivers in the State of Montana.

6. The authority of the department to make the proposed amendments is based on Section 31-103, R.C.M., 1947.

  
ROBERT L. WOODAHL  
Attorney General

Certified to the Secretary of State October 8, 1976.

BEFORE THE DEPARTMENT OF  
JUSTICE OF THE  
STATE OF MONTANA

In the matter of the repeal	)	NOTICE OF PROPOSED REPEAL
of Rule 23-2.6AI(2)-S6070	)	OF RULE 23-2.6AI(2)-S6070
regarding issuance of four-	)	(Issuance of four-year
year license.	)	license) NO PUBLIC
	)	HEARING CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Department of Justice proposes to repeal rule 23-2.6AI(2)-S6070, regarding the issuance of four-year license.


2. The rule for consideration for repeal is found on page 23-38 of the Montana Administrative Code.

3. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to the Highway Patrol Bureau, Department of Justice, Helena, Montana 59601. Written comments in order to be considered must be received by not later than November 15, 1976.

4. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Highway Patrol Bureau on or before November 15, 1976.

5. If the department receives requests for a public hearing on the proposed repeal from more than ten percent (10%), or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register. Ten percent of those persons directly affected has been determined to be 47,500 persons based on the 475,000 licensed drivers in the State of Montana.

6. The authority of the department to make the proposed amendments is based on Section 31-103, R.C.M., 1947.

  
ROBERT L. WOODAHL  
Attorney General

Certified to the Secretary of State October 8, , 1976.



BEFORE THE DEPARTMENT OF  
JUSTICE OF THE  
STATE OF MONTANA

In the matter of the repeal       ) NOTICE OF PROPOSED REPEAL  
of Rule 23-2.6AI(6)-S6200       ) OF RULE 23-2.6AI(6)-S6200  
The revocation book.            ) (Revocation book) NO  
                                      ) PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Department of Justice proposes to repeal rule 23-2.6AI(6)-S6200, the revocation book.


2. The rule for consideration for repeal is found on page 23-43 of the Montana Administrative Code.

3. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to the Highway Patrol Bureau, Department of Justice, Helena, Montana 59601. Written comments in order to be considered must be received by not later than November 15, 1976.

4. If a person directly affected wishes to express his data views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Highway Patrol Bureau on or before November 15, 1976.

5. If the department receives requests for a public hearing on the proposed repeal from more than ten percent (10%), or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register. Ten percent of those persons directly affected has been determined to be 47,500 persons based on the 475,000 licensed drivers in the State of Montana.

6. The authority of the department to make the proposed amendments is based on Section 31-103, R.C.M., 1947.

  
ROBERT L. WOODAHL  
Attorney General

Certified to the Secretary of State October 8, 1976.

BEFORE THE DEPARTMENT OF  
JUSTICE OF THE  
STATE OF MONTANA

In the matter of the repeal	)	NOTICE OF PROPOSED REPEAL
of Rule 23-2.6AVI(2)-S670	)	OF RULE 23-2.6AVI(2)-S670
application, safety respon-	)	(Application, safety
sibility.	)	responsibility) NO PUBLIC
	)	HEARING CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Department of Justice proposes to repeal rule 23-2.6AVI(2)-S670, regarding application, safety responsibility.

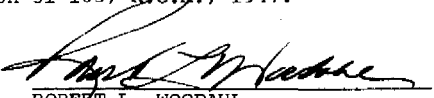
2. The rule for consideration for repeal is found on page 23-60 of the Montana Administrative Code.

3. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to the Highway Patrol Bureau, Department of Justice, Helena, Montana 59601. Written comments in order to be considered must be received by not later than November 15, 1976.

4. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Highway Patrol Bureau on or before November 15, 1976.

5. If the department receives requests for a public hearing on the proposed repeal from more than ten percent (10%), or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register. Ten percent of those persons directly affected has been determined to be 47,500 persons based on the 475,000 licensed drivers in the State of Montana.

6. The authority of the department to make the proposed amendments is based on Section 31-103, R.C.M., 1947.

  
ROBERT L. WOODAHL  
Attorney General

Certified to the Secretary of State October 8, 1976.

10-10/25/76

MAC Notice No. 23-2-29

BEFORE THE DEPARTMENT OF  
JUSTICE OF THE  
STATE OF MONTANA

In the matter of the repeal ) NOTICE OF PROPOSED REPEAL  
of Rule 23-2.6AVI(2)-S6070 ) OF RULE 23-2.6AVI(2)-S6070  
specimens in fatal accidents. ) (Specimens in fatal accidents)  
 ) NO PUBLIC HEARING CONTEM-  
 ) PLATED

TO: All Interested Persons

1. On November 15, 1976, the Department of Justice proposes to repeal rule 23-2.6AVI(2)-S6070, regarding specimens in fatal accidents.

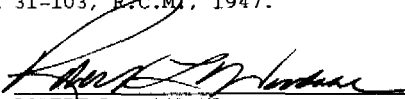
2. The rule for consideration for repeal is found on page 23-63 of the Montana Administrative Code.

3. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to the Highway Patrol Bureau, Department of Justice, Helena, Montana 59601. Written comments in order to be considered must be received by not later than November 15, 1976.

4. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Highway Patrol Bureau on or before November 15, 1976.

5. If the department receives requests for a public hearing on the proposed repeal from more than ten percent (10%), or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register. Ten percent of those persons directly affected has been determined to be 47,500 persons based on the 475,000 licensed drivers in the State of Montana.

6. The authority of the department to make the proposed amendments is based on Section 31-103, R.C.M., 1947.

  
ROBERT L. WOODAHL  
Attorney General

Certified to the Secretary of State October 8, 1976.

# Title 24

## Labor & Industry

BEFORE THE DEPARTMENT OF LABOR  
AND INDUSTRY, BOARD OF PERSONNEL APPEALS  
OF THE STATE OF MONTANA

IN THE MATTER OF THE ADOPTION OF RULE ) NOTICE OF PUBLIC  
LIMITING RETROACTIVE PAY IN CLASSIFICATION ) HEARING FOR  
APPEALS TO THE DATE OF INITIATION. ) ADOPTION OF RULE

TO: All Interested Persons

1. On June 15, 1976, at 10:00 a.m., a public hearing will be held in the highway auditorium, Scott Hart Building, Sixth and Roberts, Helena, Montana, to consider the adoption of a rule limiting retroactive pay in classification grievance actions to the date of the initiation of the grievance procedure.

2. The proposed rule does not replace or modify any section currently found in the Montana Administrative Code.

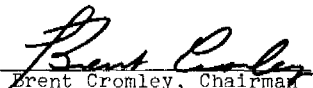
3. The proposed rule provides as follows:

Proposed rule, Retroactive Pay. If during the grievance procedure it is determined that an employee was misclassified, and that the employee should be classified at a higher grade level, retroactive pay may be awarded only to the date the employee initiated the grievance procedure which resulted in that determination.

4. Interested persons may present their data, views, or arguments, whether orally or in writing, at the hearing.

5. Jerry Painter, staff attorney for the board, has been designated by the board chairman, to preside over and conduct the hearing.

6. The authority of the board to make the proposed rule is based on section 82A-1014, R.C.M. 1947.

  
Brent Cromley, Chairman  
Board of Personnel Appeals

Certified to the Secretary of State May 12, 1976.

BEFORE THE DEPARTMENT OF LABOR  
AND INDUSTRY, BOARD OF PERSONNEL APPEALS  
OF THE STATE OF MONTANA

IN THE MATTER OF THE ADOPTION OF A )  
RULE REQUIRING A SHOWING OF A ) NOTICE OF PUBLIC  
SUBSTANTIAL CHANGE IN DUTIES AND ) HEARING FOR  
RESPONSIBILITIES OF A POSITION IN ) ADOPTION OF RULE  
ORDER TO REFILE A PETITION FOR HEARING )  
AFTER A FINAL ORDER FROM THE BOARD HAS )  
BEEN ISSUED )

TO: All Interested Persons

1. On June 15, 1976, at 10:00 a.m., a public hearing will be held in the highway auditorium, Scott Hart Building, Sixth and Roberts, Helena, Montana, to consider the adoption of a rule requiring after a final order has been issued by the Board a showing of substantial change in the duties and responsibilities of a position before a new hearing on that position will be held.

2. The proposed rule does not replace or modify any section currently found in the Montana Administrative Code.

3. The proposed rule provides as follows:

Filing of a new petition for hearing after final order issued. (1) After a final order concerning a position has been issued by the board, a new petition for a hearing may be filed only upon a showing of some substantial change in that position which was not considered at the prior hearing and which would warrant a new hearing by the board.

(2) The board shall have exclusive discretion of whether or not to accept the new petition for hearing.

4. Interested persons may present their data, views, or arguments, whether orally or in writing, at the hearing.

5. Jerry Painter, staff attorney for the board, has been designated by the board chairman to preside over and conduct the hearing.

6. The authority of the board to make the proposed rule is based on section 82A-1014, R.C.M. 1947

*Brent Cromley*  
Brent Cromley, Chairman  
Board of Personnel Appeals

Certified to the Secretary of State May 12, 1976.

5-5/26/76

MAC Notice No. 24-3-8-9

BEFORE THE DEPARTMENT OF LABOR  
AND INDUSTRY, BOARD OF PERSONNEL APPEALS  
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT OF ) NOTICE OF PUBLIC HEARING  
RULE 24-3.8(14)-S8090 SPECIFYING THE ) FOR AMENDMENT OF RULE  
PERIOD IN WHICH A DECERTIFICATION ) 24-3.8(14)-S8090  
PETITION MAY BE FILED ) DECERTIFICATION PETITION

TO: All Interested Persons

1. On June 15, 1976, at 10:00 a.m., a public hearing will be held in the highway auditorium, Scott Hart Building, Sixth and Roberts, Helena, Montana, to consider the amendment of rule 24-3.8(14)-S8090, specifying the period in which a decertification petition can be filed.

2. The proposed amendment replaces present rule 24-3.8(14)-S8090 in the Montana Administrative Code. The proposed amendment would make employees of a school district an exception to the present rule and would require decertification petitions affecting bargaining units comprised of school employees to be filed not more than 90 days nor less than 60 days before April 1.

3. Rule 24-3.8(14)-S8090 as proposed to be amended is as follows (new material underlined):

"Rule 24-3.8(14)-S8090. Petitions for Decertification.

(1) Filing (a) A petition for decertification of an exclusive representative shall be filed by an employee, a group of employees, or a labor organization, provided that twelve (12) months have elapsed since the last election.

(b) The petition must be filed not more than ninety (90) days before, and not less than sixty (60) days before the termination date of the previous collective bargaining agreement, or upon the terminal date thereof.

(c) A petition seeking decertification of a bargaining unit comprised of school employees, may only be filed not more than ninety (90) days before, and not less than sixty (60) days before April 1 of the year the employees are seeking decertification.

(d) The original petition shall be signed by the petitioner(s) or their authorized representative.

(e) The original petition and five (5) copies of the petition shall be filed with the Board.

(f) The petition shall contain:

(i) The name and address of petitioner(s).

(ii) A statement that the labor organization that has been certified or is currently being recognized by the employer as bargaining representative no longer represents the interests of the majority of the employees in the unit.

(iii) The name of the labor organization, if any, which claims to be the majority representative.

(iv) A description of the bargaining unit involved and the approximate number of employees.

(v) Any other relevant facts.

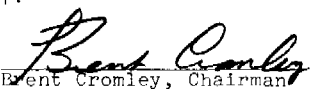
(g) The petition shall be accompanied by proof, consisting of authorization cards, or copies thereof, which have been individually signed and dated within six (6) months prior to the filing of the petition that thirty percent (30%) of the employees in the unit do not desire to be represented by the existing exclusive representative.

(h) The Board shall serve a copy of the petition upon the labor organization(s) concerned, and upon the public employer."


4. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing.

5. Jerry Painter, staff attorney for the board, has been designated by the board chairman to preside over and conduct the hearing.

6. The authority of the board to make the proposed rule is based on section 59-1606, R.C.M. 1947.

  
Brent Cromley, Chairman  
Board of Personnel Appeals

Certified to the Secretary of State May 12, 1976.

5-5/26/76 

MAC Notice No. 24-3-8-10



BEFORE THE DEPARTMENT OF LABOR  
AND INDUSTRY, BOARD OF PERSONNEL APPEALS  
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT	)	NOTICE OF PUBLIC
OF RULE 24-3.8B(6)-S8630, ALLOWING	)	HEARING FOR AMENDMENT
PUBLIC EMPLOYERS TO INTERVENE IN	)	OF RULE 24-3.8B(6)-
CLASSIFICATION HEARINGS	)	S8630 (INTERVENTION)

TO: All Interested Persons

1. On June 15, 1976, at 10:00 a.m., a public hearing will be held in the highway auditorium, Scott Hart Building, Sixth and Roberts, Helena, Montana, to consider the amendment of rule 24-3.8B(6)-S8630, allowing public employers to intervene in classification hearings.

2. The proposed amendment replaces present rule 24-3.8B(6)-S8630 in the Montana Administrative Code. The proposed amendment would allow in addition to a public employee, group of employees, and an employee representative, a public employer to serve a motion to intervene upon the parties to the classification proceedings and upon the board accompanied by an affidavit establishing basis for the intervention.

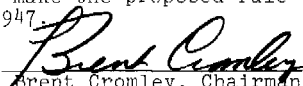
3. Rule 24-3.8B(6)-S8630 as proposed to be amended is as follows (new material underlined):

"Rule 24-3.8B(6)-S8630 Intervention. (1) Any state employee, group of state employees, employee representative, or public employer may be permitted to intervene by serving a motion to intervene upon the parties and the board. The motion shall be accompanied by affidavit(s) establishing a basis for intervention. The board shall determine the validity of the basis for intervention."

4. Interested persons may present their data, views, or arguments, whether orally or in writing, at the hearing.

5. Jerry Painter, staff attorney for the board, has been designated by the board chairman to preside over and conduct the hearing.

6. The authority of the board to make the proposed rule is based on section 82A-1014, R.C.M. 1947.

  
Brent Crowley, Chairman  
Board of Personnel Appeals

Certified to the Secretary of State May 12, 1976.

5-5/26/76

MAC Notice No. 24-3-8-11

BEFORE THE DEPARTMENT OF LABOR  
AND INDUSTRY, BOARD OF PERSONNEL APPEALS  
OF THE STATE OF MONTANA

IN THE MATTER OF THE ADOPTION ) NOTICE OF PUBLIC  
OF RULE ALLOWING THE FILING ) HEARING FOR ADOPTION  
OF A PETITION FOR UNIT ) OF RULE  
CLARIFICATION OR MODIFICATION )  
BY AN EMPLOYER )

TO: ALL INTERESTED PERSONS

1. On June 15, 1976, at 10:00 a.m. a public hearing will be held in the highway auditorium, Scott Hart Building, Sixth and Roberts, Helena, Montana, to consider the adoption of a rule allowing an employer to file a petition for unit clarification or modification.

2. The proposed rule does not replace or modify any section currently found in the Montana Administrative Code.

3. The proposed rule provides as follows:

Proposed rule, Employer's Petition for Unit Modification or Clarification.

(1) A petition for unit clarification or modification may be filed with the Board by an employer.

(2) The petition shall contain: (a) A description of the unit to be modified or clarified.

(b) A statement of the modification or clarification requested.

(c) A statement of why the modification or clarification must be made.

(d) Any other relevant facts.

(3) The Board shall serve a copy of the petition upon the bargaining unit's representative.

(4) The bargaining unit representative shall have five (5) working days from receipt of the petition in which to file an answer to the employer's unit modification or clarification petition.

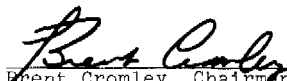
(5) The Board shall serve a copy of the answer upon the employer.

4. Interested persons may present their data, views, or arguments, whether orally or in writing, at the hearing.


5. Jerry Painter, staff attorney for the Board, has been designated by the board chairman, to preside over and conduct

the hearing.

6. The authority of the board to make the proposed rule is based on section 59-1613(4), R.C.M. 1947.

  
Brent Cromley, Chairman  
Board of Personnel Appeals

Certified to the Secretary of State May 12, 1976.

6-5/26/76 

MAC Notice No. 24-3-8-12

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY,  
BOARD OF PERSONNEL APPEALS OF THE  
STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT OF )  
RULE 24-3.8B(10)-S8710(3)(b) ) NOTICE OF HEARING  
SPECIFYING THE PERIOD IN WHICH THE ) FOR AMENDMENT OF RULE  
PERSONNEL DIVISION SHALL ACT ON AN ) 24-3.8B(10)-S8710(3)(b).  
EMPLOYEE'S APPEAL. )

TO: All Interested Persons

1. On September 15, 1976, at 10:00 a.m., a public hearing will be held in the Scott Hart Building, Sixth and Roberts, Helena, Montana, to consider the amendment of rule 24-3.8B(10)-S8710(3)(b), which now specifies that the personnel division shall have ten (10) working days to act on an employee's appeal.

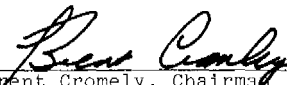
2. The proposed amendment would specify that the personnel division shall have thirty (30) working days to act on an employee's appeal. Rule 24-3.8B(10)-S8710(3)(b) as proposed to be amended is as follows (matter to be stricken is interlined, new matter is underlined):

(b) The personnel division shall have ~~ten-(10)~~ thirty (30) working days to review the matter, record its findings in the appropriate section of the form, and to issue its recommended adjustment and return it to the employee or the proper representative.

3. Interested parties may submit their data, views or arguments concerning the proposed amendment orally or in writing at the hearing.

4. Jerry Painter, staff attorney for the board, has been designated by the board chairman to preside over and conduct the hearing.

5. The authority of the department to make the proposed change is based on section 59-1613(4), R.C.M. 1947.

  
Brent Cromely, Chairman  
Board of Personnel Appeals

Certified to the Secretary of State August 11, 1976.

8-8/26/76

MAC Notice No. 24-3-8-13

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY,  
BOARD OF PERSONNEL APPEALS OF THE  
STATE OF MONTANA

IN THE MATTER OF THE ADOPTION OF) NOTICE OF PUBLIC HEARING  
RULE MAC 24-3.8(10)-S8076(8) ) FOR ADOPTION OF RULE  
REGARDING PETITIONS FOR UNIT ) MAC 24-3.8(10)-S8076(8),  
CLARIFICATION. ) UNIT CLARIFICATION.

TO: All Interested Persons

1. On September 15, 1976, at 10:00 a.m., a public hearing will be held in the highway auditorium, Scott Hart Building, Sixth and Roberts, Helena, Montana, to consider adoption of rule MAC 24-3.8(10)-S8076(8), specifying the procedure for unit clarification.

2. A public hearing was held on June 15, 1976, to consider an amendment to rule MAC 24-3.8(10)-S8080(8). Testimony then presented prompted consideration of repeal of rule MAC 24-3.8(10)-S8080(8).

3. The proposed rule replaces present rule MAC 24-3.8(10)-S8080(8) in the Montana Administrative Code. The proposed rule would clarify the unit clarification procedure now in use by the board and would, in certain circumstances, allow employers to initiate such petitions, a right which they do not now have.

4. Rule MAC 24-3.8(10)-S8076(8) as proposed reads as follows:

UNIT CLARIFICATION: (1) Provided that there is a certified or recognized bargaining representative and there is no question concerning representation, the public employer or the bargaining representative may file a petition for unit clarification in those circumstances in which there is confusion about the interpretation of this board's certification or the recognition clause of a contract.  
(2) Provided that there is a certified or recognized bargaining representative and there is no question concerning representation, the public employer or bargaining representative may file a petition for unit clarification in those situations in which (a) the circumstances surrounding the formation of an existing bargaining unit are alleged to have changed sufficiently to warrant clarification in the composition of that bargaining unit, and (b) granting the petition would result in a decrease in the number of members in the bar-

gaining unit.

(3) Provided that there is a certified or recognized bargaining representative and there is no question concerning representation, only the bargaining representative may file a petition for unit clarification in those circumstances in which the granting of the petition would result in an increase in the membership of the bargaining unit. In addition to all other requirements for unit clarification petitions, set forth in subsection (4) infra, the following additional requirements must be met for petitions which result in an increase to the unit:

(a) All such petitions shall be accompanied by proof that thirty percent of the employees proposed to be included in the bargaining unit desire to be included in that unit. Such proof shall be in the form of authorization cards which have been individually signed and dated within 6 months prior to the filing of the petition. (b) When such petitions are presented, the board shall require the employer to post in a conspicuous manner a notice of unit clarification. Such notice shall be provided by the board and shall remain posted for a period of 20 days.

(c) The employer shall confirm in writing to the board that it has received, posted, and shall continue to post the notice for the required 20 days. (d) If the board determines that the clarification is proper, an election shall be scheduled.

(4) All petitions for clarification shall be signed by the petitioner or his authorized representative, filed with the board, and shall contain the following:

(a) The name, the affiliation, if any, and the address of the petitioner. (b) The name and address of the employer. (c) The name of the recognized or certified bargaining representative. (d) A description, including the number of employees, of the present bargaining unit, and if the bargaining unit is certified, an identification of the existing certification. (e) A description of the proposed clarification, including the

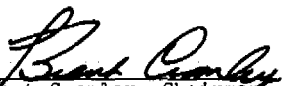
number of employees in the unit as proposed by clarification. (f) A brief description of any contract covering any employee affected by the clarification. (g) The names and addresses of any other persons or labor organization affected by the proposed clarification. (h) A statement by petitioner setting forth reasons why petitioner desires clarification of the unit. (i) Any other relevant facts. (5) The board shall serve a copy of the petition upon the parties named in the petition. (6) Counter-petition. (a) Each party shall have 5 days from receipt of the petition in which to file a counter-petition with the board. (b) Each party shall file a counter-petition when the party disagrees with the appropriateness of the proposed clarification, as described in the petition. (c) The petition shall contain a discussion of the nature of the party's disagreement with the petitioner's proposed clarification and any other relevant facts. (d) The board shall serve a copy of the counter-petition upon the parties involved. (7) Procedure following filing of petition for unit clarification. (a) The board shall direct an investigation of all questions and facts concerning the proposed unit clarification and shall have the following options: (i) To direct a unit clarification hearing, or (ii) To dispense with a unit clarification hearing, at its sole discretion, when no counter-petition has been filed, and grant the requested clarification. (b) After a hearing, the board shall issue its determination as to the clarification petitioned for in the form of Findings of Fact and Conclusions of Law.

5. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing. Presentation of written material to the board in advance of the hearing would be appreciated.

6. Jerry Painter, staff attorney for the board, has been designated by the board chairman to preside over and conduct the hearing.

7. The authority of the board to make the proposed rule is based on section 59-1613(4), R.C.M. 1947.

(4)

  
Brent Cromley, Chairman  
Board of Personnel Appeals

Certified to the Secretary of State August 11, 1976.

8-8/26/76 

MAC Notice No. 24-3-8-14



BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY,  
BOARD OF PERSONNEL APPEALS OF THE  
STATE OF MONTANA

IN THE MATTER OF THE ADOPTION OF A RULE ) NOTICE OF PUBLIC  
ESTABLISHING THE PROCEDURAL STEPS FOR ) HEARING FOR  
AN EMPLOYER TO PETITION FOR UNIT ) ADOPTION OF RULE.  
DETERMINATION IN ACCORDANCE WITH )  
59-1606(1)(b). )

TO: All Interested Persons

1. On September 15, 1976, at 10:00 a.m., a public hearing will be held in the highway auditorium, Scott Hart Building, Sixth and Roberts, Helena, Montana, to consider the adoption of a rule establishing the procedural steps for an employer to petition for unit determination in accordance with 59-1606(1)(b), R.C.M. 1947.

2. The proposed rule does not replace or modify any section currently found in the Montana Administrative Code.

3. The proposed rule provides as follows:


- (1) A petition for new unit determination may be filed with the board by an employer alleging that one or more labor organizations has presented to it a claim to be recognized as the exclusive representative in an appropriate unit.
- (2) The original petition shall be signed by petitioner or its authorized representative.
- (3) The original petition shall be filed with the board.
- (4) The petition shall contain:
  - (a) A statement naming all parties claiming to be recognized as the exclusive representative and bargaining agent.
  - (b) A description of the unit to be determined. Such description shall include: (i) the approximate number of employees to be included in the proposed unit, and (ii) an enumeration, by job title, of the unit's inclusions and exclusions.
  - (c) A brief description, including expiration dates, of all contracts covering employees in the proposed unit.
  - (d) Any other relevant facts.
- (5) The board shall serve a copy of the petition on all parties named as claiming to be the exclusive

representative and bargaining agent.

4. Interested persons may present their data, views, or arguments, whether orally or in writing, at the hearing. Presentation of written material to the board in advance of the hearing would be appreciated.

5. Jerry Painter, staff attorney for the board, has been designated by the board chairman to preside over and conduct the hearing.

6. The authority of the board to make the proposed rule is based on section 59-1613(4), R.C.M. 1947.

  
Brent Cromley, Chairman  
Board of Personnel Appeals

Certified to the Secretary of State August 11, 1976.

8-8/26/76

MAC Notice No. 24-3-8-15

BEFORE THE DEPARTMENT OF LABOR  
AND INDUSTRY, BOARD OF PERSONNEL APPEALS  
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT OF ) NOTICE OF PUBLIC HEARING  
RULE 24-3.8(14)-S8090 SPECIFYING THE ) FOR AMENDMENT OF RULE  
PERIOD IN WHICH A DECERTIFICATION ) 24-3.8(14)-S8090,  
PETITION MAY BE FILED. ) DECERTIFICATION PETITION.

TO: All Interested Persons

1. On September 15, 1976, at 10:00 a.m., a public hearing will be held in the highway auditorium, Scott Hart Building, Sixth and Roberts, Helena, Montana, to consider the amendment of rule 24-3.8(14)-S8090, specifying the period in which a decertification petition can be filed.

2. A public hearing was held on June 15, 1976, to consider an amendment to rule 24-3.8(14)-S8090. Testimony then presented prompted a change in the wording of the amendment.

3. The proposed amendment amends present rule 24-3.8(14)-S8090 in the Montana Administrative Code. The proposed amendment would make academic-year employees of a school district an exception to the present rule and would require decertification petitions affecting bargaining units comprised of school employees to be filed not more than 90 days nor less than 60 days before April 1.

4. Rule 24-3.8(14)-S8090 as proposed to be amended is as follows (new material underlined):

"Rule 24-3.8(14)-S8090. Petitions for Decertification.

(1) Filing. (a) A petition for decertification of an exclusive representative shall be filed by an employee, a group of employees, or a labor organization, provided that twelve (12) months have elapsed since the last election.

(b) The petition must be filed not more than ninety (90) days before, and not less than sixty (60) days before the termination date of the previous collective bargaining agreement, or upon the terminal date thereof.

(c) A petition seeking decertification of a bargaining unit comprised of school employees, who are employed on an academic year as opposed to a calendar year, may only be filed not more than ninety (90) days before, and not less than sixty (60) days before April 1 of the year the employees are seeking decertification.

(d) The original petition shall be signed by the petitioner(s) or their authorized representative.

(e) The original petition and five (5) copies of the petition shall be filed with the Board.

(f) The petition shall contain:

(i) The name and address of petitioner(s).

(ii) A statement that the labor organization that has been certified or is currently being recognized by the employer as bargaining representative no longer represents the interests of the majority of the employees in the unit.

(iii) The name of the labor organization, if any, which claims to be the majority representative.

(iv) A description of the bargaining unit involved and the approximate number of employees.

(v) Any other relevant facts.


(g) The petition shall be accompanied by proof, consisting of authorization cards or copies thereof, which have been individually signed and dated within six (6) months prior to the filing of the petition that thirty percent (30%) of the employees in the unit do not desire to be represented by the existing exclusive representative.

(h) The Board shall serve a copy of the petition upon the labor organization(s) concerned, and upon the public employer."

5. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing. Presentation of written material to the board in advance of the hearing would be appreciated.

6. Jerry Painter, staff attorney for the board, has been designated by the board chairman to preside over and conduct the hearing.

7. The authority of the board to make the amendment is based on section 59-1613(4), R.C.M. 1947.

  
Brent Cromley, Chairman  
Board of Personnel Appeals

Certified to the Secretary of State August 11, 1976.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY,  
BOARD OF PERSONNEL APPEALS OF THE  
STATE OF MONTANA

IN THE MATTER OF THE REPEAL OF ) NOTICE OF PUBLIC HEARING FOR  
RULE MAC 24-3.8(10)-S8080(8) ) REPEAL OF RULE MAC 24-3.8(10)-  
REGARDING UNIT CLARIFICATION ) S8080(8), UNIT CLARIFICATION  
OR MODIFICATION. ) OR MODIFICATION.

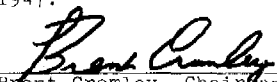
TO: All Interested Persons

1. On September 15, 1976, at 10:00 a.m., a public hearing will be held in the highway auditorium, Scott Hart Building, Sixth and Roberts, Helena, Montana, to consider the repeal of rule MAC 24-3.8(10)-S8080(8) regarding petitions for unit clarification or modification.

2. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing. Presentation of written material to the board in advance of the hearing would be appreciated.

3. Jerry Painter, staff attorney for the board, has been designated by the board chairman to preside over and conduct the hearing.

4. The authority of the board to repeal the rule is based on section 59-1613(4), R.C.M. 1947.

  
Brent Cromley, Chairman  
Board of Personnel Appeals

Certified to the Secretary of State August 11, 1976.

8-8/26/76

MAC Notice No. 24-3-8-17

BEFORE THE DEPARTMENT OF LABOR  
AND INDUSTRY, BOARD OF PERSONNEL APPEALS  
OF THE STATE OF MONTANA

IN THE MATTER OF THE ADOPTION OF A	)	
RULE REQUIRING A SHOWING OF A	)	
SUBSTANTIAL CHANGE IN DUTIES AND	)	NOTICE OF PUBLIC
RESPONSIBILITIES OF A POSITION IN	)	HEARING FOR
ORDER TO BE GRANTED A NEW HEARING	)	ADOPTION OF RULE.
AFTER A FINAL ORDER FROM THE BOARD	)	
HAS BEEN ISSUED.	)	

TO: All Interested Persons

1. On September 15, 1976, at 10:00 a.m., a public hearing will be held in the highway auditorium, Scott Hart Building, Sixth and Roberts, Helena, Montana, to consider the adoption of a rule requiring, after a final order has been issued by the Board, a showing of substantial change in the duties and responsibilities of a position before a new hearing on that position will be held.

2. A public hearing was held on June 15, 1976, to consider adoption of a similar rule. Testimony then presented prompted a change in the wording of the rule.

3. The proposed rule does not replace or modify any section currently found in the Montana Administrative Code.

4. The proposed rule provides as follows:

Filing of a new petition for hearing after final order issued. (1) After a final order concerning a position has been issued by the board, a new hearing will be granted only upon a showing of some substantial change in that position which was not considered at the prior hearing and which would warrant a new hearing by the board. (2) The employee shall include with his petition a signed affidavit stating the substantial change. (3) The petition and the affidavit shall proceed through the appeals procedure as prescribed in MAC 24-3.8B(10)-S8710 up to Step(4)(b). (4) The staff shall then conduct a preliminary investigation to determine if the alleged substantial change warrants a new hearing. (a) If it is determined that the alleged substantial change warrants a new hearing, the appeal procedure shall proceed as prescribed in MAC 24-3.8B(10)-S8710. (b) If it is determined that the alleged substantial change does not warrant a new hearing, the petition


shall be dismissed.

(5) The order to dismiss shall be an appealable order.

5. Interested persons may present their data, views, or arguments, whether orally or in writing, at the hearing. Presentation of written material to the board in advance of the hearing would be appreciated.

6. Jerry Painter, staff attorney for the board, has been designated by the board chairman to preside over and conduct the hearing.

7. The authority of the board to make the proposed rule is based on section 82A-1014, R.C.M. 1947.

  
Brent Cromley, Chairman  
Board of Personnel Appeals

Certified to the Secretary of State August 11, 1976.

8-8/26/76

MAC Notice No. 24-3-8-18

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY,  
BOARD OF PERSONNEL APPEALS OF THE  
STATE OF MONTANA

IN THE MATTER OF THE REVIEW OF THE) NOTICE OF REVIEW OF RULES  
RULES AND REGULATIONS OF THE BOARD) AND REGULATIONS. NO  
OF PERSONNEL APPEALS. ) PUBLIC HEARING  
 ) CONTEMPLATED.

TO: All Interested Persons

1. During the months of September and October a complete review of the rules and regulations of this Board will be completed. The purposes of the review are to combine the existing three sets of rules into one set, to correct the grammatical errors, to eliminate rules which are repetitions of statutory language, and to eliminate inconsistencies which might be in the rules.


2. This Board encourages public participation in this review. Written comments suggesting changes within the scope of the review will be welcome.

3. Please send these comments to:

Robert Jensen, Administrator  
Board of Personnel Appeals  
1417 Helena, Avenue  
Helena, Montana 59601

  
Brent Cromley, Chairman  
Board of Personnel Appeals

Certified to the Secretary of State August 11, 1976.

8-8/26/76 

MAC Notice No. 24-3-B-19



# Chapter 6

## Labor Appeals, Board

BOARD OF LABOR APPEALS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amend-)	NOTICE OF PROPOSED
ment of Rule 24-3.6(6)-S660)	AMENDMENT OF RULE
(P660) relating to hearing )	(Hearing Procedure)
procedures specifically as )	NO PUBLIC HEARING
to oaths, affirmations and )	CONTEMPLATED
interested parties. )	

TO: All Interested Persons

1. On September 15, 1976, the Board of Labor Appeals proposes to amend MAC 24-3.6(6)-S660(P660) by providing method for approval of stipulations and making further hearing mandatory.

2. MAC 24-3.6(6)-S660(P660) as proposed to be amended is as follows (matter to be stricken is interlined, new matter is underlined):

MAC 24-3.6(6)-S660(P660) HEARING PROCEDURE

(1) Hearings shall be conducted informally, and in such manner as to ascertain the substantial rights of the parties. All issues relevant to an appeal shall be considered and passed upon. Any interested party, his witness or witnesses, under oath, or affirmation, may present such evidence as may be pertinent, subject to examination by any member of the Board or referee, as the case may be, and Division Attorney and to cross-examination by any opposing interested parties or representative.

(2) The parties to an appeal may stipulate the facts involved ~~in writing orally or in writing~~. Such stipulation shall be approved by the Board or referee, whichever is to decide the case. Further hearing to take additional evidence ~~may shall~~ be ordered, upon notice as set out ~~above~~ in these rules, if such stipulation is found inadequate for the determination of the appeal case.

(3) Remains the same.

(4) Remains the same.

8-8/26/76

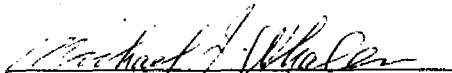
MAC Notice No. 24-3-6-1

(5) Remains the same.

3. Among the issues to be considered by the Board of Labor Appeals are whether the proposed amendments will adequately cover all the stipulations necessary for hearing procedures.

4. Interested parties may submit their data, views of arguments concerning the proposed amendment in writing to Moody Brickett, Attorney, Employment Security Division, P. O. Box 1728, Helena, Montana, 59601. Written comments in what to be considered must be received no later than September 15, 1976.

5. The authority of the board to make the proposed amendment to the rule is based on Section 82-4203, R.C.M. 1947.

  
MICHAEL J. WHALEN, Chairman  
by Moody Brickett, Attorney

Certified to the Secretary of State August 11, 1976.

BOARD OF LABOR APPEALS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amend- )	NOTICE OF PROPOSED
ment of Rule 24-3.6(6)-S6040 )	AMENDMENT OF RULE
(P6040) relating to hearing )	(Official and Judicial Notice)
procedures specifically as )	NO PUBLIC HEARING
to official notice to be )	CONTEMPLATED
taken. )	

TO: All Interested Persons

1. On September 15, 1976, the Board of Labor Appeals proposes to amend MAC 24-3.6(6)-S6040(P6040) by changing the word "judicial" to "official" and adding a new section regarding official notice of facts and providing for the contest of same.

2. MAC 24-3.6(6)-S6040(P6040) as proposed to be amended is as follows (matter to be stricken is interlined, new matter is underlined):

MAC 24-3.6(6)-S6040(P6040) OFFICIAL ~~AND JUDICIAL~~ NOTICE

(1) Remains the same.

(2) The Board shall take ~~judicial~~ official notice of those matters which must be ~~judicially~~ officially noticed by a court of record in the State of Montana.

(3) If official notice is taken of facts, the parties shall be so notified of any facts of which official notice is taken, and afforded an opportunity to contest the correctness of those facts.

3. The issue to be considered by the Board of Labor Appeals is to insure proper notice and the one change is purely technical proposed at the request of the U. S. Department of Labor.

4. Interested parties may submit their data, views of arguments concerning the proposed amendment in writing to Moody Brickett, Attorney, Employment Security Division, P. O. Box 1728, Helena, Montana, 59601. Written comments in what to be considered must be received no later than September 15, 1976.

5. The authority of the board to make the proposed amendment to the rule is based on Section 82-4203, R.C.M. 1947.

8-8/26/76 ~~\*\*\*\*\*~~

MAC Notice No. 24-3-6-2

(2)

Moody Brickett  
MICHAEL J. WHALEN, Chairman  
by Moody Brickett, Attorney

Certified to the Secretary of State August 11, 1976.

BOARD OF LABOR APPEALS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amend- )	NOTICE OF PROPOSED
ment of Rule 24-3.6(6)-S6050)	AMENDMENT OF RULE
(P6050) relating to Board )	(Board Review)
review by the adoption of )	NO PUBLIC HEARING
an additional paragraph. )	CONTEMPLATED

TO: All Interested Persons

1. On September 15, 1976, the Board of Labor Appeals proposes to amend MAC 24-3.6(6)-S6050(P6050) regarding the limits of the Board of Labor Appeals Review.

2. MAC 24-3.6(6)-S6050(P6050) as proposed to be amended is as follows (matter to be stricken is interlined, new matter is underlined):

MAC 24-3.6(6)-S6050(P6050) BOARD REVIEW


(1) This Board adopts as its limits of review the provisions of Section 87-107 ~~et~~ (g) R.C.M. 1947.

(2) Board of Labor Appeals review. The Board of Labor Appeals may on its own motion affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it.

3. The reason for the proposed paragraph (2) above of the rule is to more clearly define the Board of Labor Appeals' review authority of contested cases.

4. Interested parties may submit their data, views of arguments concerning the proposed amendment in writing to Moody Brickett, Attorney, Employment Security Division, P. O. Box 1728, Helena, Montana, 59601. Written comments on what to be considered must be received no later than September 15, 1976.

5. The authority of the Board to make the proposed amendment to the rule is based on Section 82-4203, R.C.M. 1947.

  
MICHAEL J. WNALEN, Chairman

by Moody Brickett, Attorney

8-8/26/76

MAC Notice No. 24-3-6-3

(2)

Certified to the Secretary of State August 11, 1976.

MAC Notice No. 24-3-6-3

8-8/26/76

# Chapter 9

## Human Rights Commission



BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

In the matter of the amendment )	
of Rule 24-3.9(2)-P9070 )	NOTICE OF PROPOSED AMENDMENT
prescribing time periods and )	OF RULE (REASONABLE CAUSE
bases for reasonable cause )	FINDING) NO PUBLIC HEARING
determination. )	CONTEMPLATED

TO: All Interested Persons

1. On May 17, 1976, the Human Rights Commission proposes to amend Rule 24-3.9(2)-P9070 which now prescribes a reasonable cause determination within twenty(20) days of notice to respondent based on the results of the investigation to that point except when for various reasons more time is needed to gather evidence.

2. The Proposed Amendment more specifically spells out the investigative powers of the Human Rights Division in gathering such evidence and provides for the determination of Probable Cause to be made by the Human Rights Division Administrator after investigation based on the result of the investigation. Rule 24-3.9(2)-P9070 as proposed to be amended is as follows:

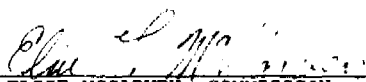
~~24-3.9(2)-P9070 Prehearing; Investigation; Reasonable Probable Cause Determination. Within twenty(20) days after notice is sent to a respondent, the bureau chief of the Human Rights Bureau shall decide whether reasonable cause exists to believe that a violation of the act has occurred, based upon the evidence produced by the investigation. Further time will be allowed, beyond twenty days, for that decision if the investigation has encountered extraordinary difficulties, such as the absence of principal witnesses from the state, the refusal of the respondent to freely offer evidence, or the necessity for time to examine voluminous records.~~

When notice of the filing of a charge of discrimination has been given to the Respondent, the Human Rights Division shall undertake an investigation of the charges alleged in the complaint. In investigating a charge of discrimination, the Human Rights Division may exercise the powers granted to the Commission by Section 64-313, R.C.M. 1947. After investigation, the Administrator of the Human Rights Division shall decide whether reasonable cause exists to believe that a violation of the human rights laws enforced by the commission has occurred, based on the evidence produced by the investigation.

3. The amendment is proposed to clarify the investigative powers of the Human Rights Division and to reflect more accurately the extensive investigation and analysis

required in evaluating human rights complaints,

4. Interested parties may submit their data, views or arguments concerning the Proposed Amendment in writing to Raymond D. Brown, Administrator, Human Rights Division, 620 Power Block, Helena, Montana 59601. Written comments in order to be considered must be received no later than May 17, 1976.

  
\_\_\_\_\_  
ELSIE MCGARVEY, COMMISSION  
CHAIRPERSON

Certified to the Secretary of State April 12, 19 76.

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

In the matter of the repeal	)	
of Rules 24-3.9(1)-0900	)	
through 24-3.9(1)-0910,	)	
24-3.9(2)-P920 through	)	NOTICE OF PUBLIC HEARING FOR
24-3.9(2)-P9110, and	)	REPEAL OF RULES 24-3.9(1)-0900
24-3.9(10)-S9190, setting	)	THROUGH 24-3.9(1)-0910, 24-3.9
out the organizational	)	(2)-P920 THROUGH 24-3.9(2)-
structure and procedures	)	P9110, and 24-3.9(10)-S9190
of the Human Rights Com-	)	(Organization, Procedures,
mission and describing the	)	Judicial Remedies)
availability of judicial	)	
remedies.	)	

1. On November 17, 1976, at 7:00 p.m., a public hearing will be held in the Conference Room of the Department of Labor and Industry, 1331 Helena Avenue, Helena, Montana to consider the repeal of rules 24-3.9(1)-0900 through 24-3.9(1)-0910, 24-3.9(2)-P920 through 24-3.9(2)-P9110, and 24-3.9(10)-S9190, setting forth the organizational structure of the Human Rights Commission, describing the procedures applicable to complaints and hearings before the Commission and describing the judicial remedies available to persons aggrieved by violations of Montana's human rights laws.

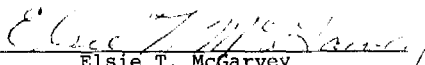
2. The rules for consideration for repeal are found on pages 24-28.31 through 24-28.55 and page 24-28.58 of the Montana Administrative Code.

3. The repeals occur in conjunction with a revision of the procedural and organizational rules of the Commission, which is the subject of a separate notice.

4. Interested persons may present their data, views or arguments whether orally or in writing at the hearing.

5. The Human Rights Commission, 620 Power Block, Helena, Montana 59601, will preside over and conduct the hearing en banc.

6. The authority of the Commission to repeal the rules is based on sections 64-315 and 64-325, R.C.M. 1947.

  
\_\_\_\_\_  
Elsie T. McGarvey  
Chairperson of the Commission

Certified to the Secretary of State October 14, 1976.

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

In the matter of the amendment )	
of Rules 24-3.9(6)-S9120 through )	
24-3.9(6)-S9160, regarding the )	NOTICE OF PUBLIC HEARING
general provisions of the rules )	FOR AMENDMENT OF RULES
of the Human Rights Commission )	24-3.9(6)-S9120 through
concerning meetings, quorums, )	24-3.9(6)-S9160
powers of the Commission, remedies )	(General Provisions)
for retaliation, activities of the )	
Commission and recordkeeping. )	

1. On November 17, 1976 at 7:00 p.m., a public hearing will be held in the Conference Room of the Department of Labor and Industry, 1331 Helena Avenue, Helena, Montana, to consider the amendment of rules 24-3.9(6)-S9120 through 24-3.9(6)-S9160, describing the general provisions of the rules of the Human Rights Commission concerning meetings, quorums, powers of the Commission, remedies for retaliation, activities of the Commission and recordkeeping.

2. The proposed amendments replace present rules 24-3.9(6)-S9120 through 24-3.9(6)-S9160 found in the Montana Administrative Code. The proposed amendments would replace references to the Human Rights Bureau with references to the Human Rights Division, would clarify language and would more accurately reflect the structure and operations of the Human Rights Commission. The amendments occur in conjunction with a complete revision of the procedural and organizational rules of the Commission, which is the subject of a separate notice.

3. Rule 24-3.9(6)-S9120 as proposed to be amended reads as follows (matter to be stricken is interlined, new matter is underlined):

24-3.9(6)-S9120 Definitions. The terms "age", "educational institution", "employee", "employer", "employment agency", "financial institution", "mental handicap", and "public accomodation", as used in these regulations shall have the meanings stated in Sec. 64-305 of the Revised Codes of Montana, 1947, with the additional clarification that "national origin" means the country or countries in which an individual, his parents, grandparents, and ancestors were born.

The terms "bureau", "bureau-chief", Staff, Division, Division Administrator, "Commission", "Commissioner", "act", and act and "department" shall have the meanings stated in sub-chapter 2, "Procedural Rules."

4. Rule 24-3.9(6)-S9130 as proposed to be amended reads as follows:

24-3.9(6)-S9120 Commission meetings; Quorum; Decision-making authority.

(a) The Commission shall meet upon call of the chairperson, or at the written request of at least three (3) members, the time or place to be designated by whomever calls the meeting.

(b) A majority of the membership constitutes a quorum to do business. ~~A contested hearing may be heard only by three (3) or more of the Commission members or a non-member designated by the Commission.~~ A contested case may be heard before a hearing officer, an individual Commissioner acting as hearing officer, or by at least three (3) members of the Commission. The Commission may designate one or more non-members to substitute for a Commission member or members in the case of disqualification or other appropriate circumstances.

(c) The Commission shall appoint a bureau staff member of the staff to act as secretary of the Commission, and general minutes of all Commission meetings whether in person or by telephone conference call shall be kept as a public record.

5. Rule 24-3.9(6)-S9140 as proposed to be amended reads as follows:

24-3.9(6)-S9140 Retaliation. Sec.-64-3i2(2) prohibits anyone from retaliating against one filing a complaint or otherwise assisting with proceedings in connection with unlawful discriminatory acts. Such retaliation shall be unlawful regardless of whether the proceedings are at the state or federal level, or whether the complaint was filed with the Human Rights Commission or the Equal Employment Opportunity Commission (federal), so long as the unlawful discriminatory act complained of is a violation of R.E.M.-1947, Title 64, Chapter 3, the "Freedom from Discrimination" Act.

The above Sec.-64-3i2(2) makes retaliation by anyone a misdemeanor, a criminal offense triable in justice court. In addition, Sec.-64-386(d) labels retaliation by an employer, labor organization, or employment agency as an unlawful discriminatory practice, over which the Human Rights Commission has jurisdiction.

if a discharged employee is reinstated by conciliation agreement or commission order and is again discharged within three months of the date of reinstatement, the burden is on the employer to prove the dismissal is not in retaliation for filing a complaint or otherwise assisting with a proceeding under the act.

In addition to any criminal sanctions imposed, retaliation against any person for making a complaint, assisting in an investigation or proceeding under the act or in any place or in any forum, State or Federal, opposing any practice made unlawful by the act, is a violation of the act and may be the subject of a complaint before the Commission.

Discharge or demotion of an employee during the pendency of a complaint filed by or on behalf of that employee or during the reporting or compliance period of a conciliation agreement or within six (6) months of the resolution of a complaint on any basis shall raise a presumption that the discharge or demotion was in retaliation for engaging in protected activities in violation of the act.

The commencement of the investigation of a complaint of discrimination or retaliation by the Division Staff is not an indication that any criminal violation of the act is suspected nor shall any evidence or information submitted voluntarily to the Staff in the course of an investigation be used by the Staff or the Commission to institute criminal proceedings against the person supplying the evidence or information.

6. Rule 24-3.9(6)-S9150 as proposed to be amended reads as follows:

24-3.9(6)-S9150 Affirmative action required by the Commission. From time to time the Commission may decide that full implementation of the law requires positive action beyond the general duties of dealing with individual complaints of unlawful discrimination under the act. Examples are: (a) gathering of certain kinds of information such as pre-employment questionnaires and tests utilized by employers, and (b) development of public education programs to prevent violations of the act through ignorance.

The Commission may charge the Staff of the Human Rights Bureau Division with specific duties to carry out the affirmative action it feels is necessary.

7. Rule 24-3.9(6)-S9160 as proposed to be amended reads as follows:

24-3.9(6)-S9160 Records on age, sex, and race.  
(a) ~~Sec. 64-306(4)~~ 64-306.1(2) of the act requires the State, employers, labor organizations and employment agencies to maintain records on age, sex, and race, in order to facilitate administration of the act. The function of such records is to aid both those keeping the records and those responsible for enforcing the act to identify, prevent or remedy illegal discrimination and to make proof of the existence or absence of such discrimination easier for both employers and complainants in the event a complaint is filed;

(b) The following records shall be kept:

(1) Every employer, labor organization, employment agency, or State agency in Montana which is subject to the U.S. Equal Employment Opportunity Commission (EEOC) and must keep records to fulfill its reporting requirements meets the record keeping requirements of the act for reporting, with the exception that records must be kept of the age of all employees or union members. Reports required by EEOC will be obtained from it by the Human Rights Commission, subject to any safeguards against publicizing the information that EEOC may impose. Requests for information on employee ages will be made separately by the Human Rights Bureau Division.

(2) Any employer, labor organization, employment agency or State agency which is not subject to EEOC record-keeping requirements should keep records adequate to show (i) how many Negroes, Orientals, American Indians and Spanish surnamed Americans are employed in each particular job category; (ii) how many men and women are in each racial group and each job category.

The records shall be compiled from a pay period in either February, March, or April of every year and reports, on forms supplied by the Human Rights Bureau Division, utilizing those records, shall be filled out by May 1 of each

year, to be presented to the bureau Division upon request, as in connection with an investigation. The reports shall be kept on file for five (5) years.

Records on age, sex and race must be made after employment and not when a prospective employee applies for employment.

Information about racial or ethnic identity may be acquired by visual survey of the work force, and if at all possible, should not be by direct inquiry. The Commission recommends such information be kept separately from personnel records and be maintained as a running total without identification of individuals.

(3) Any personnel or employment record made or kept by an employer (including but not necessarily limited to application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, layoff or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship), shall be preserved by the employer for a period of six months from the date of making of the record and the personnel action involved, whichever occurs later. In case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of six months from the date of termination. Where a complaint of discrimination has been filed, the Respondent shall preserve all personnel records relevant to the complainant until final disposition of the complaint. The term "personnel records relevant to the complaint," for example, would include personnel or employment records relating to the complainant and to all other employees holding positions similar to that held or sought by the complainant and application forms or test papers completed by an unsuccessful applicant or by all other candidates for the same position as that for which the complainant applied and was rejected. A labor organization must preserve membership or referral records (including applications for them) for six months from the date of their making, or if a charge of discrimination is filed, it must preserve all records relevant to the charge until final disposition.

(c) An individual, State agency, employer, employment agency, or labor organization who



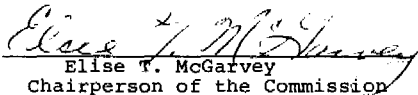
willfully fails to make, keep, or preserve records or make reports in accordance with this rule after being informed by the Division that it must maintain such records commits a misdemeanor under Sec. 64-312(3) of the act.

(d) If the record-keeping requirement would impose undue hardship on one subject to it, the latter may apply to the Human Rights Commission for a modification of the requirement.

8. Interested persons may present their data, views or arguments whether orally or in writing at the hearing.

9. The Human Rights Commission, 620 Power Block, Helena, Montana 59601, will preside over and conduct the hearing en banc.

10. The authority of the Commission to make the proposed amendments is based on sections 64-315 and 64-325, R.C.M. 1947.

  
Elise T. McGarvey  
Chairperson of the Commission

Certified to the Secretary of State October 14, 1976.

BEFORE THE HUMAN RIGHTS COMMISSION

OF THE STATE OF MONTANA

In the matter of the adoption )	
of rules describing and setting )	
forth the organizational )	NOTICE OF PUBLIC HEARING
structure of the Human Rights )	FOR ADOPTION OF
Commission and the procedures )	ORGANIZATIONAL AND
applicable to investigations )	PROCEDURAL RULES
conducted by the Commission )	
and proceedings before the )	
Commission. )	

1. On November 17, 1976 at 7:00 p.m., a public hearing will be held in the Conference Room of the Department of Labor and Industry, 1331 Helena Avenue, Helena, Montana, to consider the adoption of organizational and procedural rules for the Human Rights Commission.

2. The proposed rules replace the previous organizational and procedural rules adopted by the Human Rights Commission. Notice of the proposed repeal of those rules is contained in MAC Notice Number 24-3-9-3, and found on pages 24-28.31 through 24-28.55 of the Montana Administrative Code.

3. A complete copy of these proposed rules may be obtained by contacting the Human Rights Commission, 620 Power Block, Helena, Montana 59601. A summary of the proposed rules follows:

Rule 0-1. Organization of the Human Rights Commission. Describes the organizational structure of the Human Rights Commission.

Rule 0-2. Organization of the Staff of the Human Rights Commission. Describes the relationship of the Human Rights Division to the Commission.

Rule P-1. Liberal Construction; Effect of Partial Invalidity. Prescribes liberal construction of the rules. Provides for continued validity of rules if same found invalid.

Rule P-2. Definitions. Provides definitions used in procedural rules.

Rule P-3. Pre-hearing Procedure; Introduction. Gives general over-view of pre-hearing procedures.

Rule P-4. Complaint; Who May File. Describes who has standing to file a complaint with the Commission.

Rule P-5. Complaint; Filing Charge on Behalf of Aggrieved Person. Describes procedure applicable to complaints filed on behalf of someone other than the Charging Party.

Rule P-6. Division Complaints; Class Actions by Individuals or Groups. Describes the procedure and circumstances applicable to complaints filed by the Division. Provides for filing of class complaints by individuals or appropriate groups.

Rule P-7. Receipt of Information by the Division. Provides for receipt and processing of information concerning possible acts of discrimination when no complaint is filed.

Rule P-8. Complaint; Place and Manner of Filing. Describes how and where complaints are filed. Explains statute of limitations, computation of time, special provisions for complaints deferred from other agencies.

Rule P-9. Complaint; Contents. Describes elements of proper complaint. Provides sample form.

Rule P-10. Complaint; Insufficiency; Effective Date of Amendments. Describes procedure for correcting insufficiencies in complaints. Provides that amendments relate back to original date of filing.

Rule P-11. Amendment of Complaints. Provides for time and manner of amending complaints.

Rule P-12. Confidentiality. Provides for preservation of the confidentiality of files, records, and information received in the course of investigations of discrimination.

Rule P-13. Emergency Order. Describes the procedures and circumstances applicable to the seeking of emergency court orders by the Commission Staff.

Rule P-14. Complaint; Withdrawal of Complaint by Charging Party; Redesignation by Division Administrator. Provides procedure for withdrawal of complaint by Charging Party. Allows Division Administrator to redesignate withdrawn complaint as Division complaint.

Rule P-15. Intervention. Provides for intervention in complaint in appropriate circumstances.

Rule P-16. Complaint; Deferral from Local, State or Federal Agencies. Provides that Commission may agree to receive complaints deferred from other governmental agencies in appropriate circumstances. Provides for referral of complaints and information.

Rule P-17. Notice of Filing of Complaint. Provides for giving notice to Respondent that complaint has been filed.

Rule P-18. Complaint; Notice to Commission. Provides for notifying Commission of filing and disposition of complaints.

Rule P-19. Complaint; Commencement of Investigation. Describes how investigation is commenced.

Rule P-20. Investigation; Powers of Division. Describes powers of Human Rights Division in investigating complaints of discrimination, including the powers prescribed for the Commission in Section 64-313, R.C.M. 1947.

Rule P-21. Investigation; Failure to Cooperate With Division. Describes provisions and sanctions available to Division in case of failure of any person to cooperate with an investigation of a complaint undertaken by the Division.

Rule P-22. Investigation; Failure of Charging Party or Aggrieved Person to Cooperate with Division Investigation. Describes procedures and sanctions available to Division upon failure of Charging Party or Aggrieved Person to cooperate with the Division's investigation, including administrative closure of case.

Rule P-23. Investigation; Failure of Respondent to Cooperate with Division Investigation. Describes the procedures and sanctions available to Division in case of failure of Respondent to cooperate with Division investigation, including procedure for default.

Rule P-24. Pre-hearing; Investigation; Determination Regarding Cause. Describes process for determination and approval of determination of reasonable cause or no cause. Prescribes procedure for expediting investigation.

Rule P-25. Procedure on Finding of No Cause. Describes procedures followed after Division determination of no cause. Includes provision for informal conference between Division Administrator and Charging Party and for hearing on appropriateness of determination.

Rule P-26. Pre-hearing; Conciliation. Describes procedures to be followed in attempting to reach conciliated settlement of cases in which reasonable cause is found. Provides for confirmation of conciliation agreements by Commission. Describes procedures and sanctions available in cases of violation of terms of conciliation agreement.

Rule P-27. Discovery. Prescribes discovery procedures available to all parties upon a finding of reasonable cause. Provides for enforcement of discovery by the Commission.


Rule P-28. Adoption of Model Rules With Amendments. Adopts Model Rules promulgated by the Attorney General for the conduct of hearing in contested cases, declaratory rulings, and certain miscellaneous provisions. A number of modifications and amendments are added including provisions for certification of a case to the Commission for hearing; provisions for notice of hearing; provisions concerning representation of the Charging Party; the requirement of an answer by the Respondent; provisions for informal disposition, pre-hearing conference, default; provisions for subpoenas and enforcement of subpoenas; provision for the appointment of a hearing officer or a Commissioner to act as hearing officer for all or part of a proceeding; provision for the filing and disposition of motions, including motions for a more definite statement; provisions for recording of hearing and for content of the hearing record; provisions relating to evidence, ex parte consultations, proposed orders, final orders, notice of orders, enforcement of orders, appeals; provisions relating to declaratory rulings, and other miscellaneous provisions contained in the Attorney General's model rules.

4. Interested persons may present their data, views, or arguments, whether orally or in writing, at the hearing.

5. The Human Rights Commission, 620 Power Block, Helena, Montana 59601, will preside over and conduct the hearing en banc.

(5)

6. The authority for the Commission to make the proposed rules is based on Sections 64-315 and 64-325, R.C.M. 1947.

  
Elsie A. McGarvey  
Chairperson of the Commission

Certified to the Secretary of State October 14, 1976.

10-10/25/76

MAC Notice No. 24-3-9-5

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

In the matter of the adoption )	
as rules of the Human Rights )	NOTICE OF PUBLIC HEARING
Commission the Guidelines )	FOR ADOPTION OF RULES RE-
established by the Equal )	GARDING SEX DISCRIMINATION,
Opportunity Commission relating )	RELIGIOUS DISCRIMINATION,
to sex discrimination, religious )	NATIONAL ORIGIN DISCRIM-
discrimination, national origin )	INATION, AND EMPLOYMENT
discrimination, and employment )	TESTING.
testing. )	(EEOC GUIDELINES)

1. On November 17, 1976, at 7:00 p.m., a public hearing will be held in the Conference Room of the Department of Labor and Industry, 1331 Helena Avenue, Helena, Montana, to consider the adoption of rules adopting the guidelines established by the Equal Employment Opportunity Commission relating to sex discrimination, religious discrimination, national origin discrimination, and employment testing.

2. The proposed rules do not replace or modify any section currently found in the Montana Administrative Code.

3. The proposed rules provide as follows:

Rule S-1. The Human Rights Commission hereby affirms its adoption of the Guidelines on Sex Discrimination promulgated by the United States Equal Employment Opportunity Commission, as last amended and reissued on March 20, 1972, effective April 5, 1972. The guidelines are codified as Title 29 CFR, Chapter XIV, Part 1604, Sections 1604.1 through 1604.10, as amended. A copy of the Guidelines is on file with the Secretary of State's office or may be obtained from the Montana Human Rights Commission.

Rule S-2. The Human Rights Commission hereby affirms its adoption of the Guidelines on Religious Discrimination promulgated by the United States Equal Employment Opportunity Commission, as adopted September 10, 1967, effective immediately. The guidelines are codified and published in the Federal Register as Title 29 CFR, Chapter XIV, Part 1605, Section 1605.1. A copy of the Guidelines is on file with the Secretary of State's office or may be obtained from the Montana Human Rights Commission.

Rule S-3. The Human Rights Commission hereby affirms its adoption of the Guidelines on National Origin Discrimination promulgated by the United States Equal Employment Opportunity Commission, as codified, published and made effective January 13, 1970, and as most recently amended, effective March 18, 1974. The guidelines are codified and published in the Federal Register as Title 29

CFR, Chapter XIV, Part 1606, Section 1606.1. A copy of the Guidelines is on file with the Secretary of State's office or may be obtained from the Montana Human Rights Commission.

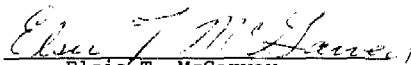
Rule S-4. The Human Rights Commission hereby affirms its adoption of the Guidelines on Testing and Selecting Employees promulgated by the United States Equal Employment Opportunity Commission, as last codified July 21, 1970, effective August 1, 1970. The guidelines are codified and published in the Federal Register as Title 29 CFR, Chapter XIV, Part 1607, Sections 1607.1 through 1607.14. A copy of the Guidelines is on file with the Secretary of State's Office or may be obtained from the Montana Human Rights Commission.

Rule S-5. The Guidelines promulgated by the United States Equal Employment Opportunity Commission and adopted by the Human Rights Commission are to be read together and in conjunction with the provisions of MAC 24-3.9(14)-59240 through MAC 24-3.9(14)-59290, the guidelines for employment adopted by the Human Rights Commission.

4. Interested persons may present their data, views, or arguments, whether orally or in writing, at the hearing.

5. The Human Rights Commission, 620 Power Block, Helena, Montana 59601, will preside over and conduct the hearing en banc.

6. The authority for the Commission to make the proposed rules is based on Sections 64-315 and 64-325, R.C.M. 1947.

  
Elsie T. McGarvey  
Chairperson of the Commission

Certified to the Secretary of State October 14, 1976.



# Chapter 10

## Employment Security Div.

EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amend-)	NOTICE OF PORPOSED
ment of Rule 24-3.10(6)- )	AMENDMENT OF RULE
S1040(P1040) relating to )	(Hearing Procedure)
hearing procedure and )	NO PUBLIC HEARING
adding the words "or )	CONTEMPLATED
affirmation" to its pro- )	
visions for swearing )	
witnesses. )	

TO: All Interested Persons

1. On September 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to amend MAC 24-3.10(6)-S1040(P1040) by adding the words "or affirmation" to its provision for swearing witnesses.

2. MAC 24-3.10(6)-S1040(P1040) as proposed to be amended is as follows (matter to be stricken is interlined, new matter is underlined):

MAC 24-3.10(6)-S1040(P1040) HEARING PROCEDURE

(1) Hearings shall be conducted informally, and in such a manner as to ascertain the substantial rights of the parties. All issues relevant to an appeal shall be considered and passed upon. Any interested party, his witness or witnesses, under oath, or affirmation, may present such evidence as may be pertinent, subject to examination by any member of an appeal ~~tribunal~~ referee and to cross-examination by any opposing interested parties.

(2) Remains the same except for changing the word "tribunal" to "referee" (~~tribunal~~ referee).

(3) Remains the same except for omitting the quotation marks before the word "provided, and after the word review", and changing the word "tribunal" to "referee" (~~tribunal~~ referee).

(4) Remains the same except for changing the word "tribunal" to "referee" (~~tribunal~~ referee).

3. The reason for this change is to allow people who do not care to take an oath to affirm their testimony and to change the title of appeal tribunal to appeal referee.

8-8/26/76 ~~SECRET~~ "

MAC Notice No. 24-3-10-1

(2)

4. Interested parties may submit their data, views of arguments concerning the proposed amendment in writing to Moody Brickett, Attorney, Employment Security Division, P. O. Box 1728, Helena, Montana, 59601. Written comments in what to be considered must be received no later than September 15, 1976.

5. The authority of the division to make the proposed amendment to the rule is based on Section 87-121, R.C.M. 1947.

Fred Barrett  
FRED BARRETT, Administrator

Certified to the Secretary of State August 11, 1976.

EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amend-	NOTICE OF PROPOSED
ment of Rule 24-3.10(6)- )	AMENDMENT OF RULE
S1070(P1070) relating to )	(Disqualification, Challenges)
disqualification and chal- )	NO PUBLIC HEARING
lenge to appeals referee, )	CONTEMPLATED
appeal tribunal, and mem- )	
bers of the division where )	
personal interest is )	
involved. )	

TO: All Interested Persons

1. On September 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to amend MAC 24-3.10(6)-S1070(P1070) by providing methods to challenge interested parties at hearings before appeal tribunals.

2. MAC 24-3.10(6)-S1070(P1070) as proposed to be amended is as follows (matter to be stricken is interlined, new matter is underlined):


MAC 24-3.10(6)-S1070(P1070) DISQUALIFICATION, CHALLENGES

(1) No member of the division or of an appeal tribunal shall participate in the hearing of any appeal in which he has an interest nor shall any such member represent any interested party or witness at any appeal hearing. Any interested party may challenge at any time any member of the division or of an appeal tribunal in writing, stating the reason therefore, served upon the administrator of the division. Such challenge shall be ruled upon immediately and such ruling shall be subject to appeal to the same extent as the decision on the merits of the case. ~~Timey challenge to interest made after issuance of a referee's decision is to be considered an appeal from that decision.~~  
A challenge to the interest of the referee after the conclusion of a hearing must be made before the decision pursuant to such hearing becomes final and shall be considered an appeal from that decision. If the division shall find merit in the challenge, it shall disqualify the challenged member and shall appoint another person to hear the appeal.

3. Among the issues to be considered by the Employment Security Division, Department of Labor and Industry, are whether the proposed amendments will adequately serve due process.

4. Interested parties may submit their data, views of arguments concerning the proposed amendment in writing to Moody Brickett, Attorney, Employment Security Division, P. O. Box 1728, Helena, Montana, 59601. Written comments in what to be considered must be received no later than September 15, 1976.

5. The authority of the division to make the proposed amendment to the rule is based on Section 87-121, R.C.M. 1947.



FRED BARRETT, Administrator

Certified to the Secretary of State August 11, 1976.

EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amend-)	NOTICE OF PROPOSED
ment of Rule 24-3.10(10)- )	AMENDMENT OF RULE
S10120 relating to regular )	(Regular and Additional
and additional benefits; )	Benefits)
defining the words add- )	NO PUBLIC HEARING
tional compensation. )	CONTEMPLATED

TO: All Interested Persons

1. On September 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to amend MAC 24-3.10(10)-S10120 by providing a definition for the words "additional compensation" and substituting the word "compensation" for the word "benefits" in the present rule.

2. MAC 24-3.10(10)-S10120 as proposed to be amended is as follows (matter to be stricken is interlined, new matter is underlined):

MAC 24-3.10(10)-S10120 ADDITIONAL BENEFITS  
COMPENSATION

(1) The term "regular benefits compensation" as used in paragraph (a) (7) of Section 87-104 does not include "additional benefits compensation".

~~"Additional-benefits"-means-benefits-payable-to  
exhaustees-by-reason-of-conditions-of-high-unem-  
ployment-or-by-reason-of-other-special-factors-under  
the-provision-of-any-state-law.~~

"Additional compensation" means compensation  
totally financed by a State and payable under  
a State law to exhaustees by reason of condi-  
tions of high unemployment or by reason of  
other special factors, such as, an exhaustee's  
being in training with the approval of the  
State agency.

3. The reason for this proposed change is to clarify what is meant by the words "additional compensation" and to comply with provisions of the Federal law.

4. Interested parties may submit their data, views of arguments concerning the proposed amendment in writing to Moody Brickett, Attorney, Employment Security Division, P. O. Box 1728, Helena, Montana, 59601. Written comments

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MAC Notice No. 24-3-10-3

in what to be considered must be received no later than September 15, 1976.

5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Brickett on or before September 15, 1976.

6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%) or twenty-five or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register. Ten percent of those persons directly affected has been determined to be twenty persons based on the two hundred multiple-floored dwellings approved by the division.

7. Authority of the division to make the proposed rule is based on Section 87-121, R.C.M. 1947.

Fred Barrett  
FRED BARRETT, Administrator

Certified to the Secretary of State August 11, 1976.

EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amend-)	NOTICE OF PROPOSED
ment of Rule 24-3.10(14)- )	AMENDMENT OF RULE
S10160 relating to benefit )	(Interstate claimants)
rights of interstate )	NO PUBLIC HEARING
claimants. )	CONTEMPLATED

TO: All Interested Persons

1. On September 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to amend MAC 24-3.10(14)-S10160 by striking paragraph (2) thereof since said paragraph no longer has any relevancy.

2. MAC 24-3.10(14)-S10160 as proposed to be amended is as follows (matter to be stricken is interlined, new matter is underlined):

MAC 24-3.10(14)-S10160 BENEFIT RIGHTS OF INTER-  
STATE CLAIMANTS

(1) Remains the same.

~~(2) -- The benefit rights of interstate claimants  
established by this rule shall apply only with  
respect to new claims (notices of unemployment)  
filed on or after July 57-1953.~~

3. The reason for the proposed change in the rule is that paragraph (2) cited above no longer has any application to the benefit rights of interstate claimants.

4. Interested parties may submit their data, views of arguments concerning the proposed amendment in writing to Moody Brickett, Attorney, Employment Security Division, P. O. Box 1728, Helena, Montana, 59601. Written comments in what to be considered must be received no later than September 15, 1976.

5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Brickett on or before September 15, 1976.

6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%) or twenty-five or more persons directly affected, a public



hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register. Ten percent of those persons directly affected has been determined to be twenty persons based on the two hundred multiple-floored dwellings approved by the division.

7. Authority of the division to make the proposed rule is based on Section 87-121, R.C.M. 1947.

Fred Barrett  
FRED BARRETT, Administrator

Certified to the Secretary of State August 11, 1976.

EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amend-	)	NOTICE OF PROPOSED
ment of Rule 24-3.10(10)-	)	AMENDMENT OF RULE
S10130 relating to defini-	)	(Exhaustee Claimants)
tion of the word "exhaustee".	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On September 15, 1976, the Employment Security Division, Department of Labor and Industry, proposed to amend MAC 24-3.10(10)-S10130 relating to the definition of the word "exhaustee". The division has a more comprehensive definition of the word "exhaustee".

2. MAC 24-3.10(10)-S10130 as proposed to be amended is as follows (matter to be stricken is interlined, new matter is underlined):

MAC 24-3.10(10)-S10130 ~~EXHAUSTEE~~

~~(1)--An individual is an exhaustee with respect to a week of unemployment in his eligibility period if~~

~~(a)--He has established a benefit year, and no regular compensation is payable to him during such year because his wage credits were cancelled or his right to regular compensation was totally reduced as the result of a disqualification; or~~

~~(b)--His benefit year having expired prior to such week, he has insufficient wages or employment, or both, on the basis of which he could establish in any state a new benefit year that would include such week; or having established a new benefit year that includes such week, he is precluded from receiving regular compensation by reason of a state law provision which meets the requirement of Section 3304-(a)-7 of the Internal Revenue Code of 1954; or--~~

~~(c)--He has exhausted his regular seasonal or nonseasonal benefit rights under the law of this state, or any other state, notwithstanding that he may have future rights to regular benefits during the next seasonal or nonseasonal period~~

~~{2}--Extended benefits are not payable to an individual for weeks of unemployment in a seasonal period or nonseasonal period unless he has exhausted regular benefits which were payable with respect to such period;--An individual who is entitled to both additional and extended benefits for the same week shall have the choice of electing which type of benefits to claim regardless of whether his rights to additional and extended benefits arise under the law of the same state or different states.~~

#### COMPREHENSIVE DEFINITION OF EXHAUSTEE

"Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

(1) has received, prior to such week, all of the regular benefits that were payable to him under this Title or any other State law (including dependents' allowances and regular benefits payable to Federal civilian employees and ex-servicemen under 5 U.S.C. Chapter 85) in his applicable benefit year that includes such week; or

(2) has received, prior to such week, all of the regular benefits that were available to him under this Title or any other State law (including dependents' allowances and regular benefits available to Federal civilian employees and ex-servicemen under 5 U. S. C. Chapter 85) in his applicable benefit year that includes such week, after the cancellation of some or all of his wage credits or the total or partial reduction of his right to regular benefits; provided, that, for the purposes of subparagraphs (1) and (2), an individual shall be deemed to have received in his applicable benefit year all of the regular benefits that were payable to him, or available to him, as the case may be, even though (a) as a result of a pending appeal with respect to wages or employment, or both, that were not included in the original monetary determination with respect to his current benefit year, he may subsequently be determined to be entitled to more regular benefits; or (b) by reason of the seasonal provisions of another State law, he is not entitled to regular benefits with respect to such week of unemployment. (although he may be entitled to regular

benefits with respect to future weeks of unemployment in the next season or off season, as the case may be, in his applicable benefit year), and he is otherwise an exhaustee within the meaning of this section with respect to his right to regular benefits under such State law seasonal provisions during the season or off season in which that week of unemployment occurs; or (c) having established a benefit year, no regular benefits are payable to him during such year because his wage credits were cancelled or his right to regular benefits was totally reduced as the result of the application of a disqualification; or

(3) his benefit year having ended prior to such week, he has insufficient wages or employment, or both, on the basis of which he could establish in any State a new benefit year that would include such week, or having established a new benefit year that includes such week, he is precluded from receiving regular benefits by reason of the provision in Section 87-105(e) which meets the requirement of Section 3304 (a) (7) of the Federal Unemployment Tax Act, or the similar provision in any other State law; and

(4) has no right for such week to unemployment benefits allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, and such other Federal laws as are specified in regulations issued by the U. S. Secretary of Labor; and

(a) has not received and is not seeking for such week unemployment benefits under the unemployment compensation law of the Virgin Islands or Canada, unless the appropriate agency finally determines that he is not entitled to unemployment benefits under such law for such week.

(5) The term "applicable benefit year" means, with respect to an individual, his current benefit year if at the time he files a claim for extended benefits he has an unexpired benefit year only in the State in which he files such claim or, in any other case, his most recent benefit year. For this purpose his most recent benefit year, if he has unexpired benefit years in more than one State when he files a claim for

extended benefits, is the benefit year with the latest ending date, or, if such benefit years have the same ending date, the benefit year in which his latest continued claim for regular benefits was filed.

3. The reason for the proposed change in the rule is to give a more comprehensive definition of the word "exhaustee" as requested by the U. S. Department of Labor.

4. Interested parties may submit their data, views of arguments concerning the proposed amendment in writing to Moody Brickett, Attorney, Employment Security Division, P. O. Box 1728, Helena, Montana, 59601. Written comments in what to be considered must be received no later than September 15, 1976.

5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Brickett on or before September 15, 1976.

6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%) or twenty-five or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register. Ten percent of those persons directly affected has been determined to be twenty persons based on the two hundred multiple-floored dwellings approved by the division.

7. Authority of the division to make the proposed rule is based on Section 87-121, R.C.M. 1947.

*Fred Barrett*

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FRED BARRETT, Administrator

Certified to the Secretary of State August 11, 1976.

EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amend-	)	NOTICE OF PROPOSED
ment of Rule 24-3.10(18)-S10200)		AMENDMENT OF RULE
relating to Experience Rating )		(Experience Rating)
specifically as to definitions.)		NO PUBLIC HEARING
)		CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to amend MAC 24-3.10(18)-S10200 by eliminating the reference to chargeable benefit payments.

2. MAC 24-3.10(18)-S10200 as proposed to be amended is as follows (matter to be stricken is interlined, new matter is underlined):

MAC 24-3.10(18)-S10200 EXPERIENCE RATING (1) For experience rating purposes, the following definitions shall govern:

(a) Calendar Year - The term "year" as used in Rules MAC 24-3.10(18)-S10200 through MAC 24-3.10(18)-S10230, means the four (4) consecutive calendar quarters ending on the computation date - June 30th.

(b) Cut-off Date - The term "cut-off" means August 31st immediately following the computation date, provided, however, that the division may extend this date in meritorious cases.

(c) Eligible Employer - The term "eligible employer" means an employer who has paid contributions at the maximum rate throughout each of three (3) years ending on or before the computation date and whose ~~experience-rating-account-has-been-chargeable-with-benefits-throughout-the-thirty-six-(36)-consecutive-calendar-month-period-ending-on-the-computation-date,-provided-that-an-employer's-account-shall-in-no-event-be-deemed-to-have-been-chargeable-with-benefits-during-any-period-prior-to-the-first-day-of-the-calendar-quarter-which-precedes-the-quarter-within-which-he-made-his-first-contributions-payment-and,-provided-further,~~ that an employer account shall not be deemed to have been chargeable throughout the thirty-six (36) consecutive calendar month period ending on the computation date unless he has paid wages subject to contributions in at least one (1) calendar quarter of each of such years.

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3. Among the issues to be considered by the division is whether the proposed rule will adequately comply with the provisions of the law.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Moody Brickett, Attorney, Employment Security Division, P. O. Box 1728, Helena, Montana, 59601. Written comments in order to be considered must be received no later than November 15, 1976.

5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Brickett on or before November 15, 1976.

6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the division to make the proposed rule is based on Section 87-121, R.C.M. 1947.



Fred Barrett, Administrator

Certified to the Secretary of State October 8, 1976.

EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amend- ) NOTICE OF PROPOSED  
ment of Rule 24-3.10(18)- ) AMENDMENT OF RULE  
S10210 relating to Experience) (Experience Rating)  
Rating specifically the first) NO PUBLIC HEARING  
factor in experience rating. ) CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to amend MAC 24-3.10(18)-S10210 by revising the method of figuring the decline factor and the point schedule.

2. MAC 24-3.10(18)-S10210 as proposed to be amended is as follows (matter to be stricken is interlined, new matter is underlined):

MAC 24-3.10(18)-S10210 FIRST FACTOR IN EXPERIENCE  
RATING

(1) "Average annual net percentage declines in total payrolls for the last three (3) years prior to computation date" shall be determined as follows: The division shall list each eligible employer's payroll for the twelve calendar quarters three (3) years immediately preceding the computation date in chronological order.

~~The decline factor is determined by taking into account the increases as well as the decreases in total payrolls between the first and second, and the second and third fiscal years. If the decreases in either year is offset by an increase in either year, the employer will show no decline and will be given ten points. If the decrease is not offset by the increase, the employer shows a net decline and the average net percentage decline is computed by subtracting the increase from the decline or adding the two declines, as the case may be, and dividing by two, and then dividing such figure, which represents the average net decline by the average total payroll for the three (3) year period, to arrive at the average net percentage decline applicable to each eligible employer. Such employer shall be classified as to such factor for experience rating purposes upon the following point values:~~

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MAC Notice No. 24-3-10-7



Average-Annual Net-Percentage-Decline	Point-Value Assigned
0-0-(no-decline).....	10
0-1-or-more-but-less-than-10-0.....	9
10-0-or-more-but-less-than-20-0.....	8
20-0-or-more-but-less-than-30-0.....	7
30-0-or-more-but-less-than-40-0.....	6
40-0-or-more-but-less-than-50-0.....	5
50-0-or-more-but-less-than-60-0.....	4
60-0-or-more-but-less-than-70-0.....	3
70-0-or-more-but-less-than-80-0.....	2
80-0-or-more-but-less-than-90-0.....	1
90-0-or-more.....	0

An eligible employer's average annual percentage decline shall be the aggregate of the annual percentage declines divided by two. Whenever any annual total payroll of any employer is less than the annual total payroll for the next preceding year, the annual percentage decline shall be computed to the first decimal place by dividing the amount of the decline by the amount of the annual total payroll for such preceding year. After determining the average percentage decline applicable to each eligible employer, such employer shall be classified as to such factor for experience rating purposes upon the following point values:

#### FISCAL YEAR DECLINE

0.0% or more but less than 1.5%.....	12
1.5% or more but less than 2.0%.....	11
2.0% or more but less than 2.5%.....	10
2.5% or more but less than 3.0%.....	9
3.0% or more but less than 3.5%.....	8
3.5% or more but less than 4.0%.....	7
4.0% or more but less than 4.5%.....	6
4.5% or more but less than 5.0%.....	5
5.0% or more but less than 10.0%....	4
10.0% or more but less than 15.0%....	3
15.0% or more but less than 20.0%....	2
20.0% or more but less than 25.0%....	1
25.0% or more .....	0

3. Among the issues to be considered by the division is whether the proposed rule will adequately comply with the provisions of the law.


4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Moody Brickett, Attorney, Employment Security Division,

P. O. Box 1728, Helena, Montana, 59601. Written comments in order to be considered must be received no later than November 15, 1976.

5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Brickett on or before November 15, 1976.

6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the division to make the proposed rule is based on Section 87-121, R.C.M. 1947.

  
\_\_\_\_\_  
Fred Barrett, Administrator

Certified to the Secretary of State October 8, 1976.

EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amend- ) NOTICE OF PROPOSED  
ment of Rule 24-3.10(18)- ) AMENDMENT OF RULE  
S10220 relating to Experience ) (Experience Rating)  
Rating specifically the second) NO PUBLIC HEARING  
factor in experience rating. ) CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to amend MAC 24-3.10(18)-S10220 by eliminating the reference to chargeable benefit payments and revising the point schedule.

2. MAC 24-3.10(18)-S10220 as proposed to be amended is as follows (matter to be stricken is interlined, new matter is underlined):

MAC 24-3.10(18)-S10220 SECOND FACTOR IN EXPERIENCE  
RATING

(1) "Number of years the employer has paid contributions" means the total number of years that an employer has been subject as an employer under the law (Section 87-148(i)), has reported and paid the contributions due on wages paid for employment as defined in Section 87-148(j). ~~and has been chargeable for benefit payments to eligible claimants under Section 87-147 of the law. An employer shall be considered as having reported and paid contributions due during any calendar quarter wherein he reported no wages paid to employees for employment, so long as his subjectivity as an employer has not been terminated under Section 87-148, provided, however, that~~ Where an employer has reported "no wages paid for employment" during all four quarters immediately preceding a computation date, no credit for such year shall be given in determining the number of years such employer has paid contributions. No employer shall be granted any experience rating classification points under this regulation unless and until such employer has been an employer, as defined in Section 87-148(i), for three ~~full~~ years prior to the computation date. Under this factor the division shall classify all employers upon the following assigned point values:

Number-of-years Contributions-Paid	Point-Value Assigned
---------------------------------------	-------------------------

12-years-or-more.....	10
11-or-more-but-less-than-12.....	9
10-or-more-but-less-than-11.....	8
9-or-more-but-less-than-10.....	7
8-or-more-but-less-than-9.....	6
7-or-more-but-less-than-8.....	5
6-or-more-but-less-than-7.....	4
5-or-more-but-less-than-6.....	3
4-or-more-but-less-than-5.....	2
3-or-more-but-less-than-4.....	1

<u>Number of years</u> <u>Contributions Paid</u>	<u>Points</u>
---	---------------

8 years or more.....	6
7 but less than 8.....	5
6 but less than 7.....	4
5 but less than 6.....	3
4 but less than 5.....	2
3 but less than 4.....	1

3. Among the issues to be considered by the division is whether the proposed rule will adequately comply with the provisions of the law.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Moody Brickett, Attorney, Employment Security Division, P. O. Box 1728, Helena, Montana, 59601. Written comments in order to be considered must be received no later than November 15, 1976.

5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Brickett, on or before November 15, 1976.


6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the division to make the proposed rule is based on Section 87-121, R.C.M. 1947.

(3)

  
Fred Barrett, Administrator

Certified to the Secretary of State October 8, 1976.

10-10/25/76 

MAC Notice No. 24-3-10-8

EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amend- ) NOTICE OF PROPOSED  
ment of Rule 24-3.10(18)- ) AMENDMENT OF RULE  
S10230 relating to Experience) (Experience Rating)  
Rating specifically the third) NO PUBLIC HEARING  
factor in experience rating. ) CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to amend MAC 24-3.10(18)-S10230 by eliminating reference to chargebacks and the point schedule regarding chargebacks and substituting the average quarterly decline and point schedule.

2. MAC 24-3.10(18)-S10230 as proposed to be amended is as follows (matter to be stricken is interlined, new matter is underlined):

MAC 24-3.10(18)-S10230 THIRD FACTOR IN EXPERIENCE RATING

~~{1}--"Chargebacks-to-the-individual-employer-account upon-the-last-employer-basis"-means-that-the-benefit payments-made-to-an-eligible-claimant-under Section-87-107-shall-be-charged-back-to-the-employer account-of-the-employer,-as-defined-in-Section-87-148(i), in-whose-employment-the-claimant-last-rendered services-for-wages-as-defined-in-Section-87-149(e). The-division-shall-maintain-a-separate-account-for each-employer,-shall-credit-such-account-with-all contributions-paid-by-him,-and-shall-charge-such account-with-all-benefits-paid-to-any-eligible claimant-whose-last-employment-was-rendered-in-his employ-during-the-12-consecutive-calendar-period ending-on-the-computation-date,-except-as-provided in-sub-paragraph-(a)-of-this-regulation.~~  
(a)--In-determining-chargebacks-to-the-last-employer, reference-is-hereby-made-to-the-provisions-set forth-in-Section-87-109,-Revised-Codes-of-Montana, 1947,-as-amended-1971.--In-addition,-no-benefits-will-be-charged-to-the-account-of-the-last-covered employer-of-record-if-any-of-the-following-conditions, as-determined-by-the-division,-prevail-in-regard-to eligible-claimants-to-whom-benefits-are-paid:  
(i)--When-benefits-are-paid-to-a-claimant-whose-work record-with-his-last-covered-employer-total-six-(6)

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consecutive-work-weeks-shall-be-charged, if-such employer-would-have-otherwise-been-chargeable-had no-subsequent-employment-intervened.--No-week-shall be-counted-as-one-of-the-six-(6)-consecutive-work weeks-unless-claimant-shall-have-earned-wages-in excess-of-twice-his-weekly-benefit-amount-in-such week-or-performed-services-in-excess-of-twelve-(12) hours-in-such-week.--Work-week-as-herein-used, means-any-period-of-seven-(7)-consecutive-calendar days.

(ii)--When-benefits-are-paid-to-a-claimant-whose last-work-record-was-in-non-subject-employment-which exceeded-six-(6)-consecutive-work-weeks,--as-defined-in-subsection-(i)-above.

(iii)--If-the-claimant-committed-any-act-in-terminating-his-employment-with-such-last-covered-employer or-causing-his-employment-with-such-last-covered employer-to-be-terminated-which-act-would-have disqualified-the-claimant-for-benefits-under Section-87-106, Revised-Codes-of-Montana, 1947, as amended, of-which-would-have-caused-abatement-of-the charge-to-the-employer's-account-under-said-section had-the-claimant-made-application-for-benefits immediately-following-such-termination, irrespective of-whether-or-not-claimant's-last-employment-was with-said-last-covered-employer.

(iv)--When-benefits-are-paid-following-an-initial-or additional-claim-filed-more-than-four-(4)-months-after termination-of-claimant's-employment-with-such-employer.

(v)--When-benefits-are-paid-to-a-claimant-because he-is-in-training-approved-by-the-division.

(b)--The-total-amount-of-benefits-charged-to-an employer-during-the-twelve-consecutive-calendar quarter-period-ending-on-the-computation-date divided-by-the-total-amount-of-contributions expressed-as-a-percentage-and-calculated-to-the first-decimal-place-shall-be-the-basis-for-classification-of-such-employer-upon-the-following-assigned point-values:

Percentage-of-Benefits to-Contributions	Point-Value Assigned
0.0-(no-chargebacks).....	10
0.1-or-more-but-less-than-10.0.....	9
10.0-or-more-but-less-than-20.0.....	8
20.0-or-more-but-less-than-30.0.....	7
30.0-or-more-but-less-than-40.0.....	6
40.0-or-more-but-less-than-50.0.....	5
50.0-or-more-but-less-than-60.0.....	4
60.0-or-more-but-less-than-70.0.....	3

70.0-or-more-but-less-than-80.0-----2  
 80.0-or-more-but-less-than-90.0-----1  
 90.0-or-more-but-less-than-100.1-----0  
 100.0-or-more-but-less-than-110.0-----1  
 110.0-or-more-but-less-than-120.0-----2  
 120.0-or-more-but-less-than-130.0-----3  
 130.0-or-more-but-less-than-140.0-----4  
 140.0-or-more-but-less-than-150.0-----5  
 150.0-or-more-but-less-than-160.0-----6  
 160.0-or-more-but-less-than-170.0-----7  
 170.0-or-more-but-less-than-180.0-----8  
 180.0-or-more-but-less-than-190.0-----9  
 190.0-or-more-----10

(1) "Average quarterly percentage declines in total payrolls for the last three (3) years prior to computation date" shall be determined as follows:  
The division shall list each eligible employer's payroll for the twelve calendar quarters immediately preceding the computation date in chronological order.

An eligible employer's average quarterly percentage decline shall be the aggregate of the quarterly percentage declines divided by eleven. Whenever any quarterly total payroll of any employer is less than the quarterly total payroll for the next preceding quarter, the quarterly percentage decline shall be computed to the first decimal place by dividing the amount of the decline by the amount of the quarterly total payroll for such preceding quarter. After determining the average percentage decline applicable to each eligible employer, such employer shall be classified as to such factor for experience rating purposes upon the following point values:

#### QUARTERLY DECLINE

0.0% or more but less than 1.5%	.....12
1.5% or more but less than 2.0%	.....11
2.0% or more but less than 2.5%	.....10
2.5% or more but less than 3.0%	..... 9
3.0% or more but less than 3.5%	..... 8
3.5% or more but less than 4.0%	..... 7
4.0% or more but less than 4.5%	..... 6
4.5% or more but less than 5.0%	..... 5
5.0% or more but less than 10.0%	..... 4
10.0% or more but less than 15.0%	..... 3
15.0% or more but less than 20.0%	..... 2
20.0% or more but less than 25.0%	..... 1
25.0% or more	..... 0



3. Among the issues to be considered by the division is whether the proposed rule will adequately comply with the provisions of the law.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Moody Brickett, Attorney, Employment Security Division, P. O. Box 1728, Helena, Montana, 59601. Written comments in order to be considered must be received no later than November 15, 1976.

5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Brickett, on or before November 15, 1976.

6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the division to make the proposed rule is based on Section 87-121, R.C.M. 1947.

*Fred Barrett*

Fred Barrett, Administrator

Certified to the Secretary of State October 8, 1976.

EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the repeal )	NOTICE OF PROPOSED
of Rule 24-3.10(18)-S10240 )	REPEAL OF RULE
pertaining to the classifi- )	24-3.10(18)-S10240
cation of Employers and )	(Experience Rating)
assigning of rates. )	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to repeal Rule 24-3.10(18)-S10240 pertaining to the classification of employers and assigning of rates.

2. The rule for consideration for repeal is found on page 24-48 of the Montana Administrative Code.

3. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to Moody Brickett, Attorney, Employment Security Division, P. O. Box 1728, Helena, Montana, 59601. Written comments in order to be considered must be received by not later than November 15, 1976.

4. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Brickett on or before November 15, 1976.

5. If the division receives requests for a public hearing on this proposed repeal from more than ten percent (10%) or more persons directly affected, a public hearing will be made by publication in the Administrative Register.

6. The authority of the division to make the proposed rule is based on Section 87-119, R.C.M. 1947.



Fred Barrett, Administrator

Certified to the Secretary of State October 8, 1976.

10-10/25/76

MAC Notice No. 24-3-10-10

EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the adoption )	NOTICE OF PROPOSED
of a rule regarding statistical )	ADOPTION OF RULE
manuals and distribution. )	
)	(Statistical Manuals
)	and Distribution)
)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to adopt Rule \_\_\_\_\_ regarding monthly publication of statistical manuals, information, and distribution to interested parties within the state of Montana.

2. The proposed rule provides as follows:

Rule \_\_\_\_\_ STATISTICAL MANUALS AND  
INFORMATION

The monthly publication entitled Montana Employment and Labor Force shall be provided without cost to employer organizations, schools, libraries, labor organizations, public officials, and to other interested parties within the state of Montana.

3. Among the issues to be considered by the Division is whether the proposed rule will result in adequate distribution of statistical manuals so as to be readily available to the general public.

4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to Moody Brickett, Attorney, Employment Security Division, Department of Labor and Industry, P. O. Box 1728, Helena, Montana, 59601. Written comments in order to be considered must be received no later than November 15, 1976.

5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Brickett on or before November 15, 1976.


6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%)

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(2)

or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the division to make the proposed rule is based on Section 82-4203, R.C.M. 1947.

  
Fred Barrett, Administrator

Certified to the Secretary of State October 8, 1976.

EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the adoption ) NOTICE OF PROPOSED  
of a rule regarding suggestions ) ADOPTION OF RULE  
for operational and procedural )  
changes-complaints. ) (Operational and  
 ) Procedural Changes)  
 ) NO PUBLIC HEARING  
 ) CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to adopt Rule                      regarding suggestions for operational and procedural changes and complaints.

2. The proposed rule provides as follows:

Rule                      SUGGESTIONS FOR  
OPERATIONAL AND PROCEDURAL CHANGES - COMPLAINTS  
Each of the 23 local state employment offices shall keep on hand an adequate supply of forms readily available to all members of the public. Such self-addressed forms may be mailed postage free to the Administrator and shall invite questions, suggestions and comments on the services provided by the local office. Such forms shall receive the prompt and personal attention of the Administrator.


3. Among the issues to be considered by the Division is whether the proposed rule will provide reasonable means of input to the Division with respect to complaints in its operation.

4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to Moody Brickett, Attorney, Employment Security Division, Department of Labor and Industry, P. O. Box 1728, Helena, Montana, 59601. Written comments in order to be considered must be received no later than November 15, 1976.

5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Brickett on or before November 15, 1976.

6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the division to make the proposed rule is based on Section 82-4203, R.C.M. 1947.

  
Fred Barrett, Administrator

Certified to the Secretary of State October 8, 1976.

In the matter of the adoption )	NOTICE OF PROPOSED
of a rule regarding distribu- )	ADOPTION OF RULE
tion of the informational )	
bulletins. )	(Informational Bulletins)
	NO PUBLIC HEARING
	CONTEMPLATED

1. On November 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to adopt Rule \_\_\_\_\_ regarding state-wide distribution of informational bulletins to the press and news media on a weekly basis.

Rule INFORMATIONAL BULLETINS  
Informational bulletins shall be provided the  
press and news media on a weekly basis from the  
Central Office of the Employment Security Division  
for state-wide distribution. Likewise, informa-  
tional bulletins will be issued from local offices  
on a periodical basis.

4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to Moody Brickett, Attorney, Employment Security Division, Department of Labor and Industry, P. O. Box 1728, Helena, Montana, 59601. Written comments in order to be considered must be received no later than November 15, 1976.

6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by

(2)

publication in the Administrative Register.

7. The authority of the division to make the proposed rule is based on Section 82-4203, R.C.M. 1947.

  
Fred Barrett, Administrator

Certified to the Secretary of State October 8, 1976.



In the matter of the adoption	)	NOTICE OF PROPOSED
of a rule regarding response	)	ADOPTION OF RULE
to inquiries and suggestions.	)	
	)	(Response to Inquiries)
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

1. On November 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to adopt Rule \_\_\_\_\_ regarding a response to inquiries and suggestions.

Every inquiry, suggestion or other matter submitted in writing from a member of the public addressed to the Division shall be answered within 72 hours of receipt or sooner, provided said answer is within the capability of the Division to provide a response.


6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%) or more persons directly affected, a public hearing will be

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(2)

held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the division to make the proposed rule is based on Section 82-4203, R.C.M. 1947.

  
Fred Barrett, Administrator

Certified to the Secretary of State October 8, 1976.

EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the adoption )	NOTICE OF PROPOSED
of a rule regarding an agency )	ADOPTION OF RULE
spokesman appearing before )	
organizations within the State)	(Providing Speakers)
of Montana upon reasonable )	NO PUBLIC HEARING
request. )	CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to adopt Rule \_\_\_\_\_ regarding an agency spokesman being available upon reasonable request appearing before organizations within the State of Montana.

2. The proposed rule provides as follows:

Rule \_\_\_\_\_ PROVIDING SPEAKERS  
Agency officials upon reasonable request will be made available to appear before organizations within the State of Montana for the purpose of explaining any aspect of the agency's operations, as well as to answer questions concerning the agency. No costs will be assessed the requesting organization.

3. Among the issues to be considered by the Division is whether the proposed rule will assist in furthering the public's right to know concerning the operation of its government.

4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to Moody Brickett, Attorney, Employment Security Division, Department of Labor and Industry, P. O. Box 1728, Helena, Montana, 59601. Written comments in order to be considered must be received no later than November 15, 1976.

5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Brickett on or before November 15, 1976.

6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%)

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(2)

or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the division to make the proposed rule is based on Section 82-4203, R.C.M. 1947.

*Fred Barrett*

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Fred Barrett, Administrator

Certified to the Secretary of State October 8, 1976.

EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the adoption )	NOTICE OF PROPOSED
of a rule regarding meetings of )	ADOPTION OF RULE
the Board of Labor Appeals, )	
Referee's Hearings, Advisory )	(Meetings)
Council Meetings, and other )	NO PUBLIC HEARING
meetings. )	CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to adopt Rule                      regarding meetings of the Board of Labor Appeals, Referee's Hearings, Advisory Council Meetings, and other meetings provided that such meetings be open to the public.

2. The proposed rule provides as follows:

Rule                      MEETINGS OF THE BOARD  
OF LABOR APPEALS, REFEREE'S HEARINGS, ADVISORY  
COUNCIL MEETINGS, AND OTHER MEETINGS  
Meetings of the Board of Labor Appeals, Referee's  
hearings, Advisory Council meetings, and other  
meetings involving a significant public interest  
shall at all times be open to the public.

The following will be deemed of significant public interest to require notice and the availability of a means for public participation in the decision making process of meetings within the Division:

- (a) The adoption, amendment, or repeal of any regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures or practice requirements of the Division; and
- (b) Where the one is of significant public interest or has a significant public impact on previously established standards.

3. Among the issues to be considered by the Division is whether the proposed rule will serve to implement and further the philosophy of the "open meeting law".

4. Interested parties may submit their data, views or

arguments concerning the proposed rule in writing to Moody Brickett, Attorney, Employment Security Division, Department of Labor and Industry, P. O. Box 1728, Helena, Montana, 59601. Written comments in order to be considered must be received no later than November 15, 1976.

5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Brickett on or before November 15, 1976.

6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the division to make the proposed rule is based on Section 82-4203, R.C.M. 1947.

*Fred Barrett*

Fred Barrett, Administrator

Certified to the Secretary of State October 8, 1976.

EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the adoption )	NOTICE OF PROPOSED
of a rule regarding meetings )	ADOPTION OF RULE
with office managers, super- )	
visors, deputy administrators, )	(Meetings)
and other officials with mem- )	NO PUBLIC HEARING
bers of the public. )	CONTEMPLATED
)	

TO: All Interested Persons

1. On November 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to adopt Rule \_\_\_\_\_ regarding the public meeting with office managers, supervisors, deputy administrators and other officials concerning the operation of the Division.

2. The proposed rule provides as follows:

Rule \_\_\_\_\_, MEETINGS WITH OFFICE MANAGERS, SUPERVISORS, DEPUTY ADMINISTRATORS, AND OTHER OFFICIALS

The public is invited and welcome to visit any of Montana's Local Employment Offices and the Central Division Office in Helena at any time during office hours and to meet with and inquire of personnel as to any matters concerning the operation of such facility. Should an extended conference be desired, a reasonable notice in advance shall be sent to the Division's Administrator naming the person to be consulted, the date of a proposed meeting and the general subject matter to be discussed.

3. Among the issues to be considered by the Division is whether the proposed rule will assist in implementing the public's right to know about the operation of its local employment office.

4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to Moody Brickett, Attorney, Employment Security Division, Department of Labor and Industry, P. O. Box 1728, Helena, Montana, 59601. Written comments in order to be considered must be received no later than November 15, 1976.

5. If a person directly affected wishes to express his

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data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Brickett on or before November 15, 1976.

6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the division to make the proposed rule is based on Section 82-4203, R.C.M. 1947.

*Fred Barrett*

Fred Barrett, Administrator

Certified to the Secretary of State October 8, 1976.



EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the adoption )	NOTICE OF PROPOSED
of a rule regarding the public) ADOPTION OF RULE	
obtaining copies of statutes )	
and regulations governing the )	(Copies of Statutes and
operation of the Division. )	Regulations)
)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to adopt Rule \_\_\_\_\_ making available to any member of the public upon request a copy of the statutes and regulations governing the operation of the Employment Security Division.

2. The proposed rule provides as follows:

Rule \_\_\_\_\_ COPIES OF STATUTES  
AND REGULATIONS

Any member of the public may obtain a copy of the statutes and regulations governing the operation of the Employment Security Division at cost by writing to the Administrator, Employment Security Division, P. O. Box 1728, Helena, Montana, 59601. Copies of such statutes and regulations will be made available for public examination at the local offices of the Division located at the following cities and towns in Montana: Anaconda, Billings, Bozeman, Butte, Cut Bank, Glasgow, Glendive, Great Falls, Hamilton, Havre, Helena, Kalispell, Lewistown, Libby, Livingston, Miles City, Missoula, Polson, Shelby, Sidney, Thompson Falls, and Wolf Point.

3. Among the issues to be considered by the Division is whether the proposed rule will implement the policy of the administration, i.e. that the public has the right to know about the operation of its government.

4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to Moody Brickett, Attorney, Employment Security Division, Department of Labor and Industry, P. O. Box 1728, Helena, Montana, 59601. Written comments in order to be considered must be received no later than November 15, 1976.

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5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Brickett on or before November 15, 1976.

6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the division to make the proposed rule is based on Section 82-4203, R.C.M. 1947.

*Fred Barrett*

Fred Barrett, Administrator

Certified to the Secretary of State October 8, 1976.

In the matter of the adoption	)	NOTICE OF PROPOSED
of a rule regarding public	)	ADOPTION OF RULE
participation and involvement	)	
in policies and objectives.	)	(Policies and Objectives)
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

1. On November 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to adopt Rule \_\_\_\_\_ regarding public participation and involvement in policies and objectives in the decision making process between the public and the Division in efforts to maintain the efficient operation of the Division.

Rule POLICIES AND OBJECTIVES

Participation of the public is to be provided for, encouraged, and assisted to the fullest extent practicable consistent with other requirements of state law and the rights and requirements of state law and privacy. The major objectives of such participation include greater responsibilities of governmental actions to public concerns and priorities, and improved public understanding of official programs and action. Although the primary responsibility for an effective Unemployment Insurance program and Employment Service (JOBS) rests with the Administrator of the Employment Security Division under the Commissioner of Labor, Montana State Department of Labor and Industry, active public involvement in the scrutiny of the decision making process is desirable to accomplish these objectives.

4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to Moody Brickett, Attorney, Employment Security Division, Department


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of Labor and Industry, P. O. Box 1728, Helena, Montana, 59601. Written comments in order to be considered must be received no later than November 15, 1976.

5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Brickett on or before November 15, 1976.

6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the division to make the proposed rule is based on Section 82-4203, R.C.M. 1947.

  
Fred Barrett, Administrator

Certified to the Secretary of State October 8, 1976.

EMPLOYMENT SECURITY DIVISION  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the adoption )	NOTICE OF PROPOSED
of a rule relating to Experience)	ADOPTION OF RULE
Rating specifically as to )	(Experience Rating)
bonuses and/or lump sum payments)	NO PUBLIC HEARING
and seventh bi-weekly pay )	CONTEMPLATED
periods.	)

TO: All Interested Persons

1. On November 15, 1976, the Employment Security Division, Department of Labor and Industry, proposes to adopt Rule \_\_\_\_\_ pertaining to the processing of bonuses and/or lump sum payments and seventh bi-weekly pay period.

2. The proposed rule provides as follows:

Rule \_\_\_\_\_ PROCESSING OF BONUSES  
AND/OR LUMP SUM PAYMENTS AND BI-WEEKLY PAY PERIODS  
(1) Bonuses and/or lump sum payments for services performed over a period of more than three months and seventh bi-weekly pay periods in a calendar quarter, may be, for experience rating purposes only, deleted or apportioned to the period in which earned. The choice of option, once exercised, is effective for future years and may not be changed or discontinued by the employer without the approval of this division.

3. Among the issues to be considered by the division is whether the proposed rule will adequately comply with the provisions of the law.

4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to Moody Brickett, Attorney, Employment Security Division, Department of Labor and Industry, P. O. Box 1728, Helena, Montana, 59601. Written comments in order to be considered must be received no later than November 15, 1976.

5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Brickett on or before November 15, 1976.

6. If the division receives requests for a public hearing on the proposed rule from more than ten percent (10%) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the division to make the proposed rule is based on Section 82-4203, R.C.M. 1947.

  
Fred Barrett, Administrator

Certified to the Secretary of State October 8, 1976.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY,  
BOARD OF PERSONNEL APPEALS  
STATE OF MONTANA

IN THE MATTER OF THE ADOPTION OF ) NOTICE OF PUBLIC HEARING  
RULE MAC 24-3.8(10)-S8076(8) ) FOR ADOPTION OF RULE  
REGARDING PETITIONS FOR UNIT ) MAC 24-3.8(10)-S8076(8),  
CLARIFICATION. ) UNIT CLARIFICATION.

TO: All Interested Persons

1. On September 15, 1976, the Board of Personnel Appeals conducted a hearing on a proposed new rule on unit clarification. As a result of that hearing the proposed rule has been amended.

2. The proposed rule provides as follows: (the additional material is underlined)

UNIT CLARIFICATION: (1) Provided that there is a certified or recognized bargaining representative and there is no question concerning representation, the public employer or the bargaining representative may file a petition for unit clarification in those circumstances in which there is confusion about the interpretation of this board's certification or the recognition clause of a contract.

(2) Provided that there is a certified or recognized bargaining representative and there is no question concerning representation, the public employer or bargaining representative may file a petition for unit clarification in those situations in which (a) the circumstances surrounding the formation of an existing bargaining unit are alleged to have changed sufficiently to warrant clarification in the composition of that bargaining unit, and (b) granting the petition would result in a decrease in the number of members in the bargaining unit.

(3) Provided that there is a certified or recognized bargaining representative and there is no question concerning representation, only the bargaining representative may file a petition for unit clarification in those circumstances in which the granting of the petition would result in an increase in the membership of the bargaining unit. Any such petition may only include those employees who are not at the time of the filing of the petition represented by a bargaining representative.

In addition to all other requirements for unit clarification petitions, set forth in sub-section (4) infra, the following additional requirements must be met for petitions which result in an increase to the unit:

(a) All such petitions shall be accompanied by proof that thirty percent of the employees proposed to be included in the bargaining unit desire to be included in that unit. Such proof shall be in the form of authorization cards which have been individually signed and dated within 6 months prior to the filing of the petition. (b) When such petitions are presented, the board shall require the employer to post in a conspicuous manner a notice of unit clarification. Such notice shall be provided by the board and shall remain posted for a period of 20 days. (c) The employer shall confirm in writing to the board that it has received, posted, and shall continue to post the notice for the required 20 days. (d) If the board determines that the clarification is proper, an election shall be scheduled.

(4) All petitions for clarification shall be signed by the petitioner or his authorized representative, filed with the board, and shall contain the following:

(a) The name, the affiliation, if any, and the address of the petitioner. (b) The name and address of the employer. (c) The name of the recognized or certified bargaining representative. (d) A description, including the number of employees, of the present bargaining unit, and if the bargaining unit is certified, an identification of the existing certification. (e) A description of the proposed clarification, including the number of employees in the unit as proposed by clarification. (f) A brief description of any contract covering any employee affected by the clarification. (g) The names and addresses of any other persons or labor organization affected by the proposed clarification. (h) A statement by petitioner setting forth reasons why petitioner desires clarification of the unit. (i) Any other



relevant facts.

(5) The board shall serve a copy of the petition upon the parties named in the petition.

(6) Counter-petition. (a) Each party shall have 5 days from receipt of the petition in which to file a counter-petition with the board. (b) Each party shall file a counter-petition when the party disagrees with the appropriateness of the proposed clarification, as described in the petition. (c) The petition shall contain a discussion of the nature of the party's disagreement with the petitioner's proposed clarification and any other relevant facts. (d) The board shall serve a copy of the counter-petition upon the parties involved.

(7) Procedure following filing of petition for unit clarification. (a) The board shall direct an investigation of all questions and facts concerning the proposed unit clarification and shall have the following options: (i) To dismiss the petition; (ii) To direct a unit clarification hearing; or (iii) To dispense with a unit clarification hearing, at its sole discretion, when no counter-petition has been filed, and grant the requested clarification.

(b) After a hearing, the board shall issue its determination as to the clarification petitioned for in the form of Findings of Fact and Conclusions of Law.

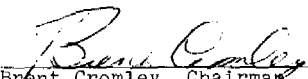
3. Since testimony concerning the proposed rule has been heard at a public hearing, an additional hearing is not contemplated. All testimony concerning the rule taken at the public hearing will be considered by this Board in its final determination of whether or not to adopt the rule.

4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to Jerry Painter, Hearing Examiner, Board of Personnel Appeals, 1417 Helena Avenue, Helena, Montana 59601. Written comments in order to be considered must be received by not later than December 15, 1976.


5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to

Jerry Painter on or before December 15, 1976.

6. If the Board receives request for a public hearing on the proposed rule from twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

  
Brent Cromley, Chairman  
Board of Personnel Appeals

Certified to the Secretary of State November 15, 1976.

11-11/24/76  MAC Notice No. 24-3-8-20

Chapter 18  
Workers' Comp.  
Div.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
DIVISION OF WORKERS' COMPENSATION  
OF THE STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF PUBLIC HEARING
of Rule MAC (5)1910.309(b) of	)	FOR AMENDMENT OF RULE
Section 24-3.18A(2)-S1820	)	MAC (5)1910.309(b) OF SECTION
regarding the National Electrical	)	24-3.18A(2)-S1820
Code.	)	

TO: All Interested Persons

1. On Tuesday, June 15, 1976, at 1:30 p.m., a public hearing will be held in the Training Room at the Division of Workers' Compensation office at 815 Front Street, Helena, Montana, to consider the amendment of rule MAC (5)1910.309(b) of Section 24-3.18A(2)-S1820 regarding the National Electrical Code.

2. The proposed rule amends MAC (5)1910.309(b) of Section 24-3.18A(2)-S1820 of the Montana Administrative Code.

3. Rule (5)1910.309(b) of Section 24-3.18A(2)-S1820 as proposed to be amended, is as follows:

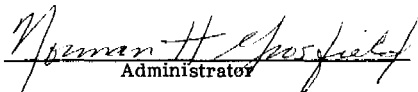
"Rule (5)1910.309(b). (1) Every new electrical installation and all new utilization equipment installed after March 15, 1972, and before August 5, 1976, and every replacement, modification, or repair or rehabilitation, after March 15, 1972, and before August 5, 1976, of any part of any electrical installation or utilization equipment installed before ~~March 15, 1972~~, August 5, 1976, shall be installed or made, and maintained, in accordance with the provisions of the 1971 National Electrical Code, NFPA 70-1971; ANSI C1-1971 (Rev. of C1-1968).

(2) Every new electrical installation and all new utilization equipment installed after August 4, 1976, and every replacement, modification, or repair or rehabilitation after August 4, 1976, of any part of any electrical installation or utilization equipment shall be installed or made, and maintained, in accordance with the provisions of the 1975 National Electrical Code, NFPA 70-1975; ANSI C1-1975 (Rev. of C1-1971)."

4. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing.

5. Mr. B. J. Briggeman, Bureau Chief of the Division's Safety and Health Bureau, has been designated to preside over and conduct the hearing.

6. The authority of the Division to make the proposed amendment is based on Section 41-1727, R.C.M. 1947.

  
Administrator

Certified to the Secretary of State May 12, 1976.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
DIVISION OF WORKERS' COMPENSATION  
OF THE STATE OF MONTANA

In the matter of the adoption of ) NOTICE OF PROPOSED ADOPTION  
Rule 24-3.18AII(1)-S1815 regarding ) OF RULE MAC 24-3.18AII(1)-S1815  
certification of coal mine foreman. ) (CERTIFICATION OF COAL MINE  
FOREMAN) NO PUBLIC HEARING  
CONTEMPLATED

TO: All Interested Persons

1. On September 6, 1976, the Division of Workers' Compensation of the Department of Labor and Industry proposes to adopt Rule MAC 24-3.18AII(1)-S1815 regarding certification of coal mine foreman.

2. The proposed rule does not replace or modify any section currently found in the Montana Administrative Code.

3. A summary of the proposed rule is as follows:

24-3.18AII(1)-S1815 CERTIFICATION OF COAL MINE FOREMAN

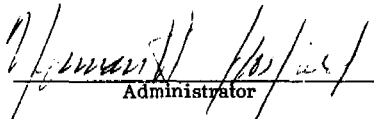
The proposed rule will provide for the certification of coal mine foreman. Such certification will be made through the testing of individuals concerning their knowledge of coal mine safety laws and rules, and safety procedures to be used in the operation of surface and underground coal mining. Such certification will give recognition to individuals who have demonstrated that they are knowledgeable in the area of coal mine safety. The rule will provide for reciprocity with other jurisdictions concerning coal mine foreman certification.

4. Interested persons may submit their data, views, and arguments concerning the proposed rule in writing to the Division of Workers' Compensation, attention Norman H. Grosfield, Administrator, 815 Front Street, Helena, Montana 59601. Written comments to be considered must be received no later than August 10, 1976.

5. If any person directly affected by the proposed rule wishes to express his views or arguments at a public hearing, he must submit a request to do so in writing to the Division of Workers' Compensation, attention Norman H. Grosfield, Administrator, 815 Front Street, Helena, Montana 59601, by August 10, 1976.

6. If the Division of Workers' Compensation receives a request for a public hearing on the proposed rule from more than ten (10) persons directly affected by the proposed rule, a public hearing will be held upon appropriate notice.

7. The authority of the Division of Workers' Compensation to adopt the proposed rule is based on Section 50-412.1, R.C.M. 1947.

  
Administrator

Certified to the Secretary of State July 15, 1976.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
DIVISION OF WORKERS' COMPENSATION  
OF THE STATE OF MONTANA

In the matter of the adoption of Rule	)	NOTICE OF PUBLIC HEARING FOR
MAC 24-3.18(42)-S18220 regarding	)	ADOPTION OF RULE MAC
an attorney fee schedule.	)	24-3.18(42)-S18220 (ATTORNEY FEE SCHEDULE)

TO: All Interested Persons

1. On Tuesday, September 7, 1976, at 1:30 p.m., a public hearing will be held in the Training Room at the Division of Workers' Compensation, 815 Front Street, Helena, Montana, to consider the adoption of Rule MAC 24-3.18(42)-S18220 regarding an attorney fee schedule.

2. The proposed rule does not replace or modify any section currently found in the Montana Administrative Code.

3. Rule 24-3.18(42)-S18220 as proposed to be adopted is as follows:

"24-3.18(42)-S18220 ATTORNEY FEE SCHEDULE (1) An attorney representing a claimant on a workers' compensation claim, and who plans to utilize a contingent fee system to establish the fee arrangement with the claimant, may not charge a fee above the following amounts:

(a) For cases that have not gone to a hearing before the Workers' Compensation Court, twenty-five percent (25%) of the amount of compensation payments the claimant receives due to the efforts of the attorney.

(b) For cases that go to a hearing before the Workers' Compensation Judge, thirty-three percent (33%) of the amount of compensation payments the claimant receives from an order of the Workers' Compensation Court.

(c) For cases that are appealed to the Montana Supreme Court, forty percent (40%) of the amount of compensation payments the claimant receives based on the order of the Supreme Court.

(2) The amount of medical and hospital benefits received by the claimant shall not be considered in calculating the fee, unless the workers' compensation insurer has denied all liability, including medical and hospital benefits, in the claimant's case, or unless the insurer has denied the payment of certain medical and hospital costs and the attorney has been successful in obtaining such benefits for the claimant.

(3) For good cause shown, the Division may allow contingent fees in excess of the maximum fees as set forth in the above schedule. Such a variation from the maximum contingent fee schedule must be approved by the Division before a final fee contract is entered into between the attorney and the claimant.

(4) The fee schedule set forth above does not preclude the use of other attorney fee arrangements, such as the use of a fee system based on time.

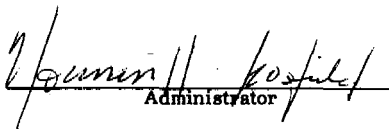
(5) The contingent fee schedule set forth above is a maximum schedule, and nothing prevents an attorney from charging a contingent fee below the maximum contingent fee schedule. An attorney may also reduce the attorney's fee from what was originally established in the fee contract, without the approval of the Division."

(2)

4. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing.

5. Norman H. Grosfield, Administrator of the Division, has been designated to preside over and conduct the hearing.

6. The authority of the Division to make the proposed adoption is based on Section 92-619, R.C.M. 1947.

  
Administrator

Certified to the Secretary of State August 16, 1976.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
DIVISION OF WORKERS' COMPENSATION  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
Rule MAC 24-3.18(10)-S18010	)	AMENDMENT OF RULE
regarding letter of guardianship.	)	MAC 24-3.18(10)-S18010
	)	(LETTER OF GUARDIANSHIP)
	)	NO PUBLIC HEARING
	)	CONTEMPLATED.

TO: All Interested Persons

1. On December 14, 1976, the Division of Workers' Compensation of the Department of Labor and Industry proposes to amend Rule MAC 24-3.18(10)-S18010 regarding letters of guardianship in workers' compensation cases involving a deceased person.

2. The proposed rule amends Rule 24-3.18(10)-S18010 of the Montana Administrative Code.

3. A summary of the proposed rule is as follows:

24-3.18(10)-S18010 LETTER OF GUARDIANSHIP The proposed rule will amend the current rule concerning the establishment of guardianships in workers' compensation cases involving death. The rule will be amended to reflect the provisions of the Montana probate code. The new code does not always require that a guardianship be established, and therefore, the Division will set forth its procedures in line with the provisions of the new code, and will also use the nomenclature as set forth in the uniform probate code.

4. Interested persons may submit their data, views, and arguments concerning the proposed rule in writing to the Division of Workers' Compensation, attention Mr. Norman H. Grosfield, Administrator, 815 Front Street, Helena, Montana 59601. Written comments to be considered must be received no later than December 10, 1976.

5. If any interested person directly affected by the proposed rule wishes to express his views or arguments at a public hearing, he must submit a request to do so in writing to the Division of Workers' Compensation, attention Mr. Norman H. Grosfield, Administrator, 815 Front Street, Helena, Montana 59601, by December 10, 1976.

6. If the Division of Workers' Compensation receives a request for a public hearing on the proposed amended rule from more than ten (10) persons directly affected by the proposed rule, a public hearing will be held upon appropriate notice.

7. The authority of the Division of Workers' Compensation to adopt and amend the proposed rule is based on Section 92-814, R.C.M. 1947.

  
Administrator

Certified to the Secretary of State November 15, 1976.

11-11/24/76

MAC Notice 24-3-18-30



BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
DIVISION OF WORKERS' COMPENSATION  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
Rule MAC 24-3.18(34)-S18200	)	AMENDMENT OF RULE
regarding election not to be bound.	)	MAC 24-3.18(34)-S18200
	)	(ELECTION NOT TO BE BOUND)
	)	NO PUBLIC HEARING
	)	CONTEMPLATED.

TO: All Interested Persons

1. On December 14, 1976, the Division of Workers' Compensation of the Department of Labor and Industry proposes to amend Rule MAC 24-3.18(34)-S18200 regarding the election of corporate officers not to be bound under the Workers' Compensation Act.

2. The proposed rule amends Rule 24-3.18(34)-S18200 of the Montana Administrative Code.

3. A summary of the proposed rule is as follows:

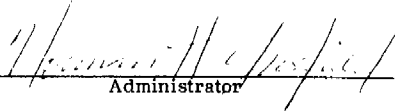
24-3.18(34)-S18200 ELECTION NOT TO BE BOUND The proposed amendment to the rule would provide that any officer of a nonprofit corporation may automatically elect not to be bound as a covered employee under the Workers' Compensation Act. The Division considers that corporate officers of profit corporations should be considered in a different category than corporate officers of nonprofit corporations. The Division is therefore proposing that any corporate officer of a nonprofit corporation may elect not to be bound even though such officers may from time to time do a limited amount of work for a nonprofit corporation. Corporate officers of a nonprofit corporation who do actual work for the corporation for pay would be covered as employees of the nonprofit corporation unless a proper election pursuant to the proposed rule is submitted to the Division.

4. Interested persons may submit their data, views, and arguments concerning the proposed rule in writing to the Division of Workers' Compensation, attention Mr. Norman H. Grosfield, Administrator, 815 Front Street, Helena, Montana 59601. Written comments to be considered must be received no later than December 10, 1976.

5. If any interested person directly affected by the proposed rule wishes to express his views or arguments at a public hearing, he must submit a request to do so in writing to the Division of Workers' Compensation, attention Mr. Norman H. Grosfield, Administrator, 815 Front Street, Helena, Montana 59601, by December 10, 1976.

6. If the Division of Workers' Compensation receives a request for a public hearing on the proposed amended rule from more than ten (10) persons directly affected by the proposed rule, a public hearing will be held upon appropriate notice.

7. The authority of the Division of Workers' Compensation to adopt the proposed rule is based on Section 92-208, R.C.M. 1947.

  
Administrator

Certified to the Secretary of State November 15, 1976.

# Title 26

## State Lands

BEFORE THE BOARD OF LAND COMMISSIONERS  
OF THE STATE OF MONTANA

In the matter of the adop-	)	NOTICE OF PROPOSED ADOPTION
tion of Rules 26-2.2(22)-	)	OF RULES 26-2.2(22)-P2040,
P2040, 26-2.2(22)-P2050,	)	26-2.2(22)-P2050, 26-2.2(22)-
26-2.2(22)-P2060, 26-2.2	)	P2060, 26-2.2(22)-P2070, 26-
(22)-P2070, 26-2.2(22)-P2080	)	2.2(22)-P2080, 26-2.2(22)-
26-2.2(22)-P2090, 26-2.2(22)-	)	P2090, and 26-2.2(22)-
P20000, providing procedures	)	P20000.
for public participation in	)	NO PUBLIC HEARING
agency decisions of signifi-	)	CONTEMPLATED
cant public interest.	)	

TO: All Interested Persons

1. On August 16, 1976, the Board of Land Commissioners proposes to adopt rules 26-2.2(22)-P2040, 26-2.2(22)-P2050, 26-2.2(22)-P2060, 26-2.2(22)-P2070, 26-2.2(22)-P2080, 26-2.2(22)-P2090, 26-2.2(22)-P20000, providing procedures for public participation in agency decisions of significant public interest.

2. The proposed rules provide as follows:

Rule 26-2.2(22)-P2040 - POLICIES AND OBJECTIVES IN PROVIDING CITIZEN PARTICIPATION IN THE OPERATION OF THE DEPARTMENT OF STATE LANDS (1) Participation of the public is to be provided for, encouraged, and assisted to the fullest extent practicable consistent with other requirements of state law and the rights and requirements of individual privacy. The major objectives of such participation include responsiveness of governmental actions to public concerns and priorities, and improved public understanding of official programs and actions. Prior to the adoption, amendment or repeal of a rule or policy, the Board or Department shall, where the decision is of significant public interest, give adequate notice that the decision is to be made and provide a means for public participation in the making of the decision.

Rule 26-2.2(22)-P2050 - GUIDELINES FOR DEPARTMENT PROGRAMS A continuing departmental program for public participation shall contain mechanisms of activity for each of the elements listed in this rule. The exact mechanisms and extent of activity may vary in relation to resources available, public response, the nature of issues involved:

(1) Informational materials - Each division of the department shall provide continuing policy, program, and technical information at the earliest practicable times and at

places easily accessible to interested or affected persons and organizations so that they can make informed and constructive contributions to department decision making. News releases and other publications may be used for this purpose as well as informational discussions and meetings with interested citizens' groups. Efforts shall be made to summarize complex technical materials for public and media use.

(2) Assistance to public - Each division shall have a procedure for providing technical and informational assistance to public groups for citizen education, committee workshop training, dissemination of information to concerned groups and individuals. Requests for information shall be promptly handled.

(3) Consultation - Each division of the department shall have a procedure for early consultation and exchange of views with interested or affected persons and organizations on development or revision of plans, programs or other significant activity prior to decision making. Advisory groups, ad hoc committees or workshop meetings may serve this purpose.

(4) Demonstrations - Field demonstrations and public field trips may be used when there is sufficient public interest concerning programs administered by the department.

(5) Notification - Each division shall maintain a current list of interested persons and organizations, including any who have requested inclusion on such list, for the distribution of information such as that listed in paragraph (1) of this rule. The department shall, in addition, notify any interested persons of any public hearing or other decision making proceedings prior to decision making and wherever possible shall supplement this notification with informal notice to all interested persons or groups having requested such notice in advance. The notice provisions of this subsection shall be deemed to have been complied with if:

(i) an environmental impact statement or preliminary environmental review is prepared and distributed in accordance with the Montana Environmental Policy Act, Title 69, Chapter 65 and the rules adopted pursuant thereto;

(ii) a proceeding is held as required by the Montana Administrative Procedure Act, Title 82, Chapter 42;

(iii) a public hearing, after appropriate notice is given, is held pursuant to agency discretion, any other provision of state law, or local ordinance or resolution; or

(iv) a newspaper of general circulation within the area to be affected by a decision of significant interest to the public has carried a news story, notice or advertisement concerning the decision prior to a final decision on a matter.

(6) Access to information - the department files, other than personnel files and those files required by law or requirements of individual privacy to remain confidential, are open to public inspection. These files are located at the

department office in Helena. Copies of specific documents are available either free or for a reasonable copying charge.

(7) Contact Person - when the department or commissioner determines that a proposed decision or action is of significant interest to the public, one person shall be designated as contact person with the public on the proposed decision or action. This person should be a departmental employee familiar with the proposed decision or action.

(8) Other Measures - the listing of specific measures in this section shall not preclude additional techniques for obtaining, encouraging or assisting public participation.

Rule 26-2.2(22)-P2060 - AWARDING CONTRACTS Opportunity for citizen involvement in the awarding of contracts shall be provided by observing the laws regarding awarding contracts by public agencies. These laws require that any significant contracts be submitted to bid. Thus public notice is through the invitation to bid.

Rule 26-2.2(22)-P2070 - LIST OF DEPARTMENT DECISION MAKING The following is a non-exclusive list of department actions which are normally considered to be of significant interest to the public:

1. Designation of a natural area in accordance with Chapter 27, Title 81.
2. Adoption of amendments or repeal of rules involving the administration of state lands or the reclamation laws.
3. Sale or exchange of state owned land.
4. Adoption of policies regarding public access to state land.
5. Release of revegetation bonds on reclaimed areas.

Rule 26-2.2(22)-P2080 - APPOINTMENTS WITH THE DIRECTOR OR DIVISION ADMINISTRATORS (1) Any individual or group of individuals may make appointments to meet with the Commissioner, or Division Administrators, regarding any matter of concern to those individuals and under the responsibility of the Department of State Lands. Such appointment may be made by contacting the Department's office in Helena.

Rule 26-2.2(22)-P2090 - OPEN MEETINGS (1) All meetings of the Department shall be open to the public subject to the provisions of Section 82-3402, R.C.M. 1947. The Board of Land Commissioners normally meet at 10:30 a.m., the third Monday of every month in the Governor's Conference Room, Capitol Building, Helena, Montana. The meeting time is subject to change and can be obtained by contacting the Department.

Rule 26-2.2(22)-P20000 - GENERAL (1) Citizens desiring information concerning Department of State Lands or these rules

should contact the appropriate Division Administrator. Their names are listed in Rule 26-2.1-0100. Correspondence should be addressed to the Department of State Lands, Capitol Station, Helena, Montana 59601. The Department is located at 1625 Eleventh Avenue and the phone number is 449-2074.

3. Interested parties may submit their data, views or arguments concerning the proposed rules in writing to Leo Berry, Jr., Acting Commissioner, Department of State Lands, Capitol Station, Helena, Montana 59601. Written comments in order to be considered must be received by not later than August 11, 1976.

4. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, that person must make written request for a public hearing and submit this request along with any written comments he has to Mr. Berry on or before August 11, 1976.

5. If the Department of State Lands receives requests for a public hearing on the proposed rule from more than ten percent of, or twenty-five or more, persons directly affected, a public hearing will be held at a later date. Notification of such public hearing will be made by publication in the Administrative Register. Ten percent of those persons directly affected has been determined to be more than twenty-five persons.

6. The authority of the Board to adopt the proposed rules is derived from Section 82-4228, R.C.M. 1947.

\_\_\_\_\_  
Acting Commissioner  
Department of State Lands

Certified to the Secretary of State \_\_\_\_\_, 1976.

BEFORE THE BOARD OF LAND COMMISSIONERS  
OF THE STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF PROPOSED
of Rule MAC 26-2.6(1)-S631(1),	)	AMENDMENT OF RULE MAC
third paragraph, regarding	)	26-2.6(1)-S631, (Unsurveyed
unsurveyed lands available for	)	Lands Available For Oil
leasing for oil and gas purposes	)	and Gas Leasing)
		NO PUBLIC HEARING
		CONTEMPLATED

To: All Interested Persons

1. On September 20, 1976, the Board of Land Commissioners of the State of Montana proposes to amend Rule MAC 26-2.6(1)-S631(1), third paragraph, regarding unsurveyed lands which are available for leasing for oil and gas.

2. The proposed amendment would defer the requirement of a metes and bounds survey of the unsurveyed land until production of oil and/or gas in commercial quantities was obtained from the unsurveyed lands which were leased. Rule 26-2.6(1)-S631, third paragraph, is proposed to be amended as follows (matter to be stricken is interlined, new matter is underlined):

Unsurveyed lands, including those under navigable lakes and streams, are available for leasing, provided, that any applicant for a lease on such lands shall supply the Department with ~~a legal and sufficient description thereof, by courses and distances (metes and bounds),~~ as accurate an estimate of the number of acres to be included under such lease as can be derived from the latest survey, and/or aerial photograph and other information available to the applicant. Further provided, that if and when such lands are leased and oil and/or gas in commercial quantities is produced from the lands, the lessee shall supply the Department with a legal description of the lands by courses and distances (metes and bounds). The Department ~~shall~~ will assume no liability or responsibility for the correctness, completeness and or validity of such description.

3. Interested parties may submit their data, view or arguments concerning the proposed amendment in writing to Leo Berry, Jr., Acting Commissioner, Department of State Lands, Capitol State Lands, Capitol Station, Helena, MT 59601. Written comments in order to be considered must be received by not later than September 15, 1976.


4. If a person directly affected wishes to express his or her data, views and arguments orally or in writing at a public hearing, he or she must make written request for a



public hearing and submit this request along with any written comments he or she has to Mr. Berry on or before September 15, 1976.

5. If the Department receives requests for a public hearing on the proposed amendment from more than ten percent, or twenty-five or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register. Ten percent of those persons directly affected has been determined to be three persons based on the number of applicants for oil and gas leases at the State's June 1976 lease offering.

6. The authority of the Board to make the proposed amendment is based on Section 81-1707, R.C.M. 1947.

  
\_\_\_\_\_  
Leo Berry, Jr.  
Acting Commissioner,  
Department of State Lands

Certified to the Secretary of State August 12, 1976.

BEFORE THE BOARD OF LAND COMMISSIONERS  
OF THE STATE OF MONTANA

In the matter of the amend-	)	NOTICE OF PUBLIC HEARING
ment of Rule MAC 26-2.10(10)-	)	FOR AMENDMENT OF RULE
S10310(1)(b) regarding place-	)	MAC 26-2.10(10)-S10310
ment of problem soils in	)	(1)(b)
mining and reclamation	)	
operations	)	

TO: All Interested Persons

1. On November 22, 1976, at 9:30 a.m., a public hearing will be held in the Chambers of the House of Representatives, State Capitol, Helena, to consider the amendment of Rule MAC 26-2.10(10)-S10310(1)(b), which deals with the placement of problem soils and overburden in mining and reclamation operations which are regulated by the Montana Strip and Underground Mine Reclamation Act.

2. The proposed amendment replaces present Rule MAC 26-2.10(10)-S10310(1)(b).

3. Rule 26-2.10(10)-S10310(1)(b) as proposed to be amended is as follows (material to be deleted is interlined, material to be added is underlined):

~~(b)--An operator shall show where the overburden and parting strata materials are to be placed in the backfill. Materials which are not conducive to revegetation techniques, establishment, and growth shall not be left on the top or within eight (8) feet of the top of regraded spoils or at the surface of any other affected areas. The Department may require that problem materials be placed at a greater depth.~~

(b) An operator shall show how overburden and parting strata will be placed by mining and recontouring operations, and to what depth topsoil will be redistributed. Spoil materials which are acid producing, toxic, undesirable or creating a hazard shall be buried under adequate fill:

(1) Spoil materials which, due to adverse sodium-related physical characteristics are undesirable as a plant growth medium, shall be covered with at least two (2) feet of suitable plant growth material; provided, however, that if naturally occurring conditions will not provide at least two (2) feet of useful soil material, the Applicant shall submit an alternative plan for approval by the Department. In cases where spoils pose severe physical problems including hydraulic conductivity and erosion, the Department may specify burial

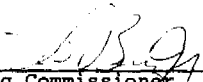
depths greater than two (2) feet, slopes less than 5:1, or other treatments.

(ii) If spoils contain levels of chemical constituents which are acid producing, toxic to plant growth, or, when taken up by plants are toxic to animals consuming those plants, or are otherwise hazardous, the Department shall require burial of toxic materials at depths to insure desirable vegetation, limited leaching by water, and protection of groundwater.

4. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing.

5. Leo Berry, Jr., Acting Commissioner of the Department of State Lands, will preside over and conduct the hearing.

6. The authority of the Board to make the proposed amendment is based on Section 50-1037(3), Revised Codes of Montana 1947.

  
\_\_\_\_\_  
Acting Commissioner  
Department of State Lands

Certified to the Secretary of State  
1976.

Oct 17, 1976

# Title 32

## Livestock

BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of adopting )  
rules relating to permits )  
and test requirements on ) NOTICE OF PUBLIC HEARING  
livestock imported into ) FOR THE ADOPTION OF  
Montana for bluetongue ) RULES RELATING TO  
and anaplasmosis testing. ) BLUETONGUE AND  
 ) ANAPLASMOSIS TESTING  
 ) (Import Rules)

TO: All Interested Persons

1. On March 17, 1976, at 10:00 a.m. a public hearing will be held in the Highway Auditorium, Highway Building, Helena, Montana to consider the adoption of rules relating to permits and test requirements to be placed upon cattle imported into Montana for Bluetongue and anaplasmosis testing.

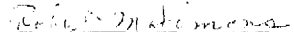
2. The proposed rules do not replace any existing rules, but do modify them by inserting additional requirements upon cattle entering Montana. Being considered are requirements for bluetongue and anaplasmosis testing, and permits dealing with such testing. Copies may be obtained from the department.

3. In summary, if the situation warrants, the proposed rules will be reciprocal in nature, that is, the import rules of a jurisdiction outside of Montana which are applied to Montana livestock exported to that jurisdiction will be the import rules which apply to cattle from that jurisdiction imported into Montana so far as bluetongue and anaplasmosis are concerned.


4. Interested persons may submit their data, views or arguments whether orally or in writing, at the hearing.

5. The hearing will be conducted before the Board of Livestock, Robert M. Simons, Chairman, presiding.

6. The authority of the department to make the proposed rule is based on Section 46-208, R.C.M. 1947.

  
ROBERT M. SIMONS, Chairman  
Board of Livestock

Certified to the Secretary of State January 14, 1976.

1-1/26/76 

MAC NOTICE NO. 32-2-14

BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of )	
Rules 32-2.6A(26)-S6025 and )	NOTICE OF PROPOSED AMEND-
32-2.6A(78)-S6330 relating to )	MENT OF RULES 32-2.6A(26)-
brucellosis testing. )	S6025 and 32-2.6A(78)-
)	S6330
)	(Brucellosis testing)
)	NO PUBLIC HEARING CONTEM-
)	PLATED

TO: All Interested Persons

1. On March 9, 1976, the Board of Livestock proposes to amend rules 32-2.6A(26)-S6025 and 32-2.6A(78)-S6330 which now require testing for brucellosis in cattle when a change of ownership occurs or when cattle are imported into Montana.

2. The proposed amendments would (a) exempt cattle which had been tested for brucellosis as part of a complete herd test within the proceeding six (6) months from the requirement of the change of ownership test if the herd test was negative, and if no cattle had been added to the herd in the intervening time; and (b) exempt state-line operators from meeting import test, quarantine and retest requirements when their cattle are returned to Montana after grazing in an adjacent state.

3. The rule changes will be accomplished by adding the following language: In rule 32-2.6A(26)-S6025 following subparagraph (c) of subsection (2) a new subparagraph (d) will be added as follows:

"(d) cattle eligible for test under subsection (2) of this rule, which were tested as part of a complete herd test to which no cattle other than breeding bulls and herd progeny have been added within the past six (6) months and in which no reactors were identified, as evidenced by an official brucellosis test form of the department showing the results of that test, are exempt from the test requirements of subsection (2) of this rule."

In rule 32-2.6A(78)-S6330 the following new language will be added after subparagraph (ii) of subparagraph (a) of subsection (15):

"(iii) cattle moving from Montana into an adjacent state, or from an adjacent state into Montana for purposes of summer grazing

are exempt from the provisions of this subsection pertaining to test, quarantine and retest provided the following conditions are met:

(aa) the cattle enter, and return to Montana under permit from the state veterinarian and an official health certificate certifying the animals are free of visible diseases; and  
(ab) while outside of Montana, the cattle are kept under fence and are not intermingled with cattle belonging to another person. The state veterinarian may waive this requirement as to intermingling when he is satisfied that the possibility of exposure to brucellosis is minimal.

(ac) the county where the cattle are grazed in the adjacent state has achieved certified brucellosis free status.

(ad) cattle otherwise subject to test under this rule which are added to the herd while it is out of state are subject to test, quarantine and retest as provided in subsection (15) of this rule."

4. Among the issues to be considered are whether the proposed changes will diminish protection against the spread of brucellosis.

5. Interested parties may submit their data, views or arguments concerning the proposed amendments in writing to Dr. Glenn C. Halver, State Veterinarian, Department of Livestock, Helena, Montana 59601. Written comments, in order to be considered must be received not later than March 5, 1976.

6. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Dr. Glenn C. Halver, State Veterinarian, Department of Livestock, Helena, Montana 59601.

7. Since these rules affect all 18,000 Montana livestock producers, if the department receives requests from at least twenty five (25) persons directly affected a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.

8. The authority of the department to make the proposed

rules is based upon Section 46-208 R.C.M. 1947.

Robert M. Simons  
ROBERT M. SIMONS, Chairman  
Board of Livestock

Certified to the Secretary of State January 14,  
1976.

1-1/26/76 .....

MAC NOTICE NO. 32-2-15



BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment	]
of Rule 32-2.6A(78)-S6330, and	]
the repeal of Rules 32-2.6(10)	]
-S6180; 32-2.6(10)-S6280;	]
32-2.6(10)-S6300; 32-2.6(10)	]
-S6320, relating to the import	]
of Livestock and other animals	]
into Montana.	]
	]
	(Import Rules)

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On Monday, May 17, 1976, the Department of Livestock proposes to amend Rule 32-2.6A(78)-S6330, and to repeal rules 32-2.6(10)-S6180; 32-2.6(10)-S6280; 32-2.6(10)-S6300; 32-2.6(10)-S6320. The proposed amendments and repeals would tend to consolidate all import requirements into a single subchapter, and would update import rules to take into account changed disease patterns.

2. A complete copy of the amended rule is available from the department upon request. Significant changes are summarized as follows:

(1) Animals moving into Montana from a quarantined area outside of this state would be required to comply with requirements of the quarantining authority.

(2) Animals entering Montana in violation of the rules of the Department be quarantinable at owner's risk and expense until the Department has been able to determine that such animals are not diseased.

(3) Permits, which are required only in specified situations, would be issuable only to Montana residents.

(4) The state veterinarian's authority to deny permits, or set conditions upon their issuance to promote the needs of disease control would be made explicit.

(5) All tests necessary to qualify an animal for entry into Montana would be required to be performed or confirmed in a state or federal animal diagnostic laboratory.

(6) The present requirement of disinfection of vehicles transporting diseased animals would be eliminated from the import rule.

(7) The presently required test for bovine tuberculosis would be eliminated except for dairy cattle.

(8) Cattle coming from an area where a scabies quarantine has been issued in the preceding six months would enter by permit only.

(9) Game, furbearing and wild animals under domestication or in custody would be permitted to enter by permit only.

(10) Equidae (horses, mules and quadraped asses) would be required to be found negative to an approved test for Equine Infectious Anemia (EIA) performed within six months prior to entry.

(11) The requirement for dipping for sheep scabies would be eliminated.

(12) All references to hog cholera would be eliminated.

(13) Biologicals not approved by the USDA would be importable into Montana upon authorization of the State Veterinarian.

(14) Rabies vaccines would be permitted to be imported to licensed veterinarians or public health agencies only.

3. Among issues to be considered is whether animal health protection against imported disease can be maintained while minimizing bureaucratic intrusion into commerce.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment and repealing of rules in writing to Glenn C. Halver, D.V.M., State Veterinarian, Department of Livestock, Capitol Station, Helena, MT. 59601. Written comments in order to be considered must be received not later than May 15, 1976.

5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing he must make written request for a public hearing and submit this request along with any written comments he has to Glenn C. Halver, D.V.M., State Veterinarian, on or before May 15, 1976.

6. Since the affected public consists of at least all persons owning livestock, and there are an estimated 18,000 livestock producers in Montana, if the Department receives requests for a public hearing from twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the Department to make these changes is based on section 46-208, R.C.M. 1947.

Robert M. Simons  
ROBERT M. SIMONS, Chairman  
Board of Livestock

Certified to the Secretary of State                     , 1976.

BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment ]	
of Rule 32-2.10A(2)-S1020 ]	NOTICE OF PROPOSED AMEND-
relating to Numeral Marks on ]	MENT OF RULE 32-2.10A(2)-
Brands. ]	S1020.
	(Numeral Marks On Brands)
	NO PUBLIC HEARING
	CONTEMPLATED

TO: All Interested Persons

1. On Monday, May 17, 1976, the Department of Livestock proposes to amend Rule 32-2.10A(2)-S1020. The proposed amendment deals with "Age Tally Marks".

2. The proposed amendment would permit the use of a single letter to be used in conjunction with a "numeral mark" in order to show the "Age Tally Mark" for each year. The proposed amendment provides a new subsection (3) to Rule 32-2.10A(2)-S1020 as follows:

(3) When the "numeral mark" is used on cattle for individual identification a single letter may be used in conjunction therewith for the "age tally mark" for each year.

3. Among the issues to be considered is whether the adoption of such an amendment will interfere with accurate animal identification through brand inspection.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment and repealing of rules in writing to Les Graham, Administrator, Brands-Enforcement Division, Department of Livestock, Capitol Station, Helena, MT. 59601. Written comments in order to be considered must be received not later than May 15, 1976.

5. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Graham on or before May 15, 1976.

6. Since the affected public consists of at least all persons owning livestock, and there are an estimated 18,000 livestock producers in Montana, if the Department receives requests for a public hearing from twenty-five (25) or more

persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the Department to make these changes is based on section 46-104, R.C.M. 1947.

Robert M. Simons  
ROBERT M. SIMONS, CHAIRMAN  
Board of Livestock

Certified to the Secretary of State April 15, 1976.

STATE OF MONTANA  
DEPARTMENT OF LIVESTOCK

In the matter of the repeal of	]	NOTICE OF PROPOSED
MAC Rules 32-2.6(10)-S6200,		REPEAL OF MAC RULES
32-2.6(10)-S6210, 32-2.6(10)-S6230,	]	32-2.6(10)-S6200,
32-2.6(10)-S6240, 32-2.6(10)-S6250,		32-2.6(10)-S6210,
32-2.6(10)-S6270, 32-2.6(10)-S6340,	]	32-2.6(10)-S6230,
relating to rabies quarantines in		32-2.6(10)-S6240,
Bighorn, Blaine, Carter, Daniels,	]	32-2.6(10)-S6250,
Dawson, Fallon, Powder River,		32-2.6(10)-S6270,
Richland, Roosevelt, Sheridan,	]	32-2.6(10)-S6340, and
Valley, Wibaux and Yellowstone		PROPOSED AMENDMENT TO
Counties and the amendment of rule	]	MAC RULE
32-2.6A(102)-S6460 relating generally		32-2.6A(102)-S6460
to rabies quarantines.	]	(Rabies Quarantines)
	]	NO PUBLIC HEARING
		CONTEMPLATED
	]	

TO: All Interested Persons:

1. On June 15, 1976, or as soon after as it next meets, the Board of Livestock proposes to repeal the above identified rules relating to rabies quarantines in Bighorn, Blaine, Carter, Daniels, Dawson, Fallon, Powder River, Richland, Roosevelt, Sheridan, Valley, Wibaux and Yellowstone Counties and to amend MAC Rule 32-2.6A(102)-S6460, which relates generally to rabies quarantines.

2. The rules for consideration for repeal are found on pages 32-32 through 32-39.

3. Rule 32-2.6A(102)-S6460 will be amended as follows:

(1) When rabies is known to exist within an area, the Montana Department of Livestock, Animal Health Division, shall, by order of the state veterinarian, establish a rabies quarantine area and shall define the boundaries of the quarantine area and specify the animals subject to quarantine, and all such animals within the quarantine area shall be kept in strict confinement upon the private premises of the owner, keeper or harbinger at all times until the quarantine is terminated by the Montana Department of Livestock, Animal Health Division.

(2) The area shall be quarantined for a period of not less than sixty (60) days from the date of the last known case of rabies or as much longer as in the judgment of the Board of Livestock seems reasonable and necessary; provided, however, that any dog or other animal under quarantine having been properly immunized against rabies under official supervision may be released from quarantine after a period of thirty (30) days from date of vaccination.

(3) A list of counties or areas within counties under quarantine pursuant to this rule shall be kept at the Helena offices of the Department of Livestock. A copy of that list, and a copy of any specific rabies quarantine, is available without charge upon request to the state veterinarian.

4. The purpose of this proposed action is to make consistent the procedures of the Department of Livestock related to rabies quarantines. Sub-Chapter 102 of Chapter 6A, Title 32, Montana Administrative Code, provides that the Department shall establish rabies quarantines when rabies is known to exist in an area. As part of the annual review of the Montana Administrative Code required by Section 82-4204 (c) it has been determined that rabies quarantines are best handled by order from the Department of Livestock rather than through the considerably more cumbersome, costly, and time consuming approach required for rule making under the Montana Administrative Procedures Act. Because rabies remains endemic in wildlife population, especially skunks, in these counties, orders maintaining the quarantines will be issued prior to the repeal of these rules. The requirement that animals be either vaccinated or confined will thus continue to be in effect.

5. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to Glenn C. Halver, D.V.M., Administrator and State Veterinarian, Animal Health Division, Department of Livestock, Capitol Station, Helena, Mt. 59601. Written comments in order to be considered must be received not later than June 15, 1976.

6. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public

hearing he must make written request for a public hearing and submit this request along with any written comments he has to Glenn C. Halver, D.V.M., on or before June 15, 1976.

7. If the department receives request from more than twenty-five (25) persons directly affected a public hearing will be held at a later date. Notification will be made by publication in the Administrative register.

8. The authority of the department to make the proposed rule is Section 46-208, R.C.M. 1947.

Robert M. Simons  
ROBERT M. SIMONS, Chairman  
Board of Livestock

Certified to the Secretary of State 5/17 19 76

BEFORE THE BOARD OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment	)	
of Rule 32-2.6C(1)-S610 relating	)	NOTICE OF PROPOSED
to the reduction of fees for	)	AMENDMENT OF RULE
Equine Infectious Anemia testing	)	32-2.6C(1)-S610.
of horses.	)	
	)	(Laboratory fees)
	)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On December 14, 1976 the Board of Livestock intends to amend Rule 32-2.6C(1)-S610 concerning fees for certain procedures performed at the Department's diagnostic laboratory..
2. The proposed amendments will reduce the fee for the Coggins test on horses by eliminating the Four dollar (\$4) accession fee for such procedures. A copy of the proposed change may be obtained by contacting the Department of Livestock, Capitol Station, Helena, MT. 59601.
3. Interested parties may submit their data, views or arguments concerning the proposed amendments to Glenn C. Halver, D.V.M., State Veterinarian, Department of Livestock, Capitol Station, Helena, MT. 59601. Written comments must be received by December 14, 1976 to be considered.
4. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Dr. Halver on or before December 14, 1976.
5. If the Department receive requests for a public hearing from twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification will be made by publication in the Administrative Register.
6. The authority of the department to make the proposed amendment is based upon section 46-208 R.C.M. 1947.

*Robert M. Simons*  
ROBERT M. SIMONS, Chairman  
Board of Livestock

Certified to the Secretary of State November 5, 1976.

11-11/24/76

MAC NOTICE NO. 32-2-19



BEFORE THE BOARD OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the repeal of	)	NOTICE OF PROPOSED REPEAL
all rules presently found in	)	OF RULES 32-2.10(22)-
Title 32, Chapter 10 subchapter	)	S10090 THROUGH 32-2.10(22)
22, Montana Administrative Code	)	-S10220, AND THE ADOPTION
relating to the subject of aerial	)	OF NEW RULES ON SUBJECT
hunting permits, and the adoption	)	OF AERIAL HUNTING.
of new rules on the same subject.	)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: ALL INTERESTED PERSONS

1. On December 14, 1976 the Board of Livestock proposes to repeal all of present subchapter 22 of Chapter 10, Title 32, Montana Administrative Code relating to aerial hunting permits, and to adopt new rules on that subject.

2. The rules being considered for repeal are found on pages 32-218 through 32-218.5 of the Montana Administrative Code.

3. The rules proposed for adoption are designed to simplify present requirements concerning the issuance and use of an aerial hunting permit, and the reports that must be filed pursuant to federal law. In summary the rules will provide as follows.

Rule I will describe the purpose and scope of the aerial hunting permit rules;

Rule II will contain instructions on how to obtain an aerial hunting permit; and the duration of such a permit;

Rule III will relate to restrictions on the use of a permit;

Rule IV will describe reporting requirements made of aerial hunting permittees; and

Rule V will relate to the cancellation or suspension of a permit, once issued. Copies of the new rules are available on request from the Department of Livestock.

4. The proposed repeal of existing rules and adoption

of new rules is being considered because the department's experience under the current rules has indicated that compliance with federal law and the prevention of livestock loss through predation can be with less restrictive rules than those being considered for repeal. Among the issues to be considered are whether the changes will improve the efficiency of the aerial hunting permit system.

5. Interested parties may submit their data, views or arguments concerning the proposed changes in writing to Kenneth Seyler, Bureau Chief, Vertebrate Pest Control Bureau, Department of Livestock, Capitol Station, Helena, MT. 59601. Such comments must be received not later than December 14, in order to be considered.

6. If a person directly affected wishes to express his views orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Seyler on or before December 14, 1976.

7. If the department receives requests for a public hearing from twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

8. The authority of the department to make the proposed changes is based on section 46-1903, R.C.M. 1947.

*Robert M. Simons*  
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ROBERT M. SIMONS, Chairman  
Board of Livestock

Certified to the Secretary of State November 15, 1976.

Title 36  
Nat. Res. &  
Cons.

BEFORE THE BOARD OF  
NATURAL RESOURCES AND CONSERVATION  
STATE OF MONTANA

In the matter of the amend-	)	
ment of Rule 36-2.14B(22)-	)	NOTICE OF PUBLIC HEARING
S14010 changing the require-	)	FOR AMENDMENT TO RULE
ments of local regulation	)	36-2.14B(22)-S14010
and enforcement for flood-	)	(FLOODWAY MANAGEMENT)
way land use.	)	

To: All Interested Persons

1. On March 18, 1976 at 1:30 p.m. a public hearing by the Board of Natural Resources and Conservation will be held in Helena, Montana, at the Highway Department Auditorium to consider the petition of the Administrative Code Committee, Montana Legislature to amend Rule MAC 36-2.14B(22)-S14010 changing the requirements of local regulation and enforcement for floodway land use.

2. The rule as amended will read as follows:

"36-2.14B(22)-S14010 LOCAL REGULATION AND ENFORCEMENT

(4)(f) Before the regulations become effective, all known property owners within the designated floodplain and designated floodway must be notified by mail by the political subdivision that their property is located within the designated floodplain or floodway and is subject to regulation. This notification provision shall not apply to political subdivisions that have adopted building codes requiring permits for new construction or to municipalities or counties that have received Flood Hazard Boundary Maps or Flood Insurance Rate Maps from the United States Department of Housing and Urban Development. In lieu thereof, a political subdivision described in the preceding sentence shall prepare a brief synopsis of the regulations as adopted, with instructions for obtaining further information, and shall enclose copies of this synopsis with the next tax notice mailed pursuant to section 84-4101 to each owner of land within the floodway or floodplain."

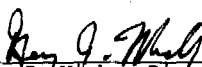
3. Interested persons may present their data, views, comments, or arguments on the proposed rules, whether orally or in writing, at the hearing.

(2)

4. Interested persons may also present their data, views, comments or arguments on the proposed rules in writing by submitting them to the hearing officer no later than March 30, 1976.

5. Mr. Gary L. Spaeth, Legal Counsel, Department of Natural Resources and Conservation is designated as the Hearing Officer to preside over and conduct the hearing and to submit a report to the Board.

6. The authority of the Board to adopt the proposed rule is based on Section 89-3504 and 80-3511, R.C.M. 1947.

  
\_\_\_\_\_  
Gary J. Wicks, Director  
Department of Natural Resources  
and Conservation

Certified to the Secretary of State February 17, 1976.

BEFORE THE BOARD OF  
NATURAL RESOURCES AND CONSERVATION  
STATE OF MONTANA

In the matter of the adoption )	NOTICE OF PROPOSED ADOPTION
of rules governing exemptions )	OF RULES (WEATHER MODIFI-
from license and permit re- )	CATION)
quirements of Weather Modifi- )	NO PUBLIC HEARING CONTEMPLATED
cation Activities )	

TO: All Interested Persons

1. At its April meeting, the Board of Natural Resources and Conservation proposes to adopt rules providing for the exemptions from the license and permit requirements Chapter 3, Title 89, Revised Codes of Montana, 1947.

2. The rule will read as follows:

"36-2.14V(2)-S1400 LICENSE AND PERMIT EXEMPTIONS

The Board of Natural Resources and Conservation may in its discretion exempt the following from the license and permit requirements of Chapter 3, Title 89, Revised Codes of Montana, 1947:

- (1) Research, development, and experiments by state and federal agencies, institutions of higher learning and bona fide non-profit research organizations and their agents;
- (2) Laboratory research and experiments;
- (3) Activities of an emergency character for protection against fire, frost, or fog;
- (4) Activities normally engaged in for purposes other than those of inducing, increasing, decreasing, or preventing precipitation or hail."

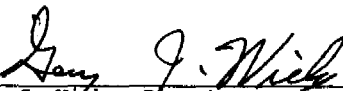
5. Interested parties may submit their data, views or arguments concerning the proposed rules in writing to Ted J. Doney, Department of Natural Resources and Conservation, 32 South Ewing, Helena, Montana 59601. Written comments in order to be considered must be received not later than April 14, 1976.

6. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Doney on or before April 14, 1976.

(2)

7. If the department receives requests for a public hearing on the proposed rule from more than ten percent (10%) or twenty-five or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

8. The authority of the board to adopt the proposed rules is based on Section 89-314, Revised Codes of Montana, 1947.

  
\_\_\_\_\_  
Gary J. Wicks, Director  
Department of Natural Resources  
and Conservation

Certified to the Secretary of State March 17, 1976.

BEFORE THE DEPARTMENT OF  
NATURAL RESOURCES AND CONSERVATION  
STATE OF MONTANA

In the matter of the amendment )	NOTICE OF PROPOSED
of Rules 36-2.8(18)-S8080, )	AMENDMENT OF RULES
36-2.8(18)-S8090, 36-2.1(18)- )	36-2.8(18)-S8080,
S8110, 36-2.8(18)-S8120 and )	S8090, S8110, S8120,
36-2.8(18)-S8170 relating to )	and S8170
Alternative Renewable Energy )	NO PUBLIC HEARING CONTEMPLATED
Source Grants )	

TO: All Interested Persons

1. On December 15, 1976, the Department of Natural Resources and Conservation proposes to amend Rules 36-2.8(18)-S8080, 36-2.8(18)-S8090, 36-2.8(18)-S8110, 36-2.8(18)-S8120, and 36-2.8(18)-S8170 relating to Alternative Renewable Energy Source Grants.

2. The Rules proposed to be amended are as follows (matter to be stricken is interlined, new matter is underlined):

Rule 36-2.8(18)-S8080 STATEMENT OF ADMINISTRATIVE POLICIES. (1) It is the objective of the Department to orient the funding program toward the small scale, individual, single unit dwelling type of application. Large ~~sacle~~ scale, capital intensive project applications will be accepted, but the program emphasis will be directed toward the aforementioned type of application.

Rule 36-2.8(18)-S8090. APPLICATIONS-GENERAL REQUIREMENTS. (3) (a) The application shall state the name, title, telephone number, and post office address of the person to whom communication in regard to the application should be made.

(b) The application shall contain a statement agreeing that all materials submitted by the applicant to the Department is subject to public scrutiny.



Rule 36-2.8(18)-S8110. APPLICATION SUBMITTAL DEADLINES. ~~For the remainder of fiscal year 1976 (ending June 30, 1976), applications may be submitted to the Department until May 17, 1976. Thereafter, for each subsequent fiscal year, applications~~ Applications may shall be submitted from January 1 through March 31 February 15.

Rule 36-2.8(18)-S8120 APPLICATION EVALUATION. (2) The Alternative Energy Advisory Council (AEAC) will meet after to discuss the reviews and evaluations of ~~are completed to discuss~~ each application and make recommendations to the Department.

Rule 36-2.8(18)-S8170 CONFIDENTIALITY. Upon submitting an application to the Department pursuant to Rules 36-2.8(18)-S8060 through 36-2.8(18)-S8170 the application becomes a government document subject to public scrutiny. The applicant waives any claim of confidentiality by filing an application with the Department.

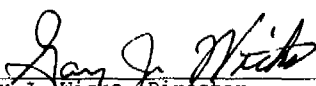
3. Interested parties may submit their data, views, or arguments concerning the proposed amendments in writing to Charles Greene, Program Manager, Alternative Energy Program, Department of Natural Resources and Conservation, 32 South Ewing, Helena, Montana 59601. Written comments in order to be considered must be received by not later than December 14, 1976.

4. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit his request along with any written comments he has to Mr. Greene on or before December 14, 1976.

5. If the Department receives requests for a public hearing on the proposed rule from more than ten percent (10%), or twenty-five or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.


(3)

6. The authority of the Department to make the proposed amendments is based on Section 84-7410, R.C.M, 1947.

  
\_\_\_\_\_  
Gary J. Wicks, Director  
Department of Natural Resources  
and Conservation

Certified to the Secretary of State November 10, 1976.

MAC Notice No. 36-2-6

11-11/24/76  00

Title 38  
Public Service  
Reg.

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

In the matter of the adoption)	NOTICE OF PUBLIC HEARING
of rules 1 through 57, to )	ON ADOPTION OF RULES 1
promulgate a code of rights )	THROUGH 57 (CONSUMER
and responsibilities of the )	STANDARDS AND BILLING
consumers of public utility )	PRACTICES)
services )	

To: All Interested Persons

1. On March 8, 1976, at 10 a.m., a public hearing will be held in the auditorium of the Department of Highways building at Sixth and Roberts, Helena, Montana, to consider the adoption of rules setting forth the basic rights of consumers of public utility services.

2. The proposed rules do not replace or modify any section currently found in the Montana Administrative Code.

3. Summaries of the proposed rules follow; a complete copy of the text of the proposed rules may be obtained by contacting the Public Service Commission, 1227 Eleventh Avenue, Helena, Montana, 59601, Attention: Gail Behan (tel. 449-3007).

- I. General provisions and definitions.
  1. Application of rules: to all utilities under commission jurisdiction; any inconsistent tariff provisions are superceded.
  2. Definitions.
  3. Discrimination against customer exercising rights under these rules prohibited.
  4. Informal procedures under these rules not a contested case.
  5. Utility may adopt additional customer relations rules not inconsistent with these rules.
- II. Billing and payment standards.
  6. Billing frequency.
  7. Estimated billing: allowed every other month under approved estimating procedures.
  8. Customer meter reading: utility to provide opportunity for.
  9. Equal monthly billing: allowed at customer's option.
  10. Cycle billing: allowed if each customer is billed on or about same date each month.
  11. Payment of bills: at least 21 days allowed for.
  12. Determination of dates for billing rules.
  13. Payment discounts or late payment charges prohibited.

1-1/26/76

MAC Notice No. 38-2-8

14. Information to be stated on bill.
  15. Each residence or location to be separately billed.
  16. Charges for special services to be separately stated if on regular bill.
- III. Guarantee of payment: security deposits.
17. When deposit may be required.
  18. Deposits for continuing existing service prohibited except in certain cases.
  19. General deposit conditions.
  20. Guarantee in lieu of deposit.
  21. Guarantee terms and conditions.
  22. Refund of deposits.
- IV. Utility procedures.
23. Applicable to all customer inquiries and complaints about residential service.
  24. Utility to adopt procedures for prompt handling of inquiries and complaints.
  25. Utility to have qualified personnel available to handle inquiries and complaints.
  26. Utility to have competent officers available to hold hearings.
  27. Utility to prepare and distribute pamphlet to customers summarizing rights and responsibilities of customers.
  28. Utility to assure access to rates and rules.
- V. Physical discontinuation of service.
29. Disconnection allowed between 8 a.m. and 4 p.m. only.
  30. Reasonable effort to notify customer required at least 1 day before disconnection; customer may stay disconnection by making full payment.
  31. Medical emergency may delay disconnection 21 days.
  32. Restoration of service.
- VI. Discontinuation of service.
33. When service may be discontinued.
  34. When discontinuance of service prohibited.
  35. Notice discontinuation: 10 days written notice to be mailed.
  36. Contents of notice of discontinuation.
  37. When customer responds to notice of discontinuation by disputing the billing: required utility action.
  38. Hearing before utility officer on disputed billing.
  39. Payment of amount not in dispute required before hearing.
  40. Notice of hearing.
  41. Hearing procedures: evidence, witnesses, cross-examination, burden of proof, testimony under oath, preparation of record by hearing officer, decision.
  42. Settlement agreements; waiver of hearing.

- 43. Default of settlement conditions; discontinuation permitted.
- 44. Repetitive complaints (res judicata principle).
- 45. Temporary discontinuation allowed during public emergencies.

VII. Commission appeal procedure.

- 46. Either party may appeal utility officer's hearing decision to commission
- 47. Information required for informal appeal.
- 48. Commission may require customer to exhaust remedies before utility.
- 49. Informal appeals handled by commission customer service officer.
- 50. Interim determination by customer service officer based on record.
- 51. Further investigation; new evidence; informal conference.
- 52. Discontinuation prohibited pending appeal.
- 53. Informal appeal decision.
- 54. Notice of decision.
- 55. Repetitive complaints (res judicata principle).
- 56. Formal appeal to commission.
- 57. Other remedies preserved.

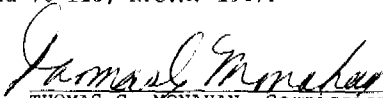
4. The reasons for this action are that the 1975 legislature directed the commission to adopt the substance of rules 17 through 22, in House Joint Resolution 27, and that the commission considers that the essence of rules 17 through 22 should be a part of a comprehensive and uniform set of minimum standards for all regulated utilities serving consumers in Montana.

5. Among the issues to be considered at the hearing are whether the rules, if adopted, would prevent unjust or unreasonable practices, insufficient or preferential service, or unjustly discriminatory acts.

6. Interested parties may present their views, whether orally or in writing, at the hearing.

7. The hearing will be conducted by the members of the commission.

8. The authority of the commission to adopt the proposed rules is based on 70-121 and 70-115, R.C.M. 1947.

  
 THOMAS G. MONAHAN, Commissioner

Certified to the Secretary of State January 12, 1976.

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

IN THE MATTER of the amendment of ) Amendment of Loose-Leaf  
MAC 38-2.10(1)-S10310 relating to ) Tariffs Rule No. 38-2.10  
Loose-Leaf Tariffs. ) (1)-S10310

No Public Hearing  
Contemplated

TO: All Interested Persons

1. On July 15, 1976, the Department of Public Service Regulation proposes to amend the rule 38-2.10(1)-S10310 Loose-Leaf Tariffs.

2. The new material is underlined.

3. The proposed amendment of rule MAC 38-2.10(1)-S10310 shall read as follows:

"38-2.10(1)-S10310 LOOSE-LEAF TARIFFS (1) Pages of loose-leaf tariffs shall be printed on thin paper of strong texture, on one side only, must be consecutively numbered and designated as "Original page 1," "Original page 2," etc. Each page must show at the top of the page the name of the issuing carrier or agent, the page number, and the PSC number of the tariff. At the bottom of the page shall be shown the date of issue, the effective date, and the name, title, and street address of the issuing officer or agent.

(2) Changes in and additions to loose-leaf tariffs shall be made by reprinting the page upon which change or addition is made, and such changed page shall be designated as a revised page. For example, "First revised page 1 cancels original page 1," or "Second page 2 cancels first revised page 2," etc. When a revised title page is issued the following notation shall be shown in connection with its effective date: Original tariff effective \_\_\_\_\_ (here show effective date of the original tariff) except as hereinafter provided in section 6 hereof.

(3) If on account of expansion of matter on any page it becomes necessary to add an additional page in order to take care of the additional matter, such additional page shall be given the same number with a letter suffix; for example, "Original page 4-A," "Original page

page 4-B," etc. If it is necessary to change matter on original page 4-A it may be done by issuing first revised page 4-A, which shall provide for the cancellation of original page 4-A.

(4) When a revised page is issued which omits rates, rules, or regulations theretofore published on the page which it cancels, and such rates, rules, or regulations are published on another page, the revised page must make specific reference to the page on which the rates, rules, or regulations will be found, and the page to which reference is so made must contain the following notation in connection with such rates, rules, regulations, etc.:

(i) For \_\_\_\_ (here insert rates, rules, regulations, etc., as case may be) in effect prior to the effective date hereof see page \_\_\_\_.

(ii) Subsequently revised pages of the same number must omit this notation insofar as this particular matter is concerned.

(5) If after a tariff has been filed with the Commission it is desired to file additional pages, such pages may be subsequently filed to the tariff and numbered beginning with the next successive page number to the last page of the tariff, and must be designated as "Original page \_\_\_\_." For example, when the tariff filed has 150 pages, page 151 when filed must not be designated as an "Additional" page but should be designated as "Original page 151." Such a page can be filed only for the purpose of adding new matter which does not change the rates, rules or regulations then in force on other pages of the tariff.

(6) Supplements shall not be issued to loose-leaf tariffs, except for the purposes authorized by the following:

(i) 38-2.10(1)-S10310 (7). Conversion supplements to provide general rate changes.

(ii) 38-2.10(1)-S10220 & 38-2.10(1)-S10240 Transfer or cancellation of provisions.

(iii) 38-2.10(1)-S10360 Suspended matter.

(iv) 38-2.10(1)-S10450 Transfer of operations - change in name and control.

(v) 38-2.10(1)-S10220 & 38-2.10(1)-S10230 Take-over publication: (transfer of agent).

(7) A conversion table type supplement may be filed to any bound or loose-leaf tariff having not less than 20 pages (excluding supplements) to provide a general change



in the level of all or substantially all the rates or charges, or all or substantially all the rates or charges in a described category (less-than-truckload, truckload, etc.) named in the tariff. The supplement shall be in clear, explicit, and simple terms, and be free of conflict and ambiguity. A conversion type supplement may be filed by a carrier or agent to a tariff of less than 20 pages (excluding supplements) provided it is filed at the same time as such supplements are filed by it to other of its tariffs which have 20 or more pages and provided the change is part of the same general rate adjustment.

(i) The conversion supplements shall contain an application provision reading substantially as follows:

"Except as provided in [here identify location of listing of items, notes, or provisions not subject to rate change in whole or in part, specifying what part] and in [specify whether supplements or loose-leaf pages] issued subsequent to this supplement, all rates and charges published in this tariff, as amended, or as may be amended in [specify whether supplements or loose-leaf pages] issued subsequent to this supplement, are hereby or will on their effective dates be [specify whether increased or reduced] as follows for the period this supplement is in effect":

Immediately following this statement, a clear and explicit application of each column of changes must be published. If the supplement does not contain exceptions to or any non-application or the rate changes, the reference in the statement to a listing of exceptions must be omitted. However, under no circumstances may the exception therein with respect to subsequent supplements or loose-leaf pages be omitted. If not all of the rates or charges in a tariff are being changed by the supplement, the statement must clearly and definitely state the exact category of rates or charges (any-quantity, less-than-truckload, truckload, volume, or less-volume rates, minimum charges, etc.) being changed and/or the exact items, sections, etc., of the tariff in which they are contained. Reference to categories of rates may employ only terms used in the tariff or determinable through its published definitions.

(ii) If the supplement does not include all the tariff rates and charges to be changed, it must provide a percentage formula or other basis for converting rates and charges which are higher than those shown or otherwise not shown in the conversion table. If this is necessary, the supplement must provide a method of disposing of resulting fractions. When multiple-factor rates or charges made by use of arbitraries or other means are being changed, the method of computing such changes shall be provided.

(iii) The base and the converted rates or charges must be in the same monetary unit (in cents, in dollars and cents, etc.) used in the tariff. If the tariff names rates or charges in more than one monetary unit (for example, some in cents, others in dollars and cents), the unit used must be the one employed in the greatest percentage of rates and charges to be changed, and a provision must be published stating how the change is to be applied in connection with the remainder--for example, if the conversion supplement is based on a monetary unit of "in cents," it shall contain the following rule:

"Where the rate or charge is stated in dollars or dollars and cents per 100 pounds, per ton, per article, per piece, per package, per shipment, or per any other unit, first find the rate or charge which is equivalent in cents under column [here show column containing base rates] of the conversion table herein and then apply the changed rate or charge shown opposite thereto in columns [here show numbers of columns containing changed rates or charges] in item [here show number of item containing application of columns] herein."

(iv) Each supplement may contain not more than 10 columns of rates or charges including the base rate or charge column. As to any base rate or charge, application of only one column of changed rate or charge is permitted.

(v) Each conversion type supplement shall contain no other matter, be indicated to expire with a specific date not beyond one year from its effective date, and, as to a bound tariff, be exempt from the terms of Sec. 38-2.10(1)-Sl0300. Each regular (not conversion type) supplement containing only republished class-rate

tables and necessary related provisions forming a part of the same general rate adjustment and not made subject to a conversion table shall also be exempt from the terms of Section 38-2.10(1)-S10300. Such a regular supplement need not show an expiration date.

(vi) As to a bound tariff, an exception item or note may be republished from the conversion supplement into a regular supplement in order to add, eliminate, or change provisions. As to a loose-leaf tariff, exceptions may be published in an item in the tariff proper to which the conversion supplement may refer, in which case the item may be republished in the regular manner in subsequent republications of the particular page. If the exceptions are published in the conversion supplement issued to a loose-leaf tariff, they may not be amended.

(vii) The title page of the conversion supplement shall indicate, in the top margin, whether the changes are increases or are reductions. If the changes consist of some of both kinds, the notation must add "as indicated herein" and the different categories of changes must be indicated by use of the appropriate symbols for increase and reduction.

(viii) All subsequent amendments (supplements or loose-leaf pages) to the tariff becoming effective during the effectiveness of the conversion supplement and naming rates or charges shall contain a notation indicating whether such amendments are or are not subject, as the case may be, to the provisions of the conversion supplement and/or an item, identifying such supplement and/or item.

(ix) As to a tariff, only one conversion supplement may be in effect at any time. The duration of the application of published changes in a conversion supplement may not be extended by a like supplement providing the same increases or reductions. A conversion supplement may not be reissued with the same expiration date unless requested by the Commission.

(x) The provisions of this paragraph do not authorize the publication and filing of so-called master tariffs or connecting link supplements."

4. Interested parties may submit their data, views, or arguments concerning the proposed amendments in writing to M. Bruce Tomko, Administrator of the Transportation Division, Department of Public Service Regulation, 1227 11th Avenue, Helena, Montana, 59601. Written comments in order to be considered must be received not later than July 15, 1976.

(6)

5. If a person directly affected wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to M. Bruce Tomko, on or before July 15, 1976.

6. If the Department receives requests for a public hearing on the proposed rule from more than ten percent (10%) or twenty-five (25) or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the Department to make the proposed amendment is based on §8-104.2.

  
GORDON E. BOLLINGER, Chairman

Certified to the Secretary of State June 8, 1976.

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

IN THE MATTER of the adoption of	)	Notice of proposed
new Rule No. 38-2.14(1)-S1420, de-	)	adoption of New Rule No.
fining technical and economic	)	MAC 38-2.14(1)-S1420,
feasibility for underground in-	)	Undergrounding of Electric
stallation of electric distribution)	)	Distribution Lines in New
lines in new subdivisions.	)	Subdivisions

NOTICE OF PUBLIC  
HEARING

1. On August 24, 1976, at 10:00 a.m., a public hearing will be held in the Hearing room of the Public Service Regulation, Public Service Commission of the state of Montana, 1227 11th Avenue, Helena, Montana, to consider the proposed adoption of MAC Rule No. 38-2.14(1)-S1420, defining technical and economic feasibility for underground installation of electric distribution lines in new subdivisions.

2. The proposed rule does not replace or modify any section currently found in the Montana Administrative Code.

3. The proposed rule will read as follows:

"38-2.14(1)-S1420 UNDERGROUNDING OF ELECTRIC DISTRIBUTION LINES IN NEW SUBDIVISIONS (1) Section 70-304, R.C.M. 1947, requires a public utility furnishing electricity to install underground distribution lines in new subdivisions of five or more consumer units when undergrounding is technically and economically feasible.

(2) As used in this section, 'technically feasible' means that the trench through which the underground lines would run could be excavated by a conventional backhoe, with no blasting and no or almost no use of jack hammers or like equipment required, and the consumer unit is situated on a lot or parcel not larger than five (5) acres.

(3) As used in this section, 'economically feasible' means:

- (a) if underground installation cost/unit does exceed twice overhead installation cost/unit, underground installation is feasible and shall be constructed at the expense of the utility and the developer in accordance with the applicable rate schedule on file with the Commission; and

(2)

- (b) if underground installation cost/unit is more than twice overhead installation cost/unit, underground installation is economically infeasible within the meaning of Section 70-304, R.C.M. 1947, and underground installation is not required in such cases."

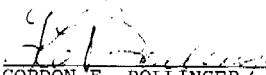
(4) As used in the preceding subsection, "unit" means a residence or commercial structure in a new subdivision, as defined in Section 70-304, R.C.M. 1947, and "distribution lines" mean all electrical lines in the subdivision used for the conveyance of electricity from a bulk power source to the consumer.

4. The reason for this action is that the 1974 Legislature enacted a statute (70-304, R.C.M. 1947) requiring undergrounding of electric distribution lines in new subdivisions, where this was technically and economically feasible. The Public Service Commission was authorized to implement this provision by rules for the definition of technical and economic feasibility. Therefore, the reason for adopting the proposed rule is that clearcut guidelines should be established for undergrounding.


5. Interested parties may present their views, and arguments, whether orally or in writing, at the hearing. If there are any questions regarding this proposed rule, please contact Dennis Lopach, Attorney, Public Service Regulation, Public Service Commission, 1227 11th Avenue, Helena, Montana 59601, phone 449-2457.

6. The hearing will be conducted by the members of the Commission, or an authorized hearing examiner.

7. The authority of the Commission to adopt the proposed rule is based on §70-304, R.C.M. 1947.

  
GORDON E. BOLLINGER, Chairman

Certified to the Secretary of the State July 15, 1976.

7-7/26/76 

MAC NOTICE NO. 38-2-10

IN THE MATTER of the adoption of ) NOTICE OF PROPOSED  
proposed new rule regarding Utility) ADOPTION OF NEW RULE  
Rate Applications - Testimony. ) Utility Rate Applications  
Testimony

TO: All Interested Persons

1. On August 16, 1976, the Department of Public Service Regulation, Public Service Commission of the state of Montana, proposes to adopt the rule regarding Utility Rate Applications and Testimony.

2. The proposed rule provides as follows:

"UTILITY RATE APPLICATIONS - TESTIMONY (1) Any application for a rate increase, when submitted by a public utility having gross annual revenues in excess of five (5) million dollars, must be accompanied by supporting testimony and exhibits before it will be accepted for filing. Prefiled testimony and exhibits shall be numbered consecutively and contain an index, and shall be printed in such form and upon such paper as meets the requirements for transcripts in the courts of this state. Twenty (20) copies of all testimony and exhibits shall be furnished to the commission."

3. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing on or before August 12, 1976, to Dennis Lopach, Attorney, Public Service Commission, 1227 11th Avenue, Helena, Montana 59601, phone 449-2457.

4. If the Commission receives requests for a public hearing on the proposed rule from more than ten percent (10%) or twenty-five or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

5. The authority of the department to make the proposed rule is based on Section 70-104, R.C.M. 1947.

GEORGE TURMAN, Commissioner

Certified to Secretary of State July 15, 1976.

IN THE MATTER of the adoption of ) Notice of proposed  
new Rule regarding Joint Hearing ) new MAC rule for Joint  
 ) Hearing

TO: All Interested Persons

1. On September 15, 1976, the Department of Public Service Regulation proposes to adopt the new rule on Joint Hearing.

2. The proposed rule would read as follows:

JOINT HEARING In any proceeding wherein the Commission participates jointly with any federal regulatory agency, the rules of practice and procedure of such federal agency shall govern. In any proceeding wherein the Commission participates jointly with an administrative body of another state or states, the rules of the state where the hearing is held shall govern such proceeding, unless otherwise agreed upon by the participating agencies: provided, that any person entitled to appear in a representative capacity before any of the agencies involved in the joint hearing may do so in such a joint hearing.

3. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Dennis R. Lopach, 1227 11th Avenue, Helena, MT., 59601, phone 449-2457.

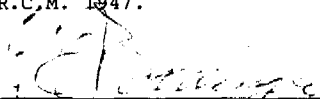
4. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Lopach on or before September 8, 1976.

5. If the Department receives requests for a public hearing on the proposed rule from more than ten percent, or twenty-five or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.




(2)

6. The authority of the Department to make the proposed rule is based on §70-304, R.C.M. 1947.

  
\_\_\_\_\_  
GORDON E. BOLLINGER, Chairman

Certified to the Secretary of the State August 12, 1976.

8-8/26/76 

MAC NOTICE NO. 38-2-12

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

IN THE MATTER of the amendment of ) NOTICE OF PROPOSED  
Rule No. 38-2.10(1)-S1020, Filing ) ADMENDMENT OF RULE  
Tariff, How Done, By Whom. ) No. 38-2.10(1)-S1020

NO PUBLIC HEARING  
CONTEMPLATED

TO: All interested Persons

1. On November 5, 1976, the Department of Public Service Regulation, Public Service Commission of the state of Montana, proposes to amend Rule No. 38-2.10(1)-S1020, requiring Filing Tariff, How Done, By Whom.

2. The Rule No. 38-2.10(1)-S1020 as proposed to be amended is as follows (matter to be stricken is interlined, new matter is underlined):

38-2.10(1)-S1020 FILING TARIFF, HOW DONE, BY WHOM  
(1) Carriers, subject to this Commission may elect  
either to file their own tariff, or become a parti-  
cipating carrier in an authorized Section 5 (a) (b)  
bureau, such bureau to file tariffs and schedules  
necessary, within provisions of said Section 5(a)  
agreement, --(See Rule 38-2.10(1)-S10370). To  
obtain authorization to operate in intrastate com-  
merce as a rate bureau, an application shall be  
made to the Commission. This application may be in  
the same form as an application to the I.C.C. under  
49 U.S.C.A. Sec. 5 b, and the rules adopted there-  
under in 49 C.F.R., Part 1331. In the alternative,  
an application which contains the items in R.C.M.  
1947, Section 8-103.4 is acceptable.

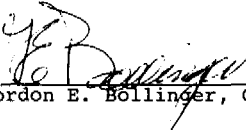
3. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Dennis R. Lopach, Legal Counsel, 1227 11th Avenue, Helena, Mt. 59601, phone 449-2457. Written comments in order to be considered must be received by not later than October 14, 1976.

4. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Lopach on or before October 14, 1976.

(2)

5. If the department receives requests for a public hearing on the proposed rule from more than ten percent, or twenty-five or more persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

6. The authority of the department to make the proposed rule is based on §8-103.4, R.C.M. 1947.

  
\_\_\_\_\_  
Gordon E. Bollinger, Chairman

Certified to the Secretary of State September 10, 1976.

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

IN THE MATTER of the amendment of ) NOTICE OF PUBLIC HEARING  
Rule No. 38-2.6(1)-6030, Reports ) FOR AMENDMENT OF RULE  
and Uniform System of Accounts. ) NUMBER 38-2.6(1)-6030

TO: All Interested Persons

1. On December 9, 1976, at 10:00 a.m., a public hearing will be held in the House Chambers of the State Capitol, Helena, Montana, to consider the amendment of Rule 38-2.6(1)-6030, Reports and Uniform System of Accounts.

2. The proposed amendment replaces present rule 38-2.6(1)-6030 found in the Montana Administrative Code. The proposed amendment would read as follows (matter to be stricken is interlined, new matter is underlined):

38-2.6(1)-6030 REPORTS AND UNIFORM SYSTEM OF ACCOUNTS

(1) Reports due this Commission from motor carriers operating within the state of Montana are as required in 8-118. ~~Forms-for-such Annual reports~~ report forms are available upon request at the Commission officer, 1227 11th Avenue, Helena, Montana 59601. Information relative to the uniform system of accounts or any uniform reports may be had by contacting the Commission office.

(2) The "Uniform System of Accounts for Class I and Class II Common and Contract Motor Carriers of Passengers" and the "Uniform System of Accounts for Class I and Class II Common and Contract Motor Carriers of Property" adopted by the Interstate Commerce Commission as revised January 1, 1974, are hereby adopted and prescribed by this Commission for those Class A and B motor carriers operating within the state of Montana, holding interstate authority and currently maintaining their accounts in conformance with the uniform systems named above.

(a) The "Uniform System of Accounts for Class A and B Common Motor Carriers of Property and Passengers" prepared and published by this Commission is hereby adopted for those common carriers of property and

(2)

and passengers operating within the state of Montana not currently maintaining their accounts in conformance with the uniform system of accounts prescribed by the Interstate Commerce Commission.

3. Interested persons may present their data, views or arguments whether orally or in writing at the hearing or mail to Ronald Woods, Transportation Analyst, Public Service Commission, 1227 11th Avenue, Helena, Montana 59601, phone 449-3457.

4. The hearing will be conducted by the members of the commission, or an authorized hearing examiner.

5. The authority of the Commission to adopt the proposed rule is based on §8-103 and §8-118.

  
GORDON E. BOLLINGER, Chairman

Certified to Secretary of State November 15, 1976.

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

IN THE MATTER of the New Rule )	Public Utility Requires
regarding a public utility to )	Customer Deposit for
require a customer deposit for)	Guarantee payment
guarantee payment. )	

NOTICE OF PUBLIC  
HEARING

1. On December 17, 1976, at 10:00 a.m., a public hearing will be held in the auditorium of the Department of Highways building at Sixth and Roberts, Helena, Montana, to consider the adoption of a new rule regarding a public utility's right to require a customer deposit for guarantee of payment.

2. The proposed rule does not replace or modify any section currently found in the Montana Administrative Code.

3. The proposed rule will read as follows:

"A PUBLIC UTILITY MAY REQUIRE CUSTOMER DEPOSIT FOR  
GUARANTEE OF PAYMENT (1) A public utility may require  
from a customer a deposit to guarantee payment only  
under the following conditions:

(a) When the customer's past record with a similar utility indicates a poor record of payment;

(b) When a new customer cannot secure a cosigner for guarantee of payment; or

(c) When a new customer cannot furnish a letter of good credit from a reliable source."

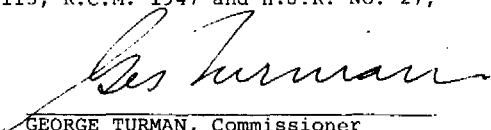
3. The reasons for this action are that the 1975 Legislature directed the commission to adopt this rule.

4. Interested parties may present their views, whether orally or in writing at the hearing or before to Dennis R. Lopach, Legal Counsel, Public Service Commission, 1227 11th Avenue, Helena, MT 59601, phone 449-3007.

(2)

5. The hearing will be conducted by the members of the commission or an authorized hearing examiner.

6. The authority of the Commission to adopt the proposed rule is based §§70-104, 70-115, R.C.M. 1947 and H.J.R. No. 27, approved March 19, 1975.

  
\_\_\_\_\_  
GEORGE TURMAN, Commissioner

Certified to Secretary of State November 10, 1976.

Title 40  
Prof. & Occup.  
Licensing



BEFORE THE DEPARTMENT OF  
PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PUBLIC HEARING  
adoption of rules to implement ) for the proposed adoption  
Section 82-4226 et seq relating ) of rules to implement  
to Citizen Participation. ) Section 82-4226 et seq re-  
lating to Citizen Partici-  
pation.

TO: All Interested Persons

1. On June 9, 1976 at 10:00 A.M. a public hearing will be held in Room 2 of the LaLonde Building, 42 1/2 North Main, Helena, Montana to consider the proposed adoption of rules to implement Section 82-4226 et seq relating to Citizen Participation.
2. The rules proposed for adoption read as follows:
  - "(1) Objectives in Providing Citizen Participation
    - (a) To have governmental actions which are more responsive to the will of the people by implementing the mechanisms which afford the public the opportunity to express concern and priorities before decisions are finalized.
    - (b) To improve public understanding of governmental programs, policies and actions by both regulators and regulatees.
    - (c) To benefit from the public expertise and evaluation of citizen participation before a final decision is reached.
    - (d) To become more aware of the accepted fact that governmental actions do affect citizens in the many and varied ways.
    - (e) To provide emphasis that government is present to serve the public and consent of the governed is basic to compliance of all laws.
  - (2) Guidelines and Procedures to Facilitate Public Participation
    - (a) Citizen participation shall be provided for and encouraged by the department and employees. Assistance shall be given for such participation to the fullest extent practical and consistent with other requirements of state law, constitutional rights, time and financial limitations of the department.

When demand exceeds the finances available, a minimum cost may be charged the public for services.

(b) The department shall have procedures available so the citizen may participate in all department decisions where a significant citizen interest is known or shown in advance of the decision.

(c) The procedures shall provide that any citizen may provide input to the Director, Administrative Assistant, Staff Attorney, Division Administrators and to any employee of the department by phone, direct personal contact or by written communication. This may be done during the working hours of any working day during the year. Each employee who receives input from a citizen shall make a written record, if the communication is not in writing, and file on appropriate forms with the Director a summary of the input on a daily, weekly or monthly basis so he may utilize or transmit the citizen input to the appropriate area of citizen concern on a timely basis.

(d) All meetings of the department shall be open to the public and available for citizen participation subject to the provisions of Section 82-3402, R.C.M. 1947.

(e) The department and the employees shall maintain liaison with organizations active in areas concerning department responsibilities. This liaison will be both formal and informal through participation in their meetings and through membership of department personnel in these citizen, professional and occupational organizations.

(3) Guidelines to Determine Significant Citizen Interest and Desire for Participation

(a) The determination of whether significant public interests exists on the proposed decision shall be initially determined in writing, stating reasons for determination and made by the employee within the department who is proposing the decision. In cases where the determination is that a significant citizen interest exists for citizen participation the Director may approve the action. In those instances where the determination is that significant citizen interest or concern is not present, the proposed action must be approved by a majority vote of a department committee on citizen participation. The department committee is composed of the Director, Division Administrators, Administrative Assistant and the Staff Attorney. Any member of the department committee may propose a determination and also vote on the issue of whether significant public interest is

present for participation or no public participation is required.

(b) Factors to be used in determining significant citizen interest shall be:

- (i) Whether the proposed decision concerns a matter which is controversial and known to be controversial.
- (ii) The number of persons who will be effected by the proposed decision.
- (iii) The fiscal impact that the proposed decision will have on the public.
- (iv) The level of citizen interest which in the past has been illustrated on a subject of similar nature or scope.

(c) It is understood that emergency situations, decisions to protect or maintain the interests of the department and ministerial acts do not constitute decisions of significant public interest.

(4) How Citizens can Express a Desire for Participation

(a) The desire of citizens for participation in departmental decision making shall be implemented by the individual or group requesting by phone, letter, direct contact or other means of communication to the department that they be notified in advance of the decision making meetings or other decision making processes. The individual or group shall have a choice in specifying in which areas the notification is requested. Notification will be done by the department in most cases by mail at the last provided address. When a request is two years old it shall be renewed by a new request after proper notification by the department. Failure to respond and request notification in specific areas will cause the name to be dropped from the notification list. It will be assumed that the desire to exercise the right of citizen participation no longer exists.

(5) Department Response to a Request for Citizen Participation

(a) Public notice shall be provided to concerned Board members, employees of the department, citizens, elected public officials, other departments of state government, and groups who have requested notification of decision making activities.

(b) The method of notification and extent of notification will vary from activity to activity. The means of notification shall be by individual or form letter, news release, notice on department bulletin board, legal advertisement, radio, television, phone calls, telegram, mailogram and other available means of communication.

(c) The notice for citizen participation shall be in advance as much as possible and in most cases will not be less than one week in advance. In those cases where one week notice is not possible, additional effort shall be made to provide whatever notice is possible and by the most rapid means.

(6) Activities for which Citizen Participation Should be Provided

(a) Meetings - regular and special:

(i) An exception this rule shall be any meeting or part of a meeting of the Department where a complaint against a licensee is reviewed to determine whether or not investigation of the complaint is warranted.

(ii) An exception to this rule shall be during any meeting or part of a meeting when public participation would endanger the security of a licensing examination.

(b) Where acts of discretion or judgement are exercised by the department in accordance with legislative directions. Examples of discretionary or judgement acts in this department are as follows:

(i) Budget requests to the legislature

(ii) Interpretation of statute and rules.

(iii) Conference phone calls of public interest not related to disciplinary action.

(iv) Meeting and examination dates.

(v) Makeup of roster books or list of licensees

(vi) Information sheets

(vii) Design of application, renewal, license and registration forms.

(viii) Procedures & factors used in considering applications, for examination, endorsement, reciprocity, comity or equivalency.

(ix) Design and construction of a practical, written or oral examination.

(x) Procedures or factors used in grading an examination.

(xi) Legislative and rule proposals before public presentation.

(xii) Inspection or investigation procedures. Does not include the actual individual inspection or investigation.

(xiii) Basic content, form or material in a report. Does not include the specific individual report.

(xiv) Setting of fees when not provided by Statute or rules.

(c) Where the department provides notice in accordance with these rules, all interested persons

shall be deemed to have received constructive notice and will not receive personal notice unless he has requested such in advance.

Where notice has been posted and an interested party does not request individual notice, he will have waived his right to personal notice and may not object to any department action for failure to notify.

- (7) When Citizen Participation is not Required  
Activities of the Department that involve verification of compliance with a statute or rule shall not require citizen participation since these are ministerial acts and do not require decision making. However, any of the ministerial acts may be appealed to the Director as provided for in Section VIII. Examples of ministerial acts are:

- (a) Verifying that applications state all requirements.
- (b) Verifying that scores meet critical score.
- (c) Providing information.
- (d) Answering requests for application forms, etc.

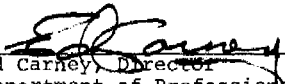
- (8) General
- (a) Lack of citizen participation or undue delay waiting for citizen participation shall not be used as a valid reason for postponing or unreasonable time delay on a pending application, request for information or a department determination.
  - (b) If any citizen has reason to believe that their rights have been prejudiced by a department decision or that the department has not complied with its rules on citizen participation, that citizen has the right and may file a written statement with the department Director stating briefly the problem and the Director shall respond within 10 days of receipt of the communication. The response shall state the facts as known and make a determination either favorable or unfavorable to the concerned citizen.
  - (c) These rules are not to be considered as mandatory or applicable to any board attached to the department for administrative purposes only. Each board will adopt and incorporate the department rules on citizen participation or they will adopt their own set of citizen participation rules.

- 3. Interested persons may present their data, views or arguments either orally or in writing at the Hearing.
- 4. The Department or its designee shall preside over and conduct the hearing.
- 5. The authority of the Department to make the proposed amendments is based on Section 82-4228, R.C.M. 1947.

(6)

Dated this 17th day of May 1976 Dept. of Professional  
and Occupational  
Licensing, Ed Carney,  
Director

By:

  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State May 17 19 76.

# Chapter 30

## Cosmetologists, Board

BEFORE THE BOARD OF COSMETOLOGISTS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED AMENDMENT  
amendment of MAC 40-3.30(6)- ) OF MAC 40-3.30(6)-S30405  
S30405, Electrolysis. ) (Electrolysis)

No Hearing Contemplated

TO: All Interested Persons

1. On March 17, 1976, the Board of Cosmetologists proposes to amend MAC 40-3.30(6)-S30405, Electrolysis.
2. The amendment as proposed will add subsection (3) to the existing rule as follows:  
  
"(3) Any person who has been actively engaged in the practice of electrolysis immediately prior to July 1, 1975, shall be granted a Montana electrolysis license without examination."
3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Cosmetologists, LaLonde Building, Helena, Montana 59601. Written comments in order to be considered must be received no later than March 11, 1976.
4. If any person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Cosmetologists, LaLonde Building, Helena, Montana, on or before March 11, 1976.
5. If the Board of Cosmetologists receives requests for a public hearing on the proposed amendment from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Code.
6. The authority of the Board of Cosmetologists to make the proposed amendment is based on Section 66-3607 R.C.M. 1947.



(2)

Dated this 17th day of February, 1976. Board of Cosmetologists  
June Baker, Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 2-17, 1976.

## Standards and Requirements Electrology Salon:

- (1) An electrology salon is an establishment wherein the practice of electrolysis is performed for compensation.
- (2) A salon shall have a separate enclosed area for working on patrons.
- (3) A salon shall have convenient handwashing facilities.
- (4) Minimum equipment required for an establishment is as follows:

One of the following:

high frequency generator  
galvanic generator  
thermolysis machine  
electrolysis machine (dispersive or inactive  
electrode with connections to the machine,  
such as wet pad, metal rod or water jar,  
necessary for electrology treatments, plus  
one multiple needle arm.)

Needles of various sizes	4 each
Lamp and bulb, at least 60 watt strength required	1
Stool, adjustable in height	1
Table or chair for patron	1
Utility stand for set-ups	1
Towel cabinet	1
Covered containers for lotions, soaps sterilizing agents and cotton	4
Container for immersing needles for sterilization purposes	1
Fine pointed epilation forceps	1
Covered trash container	1
Draping sheets	6

5. Interested persons may submit their data, views or arguments concerning the proposed adoptions in writing to the Board of Cosmetologists, LaLonde Building, Helena, Montana 59601. Written comments in order to be considered must be received no later than May 16, 1976.
6. If the Board of Cosmetologists receives requests for a public hearing on the proposed adoptions from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.
7. The authority of the Board of Cosmetologists to make the proposed adoptions is based on Section 66-3607, R.C.M., 1947.

DATED THIS 10 DAY OF July, 1976. BOARD OF COSMETOLOGISTS  
JUNE BAKER, CHAIRMAN

(4)

BY: Ed Carney

Ed Carney, Director  
Department of Professional and  
Occupational Licensing

Certified to the Secretary of State April 26, 1976.

# Chapter 34

## Dentists, Board

BEFORE THE BOARD OF DENTISTS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED AMEND-  
amendment of MAC 40-3.34(10)- ) MENT OF MAC 40-3.34(10)-  
S3470, Set and Approve Require- ) S3470 (Set and Approve Re-  
ments and Standards. ) quirements and Standards)

No Hearing Contemplated

TO: All Interested Persons

1. On May 17, 1976, the Board of Dentists proposes to amend MAC 40-3.34(10)-S3470, Set and Approve Requirements and Standards.
2. The Board has heretofore proposed amendment of this rule on two prior occasions. By notice published on June 25, 1974, the Board proposed certain duties to be permitted to dental auxiliaries. The required number of persons demanded a hearing thereon and such hearing was scheduled by notice published August 26, 1974. Since that time, the Board has weighed and reviewed comments and criticisms of the proposed rule. The following is a proposed final revision of the rules:

- "(a) A dentist, holding a current Montana Dental License, may employ persons designated as Expanded Dental Auxiliary (included are Registered Dental Hygienists and Dental Assistants who qualify) who may or may not perform the following expanded duty functions under the direct personal supervision of their employer dentist. The word "direct personal supervision" as applied in this directive shall mean that the dentist employer must be physically present and engaged in his active dental practice in the office spaces where and when the auxiliaries are performing these duties.
- (b) Expanded duty functions permitted for dental assistants under the direct personal supervision of their dentist employer:
- (1) Taking impressions for study casts.
  - (2) Removing sutures and dressings.
  - (3) Applying topical anesthetic agents.
  - (4) Providing oral health instructions.

- (5) Applying topical fluoride agents topically.
  - (6) Removing excess cement from coronal surfaces of teeth.
- (c) Expanded duty functions permitted for dental hygienists under the direct personal supervision of their dentist employer:
- (1) Making radiograph exposures.
  - (2) Taking impressions for study casts.
  - (3) Removing sutures and dressings.
  - (4) Applying topical anesthetic agents.
  - (5) Performing preliminary oral examinations.
  - (6) Polishing coronal surfaces of teeth.
  - (7) Providing oral health instructions.
  - (8) Applying topical fluoride agents topically.
  - (9) Placing and removing rubber dams.
  - (10) Placing and removing matrices.
  - (11) Placing and removing temporary restorations.
  - (12) Removing excess cement from coronal surfaces of teeth.
- (d) Expanded duty functions permitted for dental assistants after six (6) months clinical experience in the dental office of their employer dentist and after becoming qualified which is the successful completion of an educational course recognized by the Montana Dental Association and the Board of Dentists. The functions are permitted only under the direct personal supervision of their dentist employer:
- (1) Making radiograph exposures.
  - (2) Polishing coronal surfaces of teeth.
  - (3) Placing and removing rubber dams.
  - (4) Placing and removing matrices.
- (e) Expanded duty functions not permitted by dental assistants:
- (1) Performing preliminary oral examinations.
  - (2) Administering local anesthetic agents.
  - (3) Placing and removing temporary restorations.
  - (4) Placing and carving and finishing amalgam restorations.
  - (5) Placing and finishing resin, composite, silicate restorations.
- (f) Expanded duty functions not permitted by dental hygienists:
- (1) Administering local anesthetic agents.
  - (2) Placing and carving and finishing amalgam restorations.
  - (3) Placing and finishing resin, composite, sil-

icate restorations.

- (g) The assignment of tasks or procedures to a dental auxiliary shall not relieve the dentist from personal liability for all treatment rendered the patient.
  - (h) No dentist may employ, supervise, or use more dental auxiliary personnel than he can reasonably supervise consistent with his ethical and professional responsibilities for the protection of the public health, safety and welfare.
  - (i) It is the responsibility of the employing dentist to see that the auxiliary's personal qualifications and certification is on record with the Montana State Board of Dentists.
  - (j) The Registered Dental Hygienist function, prophylaxis, which is defined as the removal of accumulated matter deposits, accretions or stains from the natural and restored surfaces of exposed teeth which may include root planing and soft tissue curettage if ordered by the dentist, is not an expanded duty function as contained in these rules and may be performed only by Registered Dental Hygienists under the direct personal supervision of a dentist holding a current Montana License."
3. Interested persons may submit their data, views or arguments concerning the proposed adoptions in writing to the Board of Dentists, LaLonde Building, Helena, Montana 59601. Written comments in order to be considered must be received no later than May 16, 1976.
  4. The authority of the Board of Dentists to make the proposed adoptions is based on Section 66-921 R.C.M. 1947.

Dated this 15th day of April, 1976. Board of Dentists  
John S. Petersen, Chairman

By: 

Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 4/15, 1976.

BEFORE THE BOARD OF DENTISTS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED amendment  
amendment of MAC 40-3.34(10)- ) of MAC 40-3.34(10)-S34000  
S34000 Examinations. ) Examinations.

No Hearing Contemplated

TO: All Interested Persons

1. On September 15, 1976, the Board of Dentists proposes to amend MAC 40-3.34(10)-S34000 Examinations.
2. The amendment as proposed will add the following language as sub-section 2 of the Rule:  

"(2) Notice of cancellation of examination by examinees must be postmarked at least twenty (20) days prior to examination before the fee, minus \$10.00 administrative costs, will be refunded."
3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Dentists, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than September 14, 1976.
4. If any person directly affected wishes to express his views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Dentists, LaLonde Building, Helena, Montana, on or before September 14, 1976.
5. If the Board of Dentists receives requests for a public hearing on the proposed amendment from more than twenty-five (25) persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.
6. The authority of the Board of Dentists to make the proposed amendment is based on Section 82A-1605 R.C.M. 1947.



Dated this 13<sup>th</sup> day of August, 1976.

Board of Dentists  
Joseph A. Herzog, D.D.S., Chairman

By: Ed Carney

Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 13 1976.

# Chapter 38

## Electricians, Board

BEFORE THE STATE ELECTRICAL BOARD  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed	) NOTICE OF PROPOSED ADOPTION
Adoption of a Rule regarding	) of a Rule regarding Appren-
Apprentice Registration; and the	) tice Registration; and
Amendment of MAC 40-3.38(6)-S3820	) Amendment of MAC 40-3.38(6)-
Board Meetings.	) S3820 Board Meetings.

No Hearing Contemplated

TO: All Interested Persons

1. On June 15, 1976, the State Electrical Board proposes to adopt a Rule regarding Apprentice Registration; and Amend MAC 40-3.38(6)-S3820 Board Meetings.
2. The proposed new Rule regarding Apprenticeship Registration will read as follows:
  - "(1) Electrician apprentices shall have their names placed on file with the department.
  - (2) Electrician apprentices registered with the State Apprenticeship Bureau, Labor Standards Division shall be recognized as having their names on file by the Department.
  - (3) All apprentices employed on federally financed or federally assisted construction projects must comply with all applicable Federal statutes and rules, including the requirements and exceptions for registering with the Montana Apprenticeship Council.
  - (4) Electrician apprentices and employers of apprentices shall first contact the State Apprenticeship Bureau for eligibility in the program.
  - (5) Electrician apprentices who otherwise may not be eligible for the apprenticeship bureau program and other persons desiring to accumulate a sufficient time and capability in the electrical trade to qualify for journeyman electrician examination will have the right to petition the Board to have their name placed on file with the Board for its purpose.
  - (6) Apprentices must at all times be under the direct constant supervision of a Montana licensed electrician working with the apprentice at the work site.
  - (7) The ratio of apprentices shall be 1 apprentice to 3 journeyman employed or fraction thereof. Example: if 1

to 3 licensed journeyman or master electricians are employed, the employer will be allowed 1 apprentice. After 3 licensed electricians are employed, the employer may use 2 apprentices for 6 licensed electricians or fraction thereof and so on up."

3. The proposed Amendment of MAC 40-3.38(6)-S3820 Board Meetings will read as follows: (Deleted matter interlines and new matter underlined)  
"(1) The quarterly meeting of the State Electrical Board shall be held on the 3rd Tuesday in the months of July, October, January and April of each year at the office of the Board on such dates as may be scheduled by the Board."
4. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the State Electrical Board, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than June 14, 1976.
5. If any person directly affected wishes to express his views and arguments orally or in writing at a public hearing he must make written request for a public hearing and submit this request along with any written comments he has to the State Electrical Board, LaLonde Building, Helena, Montana, on or before June 14, 1976.
6. If the State Electrical Board receives requests for a public hearing on the proposed adoption and amendment from more than twenty five (25) persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.
7. The authority of the State Electrical Board to make the proposed adoption and amendment is based on Section 66-2817 R.C.M. 1947.

DATED this 17th Day of May, 1976      STATE ELECTRICAL BOARD  
Ralph Herriot, President

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State May 17 1976.

Chapter 42  
Hearing aid  
Dispensers,  
Board

BEFORE THE BOARD OF HEARING AID DISPENSERS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed	)	NOTICE OF PROPOSED AMEND-
amendment of MAC 40-3.42(6)-	)	MENT OF MAC 40-3.42(6)-
S4230, Set and Approve Require-	)	S4230; and MAC 40-3.42(6)-
ments and Standards - Traineeship;	)	S42020 (Set and Approve
and MAC 40-3.42(6)-S42020,	)	Requirements and Standards
Record Retention.	)	Traineeship and Record
		Retention, respectively)

No Hearing Contemplated

TO: All Interested Persons

1. On May 17, 1976, the Board of Hearing Aid Dispensers proposes to amend MAC 40-3.42(6)-S4230, Set and Approve Requirements and Standards - Traineeship; and MAC 40-3.42(6)-S42020, Record Retention.
2. MAC 40-3.42(6)-S4230 will be amended by adding the following paragraph at the end of the existing rule:  
  
"For purposes of determining whether an applicant has properly qualified as a trainee, the apprenticeship shall be in the office of a licensed dealer which office shall be open 40 weeks of the year, at least 6 hours a day, 5 days a week and the licensed dealer must be available in that office at least one and one-half days per week unless otherwise authorized in specific cases by the Board."
3. MAC 40-3.42(6)-S42020 is to be amended as follows:  
(new matter underlined)  
  
"All hearing aid dispensers shall maintain all hearing tests and records indefinitely on all persons to whom he sells hearing aids."
4. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Hearing Aid Dispensers, LaLonde Building, Helena, Montana 59601. Written comments in order to be considered must be received no later than May 16, 1976.
5. If any person directly affected wishes to express his

data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Hearing Aid Dispensers, LaLonde Building, Helena, Montana on or before May 16, 1976.

6. If the Board of Hearing Aid Dispensers receives requests for a public hearing on the proposed amendments from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.
7. The authority of the Board of Hearing Aid Dispensers to make the proposed amendments is based on Section 66-3005 R.C.M. 1947.

Dated this 15th day of April, 1976. Board of Hearing Aid  
Dispensers  
Wyman J. Roberts, Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 4/15, 1976.

Chapter 46

Horse Racing,  
Board



BEFORE THE BOARD OF HORSE RACING  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED AMENDMENT  
amendment of MAC 40-3.46(6)- ) OF MAC 40-3.46(6)-S4680  
S4680, Licenses. ) (Licenses)

No Hearing Contemplated

TO: All Interested Persons

1. On February 17, 1976, the Board of Horse Racing proposes to amend MAC 40-3.46(6)-S4680, Licenses.
2. MAC 40-3.46(6)-S4680 will be amended by adding the following language to subsection (8) thereunder as follows:

"Any request by a licensee to relinquish or cancel dates allotted to said licensee, shall be filed in writing with the Board within thirty (30) days after the final awarding of dates for the ensuing racing season. Failure of a licensee to conduct racing on all dates allotted to the licensee by the Board thereafter shall subject the licensee to a fine not to exceed the sum of five hundred dollars (\$500) per day for each racing day allocated and not used, unless such nonuse or cancellation of racing was due to fire, riot, strike, inclement weather, act of God, or other cause deemed excusable by the Board of Horse Racing."
3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Horse Racing, LaLonde Building, Helena, Montana 59601. Written comments in order to be considered must be received no later than February 16, 1976.
4. If any person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Horse Racing, LaLonde Building, Helena, Montana, on or before February 16, 1976.
5. If the Board of Horse Racing receives requests for a public hearing on the proposed amendment from more than 25

(2)

persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.

6. The authority of the Board of Horse Racing to make the proposed amendment is based on Section 62-508 R.C.M. 1947.

Dated this 14th day of January, 1976. Board of Horse Racing  
Richard Forster, Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 1-14, 1976.

BEFORE THE BOARD OF HORSE RACING  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED AMENDMENT  
amendment of MAC 40-3.46(6)- ) OF MAC 40-3.46(6)-S46000,  
S46000, Occupational Licensing; ) and 40-3.46(6)-S46010  
and MAC 40-3.46(6)-S46010, ) (Occupational Licensing and  
General Conduct of Racing. ) General Conduct of Racing  
respectively)

No Hearing Contemplated

TO: All Interested Persons

1. On April 15, 1976, the Board of Horse Racing proposes to amend MAC 40-3.46(6)-S46000, Occupational Licensing and MAC 40-3.46(6)-S46010, General Conduct of Racing.
2. The amendments to MAC 40-3.46(6)-S46000 as proposed will read as follows:
  - A. The following language will be added as subsection (i) to subsection (l)(c):

"(i) It shall be the duty of the licensee conducting the race meet to see that each and every employee of the licensee is properly licensed before the race meet commences."
  - B. Subsection (l)(k) will read as follows: (new matter underlined, deleted matter interlined)

"(k) In the event of the loss of a license card, the Board may, in its discretion, issue a duplicate, the fee for which shall be ~~\$1.00~~ \$2.00 and all minor and spouses identification cards shall be issued for \$2.00."
  - C. The following language will be added as subsection (l) to subsection (l):

"(l) All corporations having any interest in a horse shall file with the Montana Board of Horse Racing at the time of filing application for an owner's license, a statement setting forth the names and addresses of all officers, directors and stockholders of said cor-

poration, together with the amount of the respective holdings of each stockholder and a statement as to whether or not said stock is paid in full, and including the designation of an authorized agent or agents of said corporation, attested to by its secretary and have the corporate seal attached. Said statement shall also contain an affidavit signed by the president and secretary of the corporation that no officer, director or shareholder of the corporation is at that time under suspension by any racing authority or disqualified to be licensed as an owner of any horse by any racing authority."

D. The following language will be added as subsection (m) to subsection (l):

"(m) A person licensed at one track in Montana and desiring to race at another track in Montana is subject to have a license validated at that track. Failure to do so may result in a fine or suspension by the Board. In order to have a license validated, the person must have race horses at that track or show proof of gainful employment at that track."

E. The following language will be added as a new subsection (i) to subsection (l)(1):

"(i) Each trainer shall be responsible for reporting to the Board the discharge of any of his employees within twenty-four (24) hours of the discharge."

F. Subsection (l)(1) will be amended as follows: (new matter underlined)

"(1) Each trainer shall register with the Board every person in his employ and he shall be responsible for all his employees securing occupational licenses. Each trainer shall sign the license application of every person in his employee and verify the fact of the employment."

G. Subsection (e1) to subsection (5) will be amended as follows: (deleted matter interlined, new matter underlined)

"(e1) Any overweight exceeding ~~five-<sup>5</sup>~~ seven (7) pounds may be approved by the stewards."

H. Subsection (c) to subsection (10) will be amended as follows: (deleted matter interlined)

"(c) Each trainer shall, upon making an entry, furnish the name of the jockey who rides his horse, or if this is not possible, he shall furnish it not later than scratch time. ~~the-day-of-the-race-~~ If no jockey has been named by that time, the stewards shall name a rider and he shall ride the horse."

I. The following language will be added as subsection (j) to subsection (6):

"(j) The Montana Board of Horse Racing will recognize all apprentice contracts, apprentice certificates, apprentice allowances and extensions granted or approved by member states and countries of the National Association of State Racing Commissioners."

J. The following language will be added as subsection (k) to subsection (6):

"(k) An apprentice jockey may be granted an apprentice certificate issued by the stewards, in lieu of a traditional apprentice contract. Such apprentice certificate shall grant an apprentice all allowances and conditions granted to an apprentice under contract, except such certificate shall not be granted to a person under eighteen (18) years of age, unless the consent of the parents or guardian has been obtained, and further provided the provisions of 40-3.46(6)-S46000(6)(h)(iii) shall not apply."

3. The amendments to MAC 40-3.46(6)-S46010 as proposed will read as follows:

A. Subsection (c) to subsection (58) is amended as follows: (new matter underlined)

"(c) In all races except handicaps and races where the conditions expressly state to the contrary, fillies two years old are allowed three (3) lbs. and fillies and mares three years old and upward are allowed five (5) lbs. before the 1st of September and three (3) lbs. thereafter."

B. The following language will be added as subsection (h) to subsection (59):

"(h) A horse which has been excused from starting by a veterinarian certificate of unfitness shall not be eligible to be entered for three (3) calendar days excluding the day the horse was excused. Such subse-

quent entry must be accompanied by a certificate of fitness from the track veterinarian, and must be approved by the stewards."

C. The following language will be added as a new paragraph to subsection (60)(m):

"Any information concerning a claim shall not be divulged by any licensed person to anyone other than the stewards or their designated representatives until after the race has been run."

D. The following language will be added as subsection (x) to subsection (6):

"(x) For claiming purposes, a corporation must have an authorized agent. A notarized instrument acceptable to the Board must be signed by the president and secretary of the corporation with the corporate seal attached appointing the authorized agent."

E. The following subsection will be added as subsection (a) to subsection (3):

"(a) All Appaloosa horses shall be registered with The Appaloosa Horse Club, Inc., Moscow, Idaho."

F. Subsection (53) is amended as follows: (new matter underlined)

"(53) Scratch time shall be 7:00 A.M. the morning of the day preceding the day scheduled for the running of the race from which the scratch is made. A licensee may request a different scratch time, for good cause shown. Any change in scratch time may be approved by the stewards."

4. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Horse Racing, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than April 14, 1976.
5. If any person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Horse Racing, LaLonde Building, Helena, Montana, on or before April 14, 1976.

6. If the Board of Horse Racing receives requests for a public hearing on the proposed amendments from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.
7. The authority of the Board of Horse Racing to make the proposed amendments is based on Section 62-508 R.C.M. 1947.

Dated this 17th day of March, 1976. Board of Horse Racing  
James Edwards, Chairman

By: Ed Carney

Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 3/17, 1976.

BEFORE THE BOARD OF LANDSCAPE ARCHITECTS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED AMENDMENT  
amendment of MAC 40-3.48(6)- ) OF MAC 40-3.48(6)-S4870  
S4870, Renewals. ) (Renewals)

No Hearing Contemplated

TO: All Interested Persons

1. On March 17, 1976, the Board of Landscape Architects proposes to amend MAC 40-3.48(6)-S4870, Renewals.
2. The amendment as proposed will read as follows: (New matter underlined, deleted matter interlined)  
"(1) Certificates of registration shall expire on the 1st last day of the month of June following their issuance or renewal and shall become invalid on that date unless renewed. ..."
3. The rule was intended to state the expiration date as the last day of the month of June so as to conform with the statutory requirement. The rule as originally written was a typographical error.
4. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Landscape Architects, LaLonde Building, Helena, Montana 59601. Written comments in order to be considered must be received no later than March 16, 1976.
5. If any person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Landscape Architects, LaLonde Building, Helena, Montana, on or before March 16, 1976.
6. If the Board of Landscape Architects receives requests for a public hearing on the proposed amendment from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.



(2)

7. The authority of the Board of Landscape Architects to make the proposed amendment is based on Section 82A-1602. 30 R.C.M. 1947.

Dated this 17th day of February, 1976. Board of Landscape  
Architects  
Dick Mayer, Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 2-17, 1976.

# Chapter 50

## Masseurs, Board

BEFORE THE MONTANA STATE BOARD OF MEDICAL EXAMINERS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED RULE  
adoption of new rules regarding ) ADOPTIONS REGARDING Tem-  
Temporary Acupuncture Certificate;) porary Acupuncture Certi-  
Acupuncture Reciprocity; FLEX ) ficate; Acupuncture Re-  
Examination Scores; and Mexican ) ciprocidity; FLEX Examination  
Applicants. ) Scores; and Mexican Ap-  
plicants.

No Hearing Contemplated

TO: All Interested Persons

1. On February 17, 1976, the Montana State Board of Medical Examiners proposes to adopt rules regarding Temporary Acupuncture Certificate; Acupuncture Reciprocity; FLEX Examination Scores; and Mexican Applicants.

2. The new rules as proposed will read as follows:

"(a) Temporary Acupuncture Certificate

An applicant who has fulfilled all requirements for licensure who is not a citizen of the United States and who has filed a Declaration of Intent (Form N-315) to become a United States citizen shall be issued a temporary certificate to practice acupuncture which is valid for one (1) year and shall not be renewed more than five (5) times."

"(b) Acupuncture Reciprocity

An applicant who seeks to be licensed by reciprocity may be required to pass an oral examination to determine if the applicant is reasonably ablt to communicate in the English language."

"(c) FLEX Examination Scores

Applicants seeking licensure on the basis of the FLEX Examination must have attained a weighted average grade of at least seventy-five percent (75%). Passing grades on individual sections of a FLEX Examination shall not be carried over to any future examination."

"(d) Mexican Applicants

1-1/26/76

MAC Notice No. 40-3-54-9

Applicants who have graduated from medical schools in the Country of Mexico, and who have passed the E.C.F.M.G. and have not qualified through the Fifth Pathway Program, shall be required to have taken at least one (1) year's additional training in an A.M.A. approved hospital."

3. Interested persons may submit their data, views or arguments concerning the proposed adoptions in writing to the Montana State Board of Medical Examiners, LaLonde Bldg., Helena, Montana 59601. Written comments in order to be considered must be received no later than February 16, 1976.
4. If any person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Montana State Board of Medical Examiners, LaLonde Building, Helena, Montana, on or before February 16, 1976.
5. If the Montana State Board of Medical Examiners receives requests for a public hearing on the proposed adoptions from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.
6. The authority of the Montana State Board of Medical Examiners to make the proposed adoptions is based on Section 66-1017 R.C.M. 1947.

Dated this 14th day of January, 1976. Montana State Board of  
Medical Examiners  
James J. McCabe, Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 1-14, 1976.

# Chapter 58

## Morticians, Board

BEFORE THE MONTANA STATE BOARD OF MEDICAL EXAMINERS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE of Public Hearing  
adoption of rules to implement ) for the proposed adoption  
Title 69 Chapter 70, Emergency ) of rules to implement Title  
Medical Technicians. ) 69 Chapter 70, Emergency  
 ) Medical Technicians.

TO: All Interested Persons

1. On December 6, 1976 at 10:00 A.M. in the House Chambers, State Capitol Building, Helena, Montana. A Public Hearing will be held to consider the proposed adoption of rules to implement Title 69 Chapter 70, Emergency Medical Technician, and to regulate the training and certification of such technician's as required by the Legislative Enactment.
2. By way of general summary, the proposed rule set forth the standards for the training and certification of basic and advanced emergency medical technicians and delineates course work and other requirements for such certification.

Because of the length and detailed nature of the proposed rule, the full text thereof is not published in this notice. However, any person interested in reading such text may obtain a copy thereof upon request to the Montana State Board of Medical Examiners, LaLonde Building, Helena, Montana.

3. Interested persons may present their data, views or arguments, whether orally or in writing at the hearing. Written statements may be presented prior to the hearing addressed to the Montana State Board of Medical Examiners, LaLonde Building, Helena, Montana.
4. Mr. John P. Poston, Attorney at Law, has been designated by the Board to preside over and conduct the hearing.
5. The authority of the Board to make the proposed rules is based on Section 69-7008 R.C.M. 1947.

Dated this 15th Day of November 1976.

Thomas Malee, M.D., Chairman  
Montana State Board of  
Medical Examiners

11-11/24/76 MAC Notice No. 40-3-54-10

By:

Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 11-15 1976

BEFORE THE BOARD OF MORTICIANS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED AMENDMENT  
amendment of MAC 40-3.58(6)- ) OF MAC 40-3.58(6)-S58020  
S58020, Disclosure of Funeral ) (Disclosure of Funeral  
Arrangements. ) Arrangements)

No Hearing Contemplated

TO: All Interested Persons

1. On April 15, 1976, the Board of Morticians proposes to amend MAC 40-3.58(6)-S58020, Disclosure of Funeral Arrangements.
2. The amendment as proposed will add the following language as subsections (e) and (f) to subsection (5) thereunder as follows:

"(e) The disclosure shall include a statement that all prices have been disclosed."

"(f) The disclosure form shall include a statement that all applicable statutes and/or rules, or the absence thereof, have been disclosed."
3. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Morticians, LaLonde Building, Helena, Montana 59601. Written comments in order to be considered must be received no later than April 14, 1976.
4. If any person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Morticians, LaLonde Building, Helena, Montana, on or before April 14, 1976.
5. If the Board of Morticians receives requests for a public hearing on the proposed amendments from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.



(2)

6. The authority of the Board of Morticians to make the proposed amendments is based on Section 66-2704 R.C.M. 1947.

Dated this 17th day of March, 1976. Board of Morticians  
Lyman Clayton, Chairman

By: 

Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 3/17, 1976.

# Chapter 62

## Nursing, Board

BEFORE THE BOARD OF NURSING  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed	)	NOTICE OF PROPOSED AMENDMENT
amendment of MAC 40-3.62(6)-	)	OF MAC 40-3.62(6)-S62080,
S62080, Appendix Number 1;	)	40-3.62(6)-S62090, 40-3.62(6)-
MAC 40-3.62(6)-S62090, Appendix	)	S62100, and 40-3.62(6)-
Number 2; MAC 40-3.62(6)-S62100,	)	S62110 (Appendix Number 1,
Appendix Number 3; and MAC	)	Appendix Number 2, Appendix
40-3.62(6)-S62110, Appendix	)	Number 3, and Appendix
Number 4.	)	Number 4 respectively)

No Hearing Contemplated

TO: All Interested Persons

1. On April 15, 1976, the Board of Nursing proposes to amend MAC 40-3.62(6)-S62080, Appendix Number 1, MAC 40-3.62(6)-S62090, Appendix Number 2, MAC 40-3.62(6)-S62100, Appendix Number 3, and MAC 40-3.62(6)-S62110, Appendix Number 4.
2. MAC 40-3.62(6)-S62080, Appendix Number 1 is proposed to be amended in its entirety with the following amending language:

"(1) Appendix Number 1, Professional Nursing Administration, heretofore published in full as pages 40-248 through 40-250 of the Montana Administrative Code is hereby deleted from the Board's chapter and incorporated therein by this reference. Such appendix contains a general description of the organization duties and objectives of the Board's professional nursing administration functions. A copy of such appendix may be obtained from the office of the Board of Nursing, LaLonde Building, Helena, Montana."
3. MAC 40-3.62(6)-S62090, Appendix Number 2 is proposed to be amended in its entirety with the following amending language:

"(1) Appendix Number 2, Practical Nursing Administration, heretofore published in full as pages 40-251 through 40-253 of the Montana Administrative Code is hereby deleted from the Board's chapter and incorporated therein by this reference. Such appendix contains a general description of the organization duties and objectives of the Board's

practical nursing administration functions. A copy of such appendix may be obtained from the office of the Board of Nursing, LaLonde Building, Helena, Montana."

4. MAC 40-3.62(6)-S621100, Appendix Number 3 is proposed to be amended in its entirety with the following amending language:

"(1) Appendix Number 3, Standards for Montana Schools of Professional Nursing, heretofore published in full as pages 40-254 through 40-267 of the Montana Administrative Code is hereby deleted from the Board's chapter and incorporated therein by this reference. Such appendix contains a general description of curriculum requirements, organization and administration requirements, faculty requirements, and admission standards for students. Because of the length and minimal effects of these requirements, the Board finds it expedient to delete the full text from its rules. A copy of such appendix may be obtained from the office of the Board of Nursing, LaLonde Building, Helena, Montana."

5. MAC 40-3.62(6)-S62110, Appendix Number 4 is proposed to be amended in its entirety with the following amending language:

"(1) Appendix Number 4, Standards for Montana Schools of Practical Nursing, heretofore published in full as pages 40-268 through 40-278 of the Montana Administrative Code is hereby deleted from the Board's chapter and incorporated therein by this reference. Such appendix contains a general description of curriculum requirements, organization and administration requirements, faculty requirements, and admission standards for students. Because of the length and minimal effects of these requirements, the Board finds it expedient to delete the full text from its rules. A copy of such appendix may be obtained from the office of the Board of Nursing, LaLonde Building, Helena, Montana."

This notice further proposes amendment to the language of Appendix Number 4 in the form of general revision of the requirements stated therein. Because of the length of such revision, the Board does not find it expedient to publish the full text of the proposed changes herein. However, any person wishing to have a copy of all the proposed revision may obtain such by request to the Board of Nursing, LaLonde Building, Helena, Montana.

6. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Nursing, LaLonde Building, Helena, Montana.

Written comments in order to be considered must be received no later than April 14, 1976.

7. If any person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Nursing, LaLonde Building, Helena, Montana, on or before April 14, 1976.
8. If the Board of Nursing receives requests for a public hearing on the proposed amendments from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.
9. The authority of the Board of Nursing to make the proposed amendments is based on Section 66-1225 R.C.M. 1947.

Dated this 17th day of March, 1976. Board of Nursing  
Bea Kaasch, Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 3/17, 1976.

Chapter 66  
Nursing Home  
Adm. Board

BEFORE THE BOARD OF NURSING HOME ADMINISTRATORS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed	)	NOTICE OF PROPOSED AMEND-
amendment of MAC 40-3.66(6)-	)	MENT of MAC 40-3.66(6)-
S6680, Board Organization; and	)	S6680, 40-3.66(6)-S66040,
MAC 40-3.66(6)-S66040, Applica-	)	40-3.66(6)-S66050, 40-3.66
tions; and MAC 40-3.66(6)-S66050,	)	(6)-S66110, and 40-3.66(6)-
Grant and Issue Licenses; and	)	S66140 (Board Organization,
MAC 40-3.66(6)-S66110, Reinstat-	)	Applications, Grant and
ment; and MAC 40-3.66(6)-S66140,	)	Issue Licenses, Reinstat-
Sample of Standard Forms.	)	ment, and Sample of Stan-
		dard Forms respectively)

No Hearing Contemplated

TO: All Interested Persons

1. On February 17, 1976, the Board of Nursing Home Adminis-  
trators proposes to amend MAC 40-3.66(6)-S6680, Board  
Organization; 40-3.66(6)-S66040, Applications; 40-3.66(6)-  
S66050, Grant and Issue Licenses; 40-3.66(6)-S66110,  
Reinstatement; and 40-3.66(6)-S66140, Sample of Standard  
Forms.
2. The amendment of 40-3.66(6)-S6680 will read as follows:  
(new matter underlined, deleted matter interlined)  
  
 "(1) The official officers of this Board shall be a  
 chairman and vice-chairman, ~~vice-chairman, and secretary-~~  
~~treasurer.~~  
 (2) Officers shall be elected annually bi-annually in  
 the month of December.  
 (3) Officers shall assume their duties at the beginning  
 of the next subsequent calendar year and shall serve for  
one two (2) years or until their successors are elected.  
~~(4) -No member shall be eligible to serve two consecutive~~  
~~terms in the office of chairman."~~
3. The amendment of 40-3.66(6)-S66040, Applications will be  
amended by deleting subsections (1) and (2) and renum-  
bering subsection (3) as subsection (1) in its place.
4. The amendment of 40-3.66(6)-S66050, Grant and Issue  
Licenses will be amended by leaving subsection (1) as is,  
deleting subsections (2) and (3) in their entirety and

renumbering subsection (4) as subsection (2) in its place.

5. The amendment of 40-3.66(6)-S66110, Reinstatement will read as follows: (new matter underlined, deleted matter interlined)

"(1) An application for reinstatement for an expired license may be filed within ~~five-45~~ two (2) years of the date of expiration and must be accompanied by all delinquent fees which shall not be refunded.

(2) The holder of an expired license may have the same reinstated within ~~five-45~~ two (2) years of the date of expiration upon application therefore and payment of all delinquent fees, provided the applicant can establish to the satisfaction of the Board that he continues to be qualified."

6. The amendment of 40-3.66(6)-S66140, Sample of Standard Forms will delete in its entirety subsection (1) thereof.
7. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Nursing Home Administrators, LaLonde Bldg., Helena, Montana 59601. Written comments in order to be considered must be received no later than February 16, 1976.
8. If any person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Nursing Home Administrators, LaLonde Bldg., Helena, Montana, on or before February 16, 1976.
9. The authority of the Board of Nursing Home Administrators to make the proposed amendments is based on Section 66-3109 R.C.M. 1947.

Dated this 14 day of January, 1976. Board of Nursing Home  
Administrators  
Marvin Bulgatz, Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 1 - 14, 1976.



BEFORE THE BOARD OF NURSING HOME ADMINISTRATORS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED AMENDMENT  
amendment of MAC 40-3.66(6)- ) OF MAC 40-3.66(6)-S66140  
S66140, Sample of Standard ) (Sample of Standard Forms)  
Forms. )

No Hearing Contemplated

TO: All Interested Persons

1. On April 15, 1976, the Board of Nursing Home Administrators proposes to amend MAC 40-3.66(6)-S66140, Sample of Standard Forms.
2. The amendment as proposed will delete in entirety the existing subsection (1) and replace it with the following new language:

"(1) The following forms are currently in use by the Board:

(a) Reciprocity Application: Form is required for a licensed out-of-state individual to obtain a Montana license without taking the examination.

(b) Examination, Licensing and/or Temporary Permit Application: Form required before an individual may sit for the examination or if the individual wishes to obtain a temporary permit to work until such time as the examination is given.

(c) Reinstatement of License Application: Form required for an individual to reinstate his license after he has let it elapse for a period of two (2) years.

The aforementioned forms may be modified from time to time as the necessity dictates."

3. The reason for the proposed amendment is the Board has determined that the necessity for printing the actual forms in the Board rules is negated by the unnecessary space occupied by such forms. In lieu thereof and in

conformance with the requirements of Section 82-4203 R.C.M. 1947, the Board has proposed this short description of the forms required.

4. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Nursing Home Administrators, LaLonde Building, Helena, Montana 59601. Written comments in order to be considered must be received no later than April 14, 1976.
5. If any person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Nursing Home Administrators, LaLonde Bldg., Helena, Montana, on or before April 14, 1976.
6. If the Board of Nursing Home Administrators receives requests for a public hearing on the proposed amendment from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.
7. The authority of the Board of Nursing Home Administrators to make the proposed amendment is based on Section 66-3107 R.C.M. 1947.

Dated this 17th day of March, 1976. Board of Nursing Home  
Administrators  
Philip Aubile, Chairman

By: 

Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 3/17, 1976.

BEFORE THE BOARD OF  
NURSING HOME ADMINISTRATORS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PROPOSED
amendment of MAC 40-3.66(6)-S66070	)	AMENDMENT OF MAC 40-
Examinations.	)	3.66(6)-S66070 Examina-
		tions.

No Hearing Contemplated

TO: All Interested Persons

1. On July 15, 1976, the Board of Nursing Home Administrators proposes to amend MAC 40-3.66(6)-S66070 relating to examinations.
2. The proposed Amendment reads as follows: (Deleted matter interlined, new matter underlined.)


"(4) Examination: An application for examination shall be filed at least ~~twenty-one (21)~~ thirty (30) days prior to the examination date and must be accompanied by the required fee of twenty-five dollars (\$25.00) plus \$25.00 for inactive license or \$60.00 for active license which shall not be refunded."
3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Nursing Home Administrators, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than July 14, 1976.
4. If any person directly affected wishes to express his views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Nursing Home Administrators, LaLonde Building, Helena, Montana, on or before July 14, 1976.
5. If the Board of Nursing Home Administrators receives requests for a public hearing on the proposed amendment from more than twenty-five (25) persons directly affected, a public hearing will be held at a later date. Notification

(2)

of parties will be made by publication in the Administrative Register.

6. The authority of the Board of Nursing Home Administrators to make the proposed amendment is based on Section 66-3109 R.C.M. 1947

Dated this 14<sup>th</sup> day of June, 1976      Board of Nursing  
Home Administrators  
Phil Auble, Chairman

By:   
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 6 14 - 1976.

Chapter 78  
Pharmacists,  
Board

BEFORE THE BOARD OF PHARMACISTS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED AMENDMENT  
amendment of MAC 40-3.78(6)- ) OF MAC 40-3.78(6)-S78030  
S78030, Statutory Rules and ) (Statutory Rules and Regula-  
Regulations - Dangerous Drugs. ) tions - Dangerous Drugs)

No Hearing Contemplated

TO: All Interested Persons

1. On February 17, 1976, the Board of Pharmacists proposes to amend MAC 40-3.78(6)-S78030, Statutory Rules and Regulations - Dangerous Drugs.
2. The amendment of MAC 40-3.78(6)-S78030 is to designate the following substances as included under Schedules I through IV: (new matter underlined)

"(a) Schedule I: Difenoxin, Propiram, Drotebanol, 4-bromo-2, 5-dimethoxyamphetamine, 4-methoxyamphetamine, thiophene analog of phencyclidine, Mecloqualone.

(b) Schedule II: Amobarbital, Pentobarbital, Secobarbital, Methaqualone, Etorphine Hydrochloride, Diprenorphine, Apomorphine, Codeine, Ethylmorphine, Hydrocodone, Metopon, Morphine, Oxycodone, Oxymorphone, Thebaine, Cocaine, Methylphenidate, Norpethidine.

Single entity ORAL dosage forms of amphetamine, dextro-amphetamine or methamphetamine, or ORAL amphetamine-dextroamphetamine combinations.

(c) Schedule III: Benzphetamine, Chlorphentermine, Chlorlertamine, Phendimetrazine, Mazindol.

(d) Schedule IV: Diethyl propion, Fenfluramine, Phentermine, Clordiazepoxide, Diazepam, Clonazepam, Clorazepate, Flurazepam, Oxazepam, Pemoline, Mebutamate."

3. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Pharmacists, LaLonde Building, Helena, Montana 59601. Written comments in order to be considered must be received no later than February 16, 1976.

1-1/26/76

MAC Notice No. 40-3-78-8

4. If any person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Pharmacists, LaLonde Bldg., Helena, Montana, on or before February 16, 1976.
5. If the Board of Pharmacists receives requests for a public hearing on the proposed amendment from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.
6. The authority of the Board of Pharmacists to make the proposed amendment is based on Section 54-315 R.C.M. 1947.

Dated this 14 day of January, 1976. Board of Pharmacists  
William J. Fitzgerald,  
Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 1-14, 1976.

BEFORE THE BOARD OF PHARMACISTS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED AMENDMENT  
amendment of MAC 40-3.78(6)- ) OF MAC 40-3.78(6)-S78030  
S78030, Statutory Rules and ) (Statutory Rules and Regula-  
Regulations - Dangerous Drugs. ) tions - Dangerous Drugs)

No Hearing Contemplated

TO: All Interested Persons

1. On March 17, 1976, the Board of Pharmacists proposes to amend MAC 40-3.78(6)-S78030, Statutory Rules and Regulations - Dangerous Drugs.
2. The amendment as proposed will add the following substance under Schedule II as follows: (new matter underlined)  
  
"Schedule II: Amobarbital, Pentobarbital, Secobarbital, Methaqualone, Etorphine Hydrochloride, Diprenorphine, Apomorphine, Codeine, Ethylmorphine, Hydrocodone, Hydromorphone, Metopon, Morphine, Oxycodone, Oxymorphone, Thebaine, Cocaine, Methylphenidate, Norpethidine."
3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Pharmacists, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than March 16, 1976.
4. If any person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Pharmacists, LaLonde Building, Helena, Montana, on or before March 16, 1976.
5. If the Board of Pharmacists receives requests for a public hearing on the proposed amendment from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.



(2)

6. The authority of the Board of Pharmacists to make the proposed amendment is based on Section 54-315 R.C.M. 1947.

Dated this 17th day of February, 1976. Board of Pharmacists  
William J. Fitzgerald,  
Chairman

By: Ed Carney

Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 2-17, 1976.

IN THE MATTER of the proposed	)	NOTICE OF PROPOSED
amendment of MAC 40-3.78(6)-	)	AMENDMENT OF MAC 40-
S78050 Set & Approve Require-	)	3.78(6)-S78050 Set &
ments and Standards - Hospital.	)	Approve Requirements
	)	and Standards - Hospital.

TO: All Interested Persons

1. On July 15, 1976, the Board of Pharmacists proposes to amend MAC 40-3.78(6)-S78050 Set & Approve Requirements and Standards - Hospital.
2. The proposed Amendment will add the following language as new subsection (7) to the existing rule:

" (7) Class IV Facility. A Family Planning Center which has no certified pharmacy registered and licensed by the Montana State Board of Pharmacists shall be considered a Class IV Facility. A Family Planning Center means any such center which is under the administrative jurisdiction of the Maternal and Child Health Services Bureau, Department of Health and Environmental Sciences. Such facility shall be administered in compliance with the following standards:

- (a) That any legend items dispensed shall first have been packaged, labeled, and otherwise prepared by a registered pharmacist holding a current license in Montana. The pharmacist is to be recorded with the State Board of Pharmacists and the Board shall be notified in any change of the pharmacist in charge.
- (i) A legend item is defined as one that is controlled by federal law and carries the legend "Federal Law Prohibits Dispensing Without a Prescription".

- (b) That the State law prohibiting the sale of non-legend contraceptive devices and products by any person, unless that person is a licensed practitioner such as a pharmacist, be complied with.
- (c) That the registered pharmacist in charge shall provide this service to said facility at regular periods and that these periods be posted at said facility.
- (d) That adequate locked storage be provided for all items referred to in these rules. Only the pharmacist may have access to the stock. The person in charge may obtain a product that has been properly prepared by the pharmacist for delivery to the recipient.
- (e) That records for all legend items dispensed and to whom be kept at the facility for the purpose of accounting for these items. These records would include present stock and all shipments received thereafter.
- (f) That these items be delivered to the recipient at no cost for the item.
- (g) That the dispensing of drugs by M.D.'s not be restricted except as defined in the Pharmacy Law, Chapter 9, Section 27-903.
- (h) That nothing in these rules authorizes the dispensing of any drugs and devices other than the following:
  - (i) Oral contraceptives; injectable long-term contraceptives; progestational drugs; diaphragms, contraceptive jellies, creams, and foams; IUD's; condoms; vaginal creams, ointments, and suppositories used in the routine treatment of vaginal disorders.
- (i) That all non-legend contraceptive devices and products be dispensed in accordance with the contraceptive drug or device law, Section 110.2.
- (j) That each Family Planning Center must apply for a license from the Montana State Board of

Pharmacists for a Class IV Facility. This license will be issued for a period of one year, i.e. July 1 to June 30, and will be renewed each year providing all conditions herein stated are met. The Cost of this license will be \$5.00 per year. This license is to be displayed at the facility.

3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Pharmacists, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than July 14, 1976.
4. If any person directly affected wishes to express his views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Pharmacists, LaLonde Building, Helena, Montana, on or before July 14, 1976.
5. If the Board of Pharmacists receives requests for a public hearing on the proposed amendment from more than twenty-five (25) persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.
6. The authority of the Board of Pharmacists to make the proposed amendment is based on Section 66-1504 R.C.M. 1947.

Dated this 14th Day of June 1976. BOARD OF PHARMACISTS  
Bill Fitzgerald  
Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 6 - 14 - 1976.

BEFORE THE BOARD OF PHARMACISTS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED  
amendment of MAC 40-3.78(6)-S78030 ) AMENDMENT OF MAC 40-  
Statutory Rules and Regulations - ) 3.78(6)-S78030 Statutory  
Dangerous Drugs. ) Rules and Regulations -  
 ) Dangerous Drugs.

No Hearing Contemplated

TO: All Interested Persons

1. On August 16, 1976, the Board of Pharmacists proposes to amend MAC 40-3.78(6)-S78030 Statutory Rules & Regulations - Dangerous Drugs.
2. The amendment as proposed will add the following language as subsection (6) to the existing rule:

"(6) Section 54-307 R.C.M. 1947, Specific dangerous drugs included in Schedule II, subsection (2)(d) thereunder shall be interpreted to include cocaine, and ecgonine, and all their optical isomers and salts, and the optical isomers of their salts. This interpretation shall also apply to the definition stated in Section 54-301 (17d) R.C.M. 1947."
3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Pharmacists, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than August 15, 1976.
4. If any person directly affected wishes to express his views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Pharmacists, LaLonde Building, Helena, Montana, on or before August 16, 1976.
5. If the Board of Pharmacists, receives requests for a public hearing on the proposed amendment from more than twenty-five (25) persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

6. The authority of the Board of Pharmacists to make the proposed amendment is based on Section 54-302 R.C.M. 1947.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1976.

BOARD OF PHARMACISTS  
William J. Fitzgerald

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State \_\_\_\_\_ 1976.

BEFORE THE BOARD OF PHARMACISTS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED adoption  
adoption of a Rule providing ) of a Rule providing for  
for public participation in ) public participation in Board  
Board actions. ) actions.

No Hearing Contemplated

TO: All Interested Persons

1. On October 14, 1976, the Board of Pharmacists proposes to adopt a rule providing for public participation in board actions.
2. The rule as proposed will read as follows:  
" (1) The Board of Pharmacists hereby adopts and incorporates by this reference the public participation rules of the Department of Professional and Occupational Licensing as listed in Chapter 2, Sub-Chapter 14 of this title. See MAC 40-2-2(14)-P2400."
3. Interested persons may submit their data, views or arguments concerning the proposed adoption in writing to the Board of Pharmacists, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than October 13, 1976.
4. If any person directly affected wishes to express his views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Pharmacists, LaLonde Building, Helena, Montana, on or before October 13, 1976.
5. If the Board of Pharmacists receives requests for a public hearing on the proposed adoption from more than twenty-five (25) persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.
6. The authority of the Board of Pharmacists to make the

proposed adoption is based on Section 66-1504, R.C.M.  
1947.

DATED THIS 15 Day of September, 1975, Palmer Kronen,  
Chairman,  
Board of Pharmacists

By: Ed Carney

Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 9-15-1976



BEFORE THE BOARD OF PHARMACISTS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed	)	NOTICE OF PROPOSED amend-
amendment of MAC 40-3.78(6)-S7860	)	ment of MAC 40-3.78(6)-
Set and Approve Standard Regula-	)	S7860 Set and Approve Stan-
tion - Substitution	)	dard Regulation - Substitu-
	)	tion

No Hearing Contemplated

TO: All Interested Persons

1. On November 15, 1976, the Board of Pharmacists proposes to amend MAC 40-3.78(6)-S7860 Set and Approve Standard Regulation - Substitution.
2. The Amendment as proposed will add the following language as subsection (2) to the existing rule:

"(2) However, the Pharmacist shall advise persons presenting prescriptions, by clearly legible sign posted in a conspicuously visible place, the following:

'A generic (chemically) equivalent drug with a price lower than the one prescribed may be available. You may obtain this information from your prescribing physician.'"
3. The purpose of this rule is to assist in assuring that the public is informed of the availability of prescription drugs at the lowest cost. The pharmacist will be obligated to make this information public to his customers and the prescribing physician will have the responsibility and the right to determine if a substitution will be in the best health interest of the patient.
4. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Pharmacists, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than November 14, 1976.
5. If any person directly affected wishes to express his views and arguments orally or in writing at a public hearing,

10/10/25/76

MAC Notice No. 40-3-78-13

he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Pharmacists, LaLonde Building, Helena, Montana, on or before November 14, 1976.

6. If the Board of Pharmacists receives requests for a public hearing on the proposed amendment from more than twenty five (25) persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.
7. The authority of the Board of Pharmacists to make the proposed amendment is based on Section 66-1504 R.C.M. 1947.

Dated this 14<sup>th</sup> Day of October, 1976, Palmer Kronen, Chairman  
Board of Pharmacists

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 10-14 1976.

BEFORE THE BOARD OF PHARMACISTS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED AMENDMENT  
amendment of MAC 40-3.78(6)- ) of MAC 40-3.78(6)-S78050  
S78050 Set and Approve Require- ) Set and Approve Requirements  
ments and Standards - Hospital. ) and Standards - Hospital

No Hearing Contemplated

TO: All Interested Persons

1. On December 15, 1976, the Board of Pharmacists proposes to amend MAC 40-3.78(6)-S78050 Set and Approve Requirements and Standards - Hospital.
2. The proposed amendment will make the following changes to subsection (7), (c), (f), and (h). (New matter underlined, deleted matter interlined.).

"(7) Class IV Facility. A Family Planning Center which has a certified Class IV Facility pharmacy registered and licensed by the Montana State Board of Pharmacists shall be considered a Class IV Facility. A Family Planning Center means any such center which is under the Administrative jurisdiction of the Maternal and Child Health Services Bureau, Department of Health and Environmental Sciences. Such facility shall be administered in compliance with the following standards:

(c) That adequate locked storage be provided for all items referred to in these rules. Only the pharmacist may have access to the ~~unlabeled~~ legend drug stock. However, the person in charge of his or her designee may obtain a product that has been properly prepared by the pharmacist for delivery to the recipient.

(f) That the dispensing of drugs by M.D.'s not be restricted except as defined, in Section 27-903 R.C.M. 1947, Section 66-1525 R.C.M. 1947.

(h) That all non-legend contraceptive devices and products be dispensed in accordance with the contraceptive drug or device law, Section-110-2 Montana Criminal Code of 1973, Section 94-8-110.2 R.C.M. 1947."

11-11/24/76

MAC Not. No. 40-3-78-14

3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Pharmacists, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than December 14, 1976.
4. If any person directly affected wishes to express his views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Pharmacists, LaLonde Building, Helena, Montana, on or before December 14, 1976.
5. If the Board of Pharmacists receives requests for a public hearing on the proposed amendment from more than twenty-five (25) persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.
6. The authority of the Board of Pharmacists to make the proposed amendment is based on Section 66-1504 R.C.M. 1947.

Dated this 15th Day of November 19 76.

Palmer Kronen, Chairman  
Board of Pharmacists

By: Ed Carney

Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 11-15 1976.

# Chapter 82

## Plumbers, Board

BEFORE THE BOARD OF PLUMBERS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED AMEND-  
amendment of MAC 40-3.82(6)- ) MENT OF MAC 40-3.82(6)-  
S8250, State Plumbing Code; ) S8250; and MAC 40-3.82(6)-  
Incorporation of Uniform Plumbing) S8260 (State Plumbing Code;  
Code by Reference; and MAC ) Incorporation of Uniform  
40-3.82(6)-S8260, Applications. ) Plumbing Code by Reference  
and Applications respec-  
tively)

No Hearing Contemplated

TO: All Interested Persons

1. On May 17, 1976, the Board of Plumbers proposes to amend MAC 40-3.82(6)-S8250, State Plumbing Code; Incorporation of Uniform Plumbing Code by Reference; and MAC 40-3.82(6)-S8260, Applications.
2. MAC 40-3.82(6)-S8250 is proposed to be amended by substituting the following language in place of subsections (a), (b), and (c) to subsection (7) of the rule:

"(a) PVC plastic pipe, schedule 40 DWV and heavier is approved as an acceptable material when used above or below ground for drain, waste and vent systems in commercial, residential, institutional and industrial buildings only where the DWV system does not exceed 30 feet in verticle height from the invert of the sanitary sewer where it leaves the building, to the top of the stack.

The intent of this rule is to restrict the use of plastic pipe to the instance enumerated above. Thus, the use of plastic pipe above and below ground for drain, waste and vent systems in commercial, residential, institutional and industrial buildings where such system will exceed the 30 feet verticle height restriction is herein expressly forbidden."

The reason for this proposed amendment is to eliminate the use of the concept of "story" which has proven to be unrealistic and unworkable in determining the height at

which plastic pipe no longer becomes a safe material.

3. MAC 40-3.82(6)-S8260 is proposed to be amended by adding the following language and inserting it between existing subsections (2) and (3):  
  
"Upon receipt and approval of an application for the journeyman plumber's examination the Board will send to the applicant an admittance card which will allow him to work as a journeyman plumber until the next examination for which he is scheduled."
4. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Plumbers, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than May 16, 1976.
5. If any person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Plumbers, LaLonde Bldg., Helena, Montana, on or before May 16, 1976.
6. If the Board of Plumbers receives requests for a public hearing on the proposed amendments from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.
7. The authority of the Board of Plumbers to make the proposed amendments is based on Section 66-2409 R.C.M. 1947.

Dated this 15th day of April, 1976. Board of Plumbers  
R. C. Rogers, Chairman

By: Ed Carney

Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 4/15, 1976.

BEFORE THE BOARD OF PLUMBERS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed	) NOTICE OF PROPOSED AMEND-
amendment of MAC 40-3.82(6)-	) MENT OF MAC 40-3.82(6)-
S8250, State Plumbing Code;	) S8250, State Plumbing Code;
Incorporation of Uniform Plumbing)	Incorporation of Uniform
Code by Reference.	) Plumbing Code by Reference.

No Hearing Contemplated

TO: All Interested Persons

1. On July 15, 1976, the Board of Plumbers proposes to amend MAC 40-3.82(6)-S8250, State Plumbing Code; Incorporation of Uniform Plumbing Code by Reference.
2. This Rule was originally proposed for amendment in MAC Not. No. 40-3-82-14, published in the May, 1976 Register. Upon reconsideration of the proposed rule the Board has determined to change the proposed amendment to now read as follows: (Substituting the following language in place of Subsection (a), (b), and (c) to Subsection (7) of the Rule.)

"(a) PVC plastic pipe, schedule 40 DWV and heavier is approved as an acceptable material when used above or below ground for drain, waste and vent systems in commercial, residential, institutional and industrial buildings only where the DWV system does not exceed 36 feet in verticle height from the invert of the sanitary sewer where it leaves the building, to the top of the stack.

The intent of this rule is to restrict the use of plastic pipe to the instance enumerated above. This, the use of plastic pipe above and below ground for drain, waste and vent systems in commercial, residential, institutional and industrial buildings where such system will exceed the 36 feet verticle height restriction is herein expressly forbidden."

The reasons for this proposed amendment is to eliminate the use of the concept of "story" which has proven to be unrealistic and unworkable in determining the height at



which plastic pipe no longer becomes a safe material.

3. The only respect in which this proposed amendment differs from that proposed in the May 1976 Register is an increase in the allowable height from 30 feet to 36 feet.
4. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to The Board of Plumbers, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than July 14, 1976.
5. If any person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Plumbers, LaLonde Bldg., Helena, Montana, on or before July 14, 1976.
6. If the Board of Plumbers receives requests for a public hearing on the proposed amendments from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.
7. The authority of the Board of Plumbers to make the proposed amendments is based on Section 66-2409 R.C.M.1947.

Dated this 14th day of June 1976. Board of Plumbers  
R. C. Rogers, Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 6-14, 1976.

BEFORE THE BOARD OF PLUMBERS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED AMEND-  
amendment of MAC 40-3.82(6)- ) MENT OF MAC 40-3.82(6)-  
S8250, State Plumbing Code; ) S8250, State Plumbing Code;  
Incorporation of Uniform Plumbing) Incorporation of Uniform  
Code by Reference. ) Plumbing Code by Reference.

No Hearing Contemplated

TO: All Interested Persons

1. On July 15, 1976, the Board of Plumbers proposes to amend MAC 40-3.82(6)-S8250, State Plumbing Code; Incorporation of Uniform Plumbing Code by Reference.
2. This Rule was originally proposed for amendment in MAC Not. No. 40-3-82-14, published in the May, 1976 Register. Upon reconsideration of the proposed rule the Board has determined to change the proposed amendment to now read as follows: (Substituting the following language in place of Subsection (a), (b), and (c) to Subsection (7) of the Rule.)

"(a) PVC plastic pipe, schedule 40 DWV and heavier is approved as an acceptable material when used above or below ground for drain, waste and vent systems in commercial, residential, institutional and industrial buildings only where the DWV system does not exceed 36 feet in verticle height from the invert of the sanitary sewer where it leaves the building, to the top of the stack.

The intent of this rule is to restrict the use of plastic pipe to the instance enumerated above. This, the use of plastic pipe above and below ground for drain, waste and vent systems in commercial, residential, institutional and industrial buildings where such system will exceed the 36 feet verticle height restriction is herein expressly forbidden."

The reasons for this proposed amendment is to eliminate the use of the concept of "story" which has proven to be unrealistic and unworkable in determining the height at

which plastic pipe no longer becomes a safe material.

3. The only respect in which this proposed amendment differs from that proposed in the May 1976 Register is an increase in the allowable height from 30 feet to 36 feet.
4. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to The Board of Plumbers, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than July 14, 1976.
5. If any person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Plumbers, LaLonde Bldg., Helena, Montana, on or before July 14, 1976.
6. If the Board of Plumbers receives requests for a public hearing on the proposed amendments from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.
7. The authority of the Board of Plumbers to make the proposed amendments is based on Section 66-2409 R.C.M.1947.

Dated this 10<sup>th</sup> day of June, 1976. Board of Plumbers  
R. C. Rogers, Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State June 14, 1976.

BEFORE THE BOARD OF PLUMBERS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed	) NOTICE OF PROPOSED
amendment of MAC 40-3.82(6)-	) Amendment of MAC 40-3.82(6)-
S8250 State Plumbing Code; In-	) S8250 State Plumbing Code;
corporation of Uniform Plumbing	) Incorporation of Uniform
Code by reference.	) Plumbing Code by reference.

No Hearing Contemplated

TO: All Interested Persons

1. On September 15, 1976, the Board of Plumbers, proposes to amend MAC 40-3.82(6)-S8250 State Plumbing Code; Incorporation of Uniform Plumbing Code by reference.
2. The proposed amendment makes reference to the original adoption of the Uniform Plumbing Code as the State Plumbing Code. At the time the Board adopted such code, certain amendments were made thereto including a deletion of the phrase "holder of a permit" wherever it appeared. At that time the Board had no permit system.

However, the Board now administers such a permit system and the need arise's for reinstatement of the phrase "holder of a permit".

No actual amendment will appear in this rule because the original Board Amendment, which is being amended by this proposal was incorporated by reference.

3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Plumbers, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than September 14, 1976.
4. If any person directly affected wishes to express his views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Plumbers, LaLonde Building, Helena, Montana, on or before September 14, 1976.

5. If the Board of Plumbers receives requests for a public hearing on the proposed amendment from more than twenty-five (25) persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.
6. The authority of the Board of Plumbers to make the proposed amendment is based on Section 66-2416 R.C.M. 1947.

Dated this 13<sup>th</sup> day of August, 1976  
Board of Plumbers  
R. C. Rogers  
Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 8/13 1976.

BEFORE THE BOARD OF PLUMBERS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA


IN THE MATTER of the proposed	)	NOTICE OF PUBLIC HEARING
amendment of MAC 40-3.82(6)-S8250	)	on the proposed Amendment
State Plumbing Code; Incorporation	)	of MAC 40-3.82(6)-S8250
of Uniform Plumbing Code by Refer-	)	State Plumbing Code; In-
ence.	)	corporation of Uniform
	)	Plumbing Code by Reference.

TO: All Interested Persons

1. On November 8, 1976 at 9:00 A.M., a public hearing will be held in the Highway Auditorium, corner of 8th and Roberts, Helena, Montana to hear testimony on the proposed Amendment of MAC 40-3.82(6)-S8250.
2. The rule as it now exists, adopts the Uniform Plumbing Code, 1973 edition, with certain Board amendments, as the plumbing code for the State of Montana. Such code and amendments were incorporated into the rules of the board by reference.

At it's meeting on October 8, 1976, the board reviewed the most recent edition of the uniform plumbing code, which was adopted by the International Association of Plumbing and Mechanical Officials in September of 1975 and published as the 1976 edition. Upon such review and after making certain amendments to the 1976 edition, the board proposed such edition for adoption as the current and effective plumbing code for the State of Montana. The purpose of this proposed amendment is to adopt and incorporate the 1976 edition and board amendments thereto into the board rules as the current effective plumbing code for the State of Montana. Upon adoption, the 1976 edition, with board amendments, will supersede the 1973 edition.

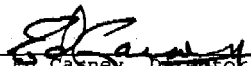
3. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing. Any person may submit a written statement to the Board of Plumbers, Department of Professional and Occupational Licensing prior to, or at the hearing.

10/10/25/76 

MAC Notice No. 40-3-82-17

4. The Board of Plumbers or it's designee will preside over and conduct the hearing.
5. The authority of the Board of Plumbers to make the proposed amendment is based on Section 66-2416, R.C.M. 1947.
6. Any person interested in reviewing the 1976 edition and the proposed board amendments thereto may obtain such from the Board of Plumbers, Department of Professional and Occupational Licensing, LaLonde Building, Helena, Montana. A fee in the amount of the Board's purchase cost of the code, plus postage will be assessed.

DATED THIS 14 DAY OF OCTOBER, 1976; Art Clarkson, Chairman  
BOARD OF PLUMBERS

BY:   
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

CERTIFIED TO THE SECRETARY OF STATE 10-14 1976.

**Chapter 90**  
**Psychologist**  
**Exam. Board**



BEFORE THE BOARD OF PSYCHOLOGISTS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED GENERAL  
general revision by amendment ) REVISION BY AMENDMENT AND  
and repeal of Board rules. ) REPEAL OF BOARD RULES

No Hearing Contemplated

TO: All Interested Persons

1. On April 15, 1976, the Board of Psychologists proposes to generally revise Board rules by amendment and repeal.
2. The rules which the Board proposes to amend are as follows:  
  
MAC 40-3.90(6)-S9020, 40-3.90(6)-S9050, 40-3.90(6)-S90010,  
40-3.90(6)-S90050, 40-3.90(6)-S90070, 40-3.90(6)-S90080,  
40-3.90(6)-S90090, 40-3.90(6)-S90100, 40-3.90(6)-S90130,  
40-3.90(6)-S90150, and 40-3.90(6)-S90180.  
  
Any person wishing to have a copy of the actual text of  
the proposed amendments may so request from the Board of  
Psychologists, LaLonde Building, Helena, Montana 59601.
3. The rules which the Board proposes for repeal are as follows:  
  
MAC 40-3.90(6)-S9030, 40-3.90(6)-S9040, 40-3.90(6)-S9060,  
40-3.90(6)-S90000, 40-3.90(6)-S90020, 40-3.90(6)-S90030,  
and 40-3.90(6)-S90160.
4. Interested persons may submit their data, views or arguments concerning the proposed amendments and repeals in writing to the Board of Psychologists, LaLonde Building, Helena, Montana 59601. Written comments in order to be considered must be received no later than April 14, 1976.
5. If any person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Psychologists, LaLonde Building, Helena, Montana, on or before April 14, 1976.

6. If the Board of Psychologists receives requests for a public hearing on the proposed amendments and repeals from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.
7. The authority of the Board of Psychologists to make the proposed amendments and repeals is based on Section 66-3205 R.C.M. 1947.

Dated this 17th day of March, 1976. Board of Psychologists  
Edward Shubat, Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 3/17, 1976.

BEFORE THE BOARD OF PSYCHOLOGISTS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED Amendment  
amendment of MAC 40-3.90(6)- ) of MAC 40-3.90(6)-S90180  
S90180 Description of Standard ) Description of Standard Forms  
Forms )

No Hearing Contemplated

TO: All Interested Persons

1. On September 15, 1976 the Board of Psychologists proposes to amend MAC 40-3.90(6)-S90180 Description of Standard Forms.
2. The amendment as proposed will delete sub-section (1) from the rule, and the remainder of the rule will be re-numbered. The deletion will merely remove superfluous explanatory language which had been used to reference forms which have since been deleted.
3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Psychologists, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than September 14, 1976.
4. If any person directly affected wishes to express his views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Psychologists, LaLonde Building, Helena, Montana, on or before September 14, 1976.
5. If the Board of Psychologists receives requests for a public hearing on the proposed amendment from more than twenty-five (25) persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.
6. The authority of the Board of Psychologists to make the proposed amendment is based on Section 66-3205 R.C.M. 1947.

Dated this 13<sup>th</sup> day of August, 1976.

Board of Psychologists  
Edward Shubat, Chairman

By: E. Carney

Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State P. 13 1976.

Chapter 94  
Public  
Accountants,  
Board

BEFORE THE BOARD OF RADIOLOGIC TECHNOLOGISTS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED  
adoption of Rules to Implement ) adoption of Rules to  
Title 66, Chapter 37 R.C.M. 1947. ) Implement Title 66,  
Chapter 37 R.C.M. 1947.

No Hearing Contemplated

TO: All Interested Persons

1. On September 15, 1976, The Board of Radiologic Technologists proposes to adopt rules to Implement Title 66, Chapter 37 R.C.M. 1947.
2. The 1975 Legislative Assembly newly enacted statutory provisions for licensure and regulation of Radiologic Technologists. These proposed rules are the original set of Board Rules.

Because of the length of the rules, the full text will be omitted from this notice. Any person wishing to obtain such text may do so from the Board of Radiologic Technologist, LaLonde Building, 42 1/2 North Main, Helena, Montana, 406-449-3737.

Generally described, the rules define the scope of practice, establish application procedures, renewal procedures, complaint procedures and establish fee schedules.

3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Radiologic Technologists, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than September 14, 1976.
4. If any person directly affected wishes to express his views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Radiologic Technologists, LaLonde Building, Helena, Montana, on or before September 14, 1976.

5. If the Board of Radiologic Technologists receives requests for a public hearing on the proposed adoption of rules from more than twenty-five (25) persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.
6. The authority of the Board of Radiologic Technologists to make the proposed adoption of rules is based on Section 66-3704 R.C.M. 1947.

Dated this 14th day of August, 1976  
Board of Radiologic Technologists  
Paul Harston, Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State \_\_\_\_\_ 1976.

Chapter 100  
Sanitarians,  
Board of



BEFORE THE BOARD OF SANITARIANS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED Amendment  
Amendment of MAC 40-3.100(2)-S10010 ) of MAC 40-3.100(2)-S10010  
Procedural Rules. ) Procedural Rules.

No Hearing Contemplated

TO: All Interested Persons

1. On November 15, 1976, the Board of Sanitarians proposes to amend MAC 40-3.100(2)-S10010 Procedural Rules.
2. The amendment as proposed will add the following language as sub-section (2) to the existing rule:  
  
"The Board of Sanitarians hereby adopts and incorporates by this reference the public participation rules of the Department of Professional and Occupational Licensing as listed in Chapter 2, Sub-Chapter 14 of this title. See MAC 40-2.2(14)-P2400."
3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Sanitarians, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than November 14, 1976.
4. If any person directly affected wishes to express his views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Sanitarians, LaLonde Building, Helena, Montana on or before November 14, 1976.
5. If the Board of Sanitarians receives requests for a public hearing on the proposed amendment from more than twenty-five (25) persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.
6. The authority of the Board of Sanitarians to make the proposed amendment is based on Section 69-3418 (1), R.C.M. 1947.

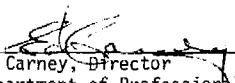
DATED THIS 14th DAY OF October 1976.

10/10/25/76

MAC Notice No. 40-3-100-1

Ed Stowe, Chairman  
Board of Sanitarians

BY:

  
Ed Carney, Director  
Department of Professional and  
Occupational Licensing

Certified to the Secretary of State 10 - 14 - 1976.

Chapter 101  
Speech  
Pathologists &  
Audiologists,  
Board of

BEFORE THE BOARD OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PUBLIC HEARING  
adoption of rules to implement ) to adopt rules to implement  
Title 66, Chapter 39 R.C.M. 1947 ) Title 66, Chapter 39, R.C.M.  
relating to Speech Pathology ) 1947, relating to Speech  
and Audiology. ) Pathology and Audiology

PUBLIC HEARING

TO: All Interested Persons

1. On February 6, 1976 at 10:00 A.M. at the State Capitol Building in Room No. 437, Sixth Avenue, Helena, Montana, a public hearing will be held to receive testimony in the matter of the adoption of rules to implement Title 66, Chapter 38, R.C.M. 1947, relating to regulation of Speech Pathologists and Audiologists.
2. The Board of Speech Pathologists and Audiologists and its licensing and enforcement statutes were created by the Montana Legislature in its 1975 session. As a newly created regulatory Board, the Board herein proposes its initial set of rules to implement the legislative enactment. Since the rules as proposed cover all areas of licensing and enforcement and are of considerable length, the full text of such rules is omitted from this notice. However, any person wishing to obtain a copy of such text may do so by request to the Board of Speech Pathologists and Audiologists, LaLonde Building, Helena, Montana 59601.
3. Interested persons may present their data, views or arguments either orally or in writing at the hearing.
4. The Board of Speech Pathologists and Audiologists or its designee shall preside over and conduct the hearing.
5. The authority of the Board of Speech Pathologists and Audiologists to make the proposed adoption is based on Section 66-3905 R.C.M. 1947.

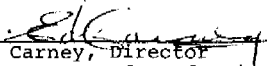
Dated this 14 day of January, 1976. Board of Speech Pathologists and Audiologists  
Douglas Wing, Chairman

1-1/26/76

MAC Notice No. 40-3-101-1

(2)

By:

  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 1 - 14, 1976.

BEFORE THE BOARD OF REAL ESTATE  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED AMENDMENT  
amendment of MAC 40-3.98(6)- ) OF MAC 40-3.98(6)-S9850  
S9850, Approve Requirements ) (Approve Requirements and  
and Standards, Trust Accounts. ) Standards, Trust Accounts)

No Hearing Contemplated

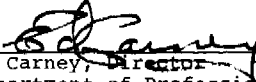
TO: All Interested Persons

1. On June 15, 1976, the Board of Real Estate proposes to amend MAC 40-3.98(6)-S9850, Approve Requirements and Standards Trust Accounts.
2. The amendment of MAC 40-3.98(6)-S9850 will add the following language as subsections (1), (2), (3) to the rule. The existing subsections will remain but will be renumbered beginning with existing subsection (1), which will become (4) and so forth:
  - "(1) Each broker shall maintain a separate bank account which shall be designated a trust account wherein all down-payments, earnest money deposits, or other trust funds received by the broker or his salesman on behalf of his principle or any other person shall be deposited.
  - (2) Trust accounts shall be maintained in banks located in Montana.
  - (3) Each broker shall authorize the Board to examine such trust accounts by a duly authorized representative of the Board. Such examination shall be made at such time as the Board may direct."
3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Real Estate, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than June 14, 1976.
4. If any person directly affected wishes to express his views and arguments orally or in writing at a public hearing, he must made written request for a public hearing

and submit this request along with any written comments he has to the Board of Real Estate, LaLonde Building, Helena, Montana, on or before June 14, 1976.

5. If the Board of Real Estate receives requests for a public hearing on the proposed amendments from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.
6. The authority of the Board of Real Estate to make the proposed amendment is based on Section 66-1927 R.C.M. 1947.

Dated this 17th day of May, 1976. Board of Real Estate  
George Lackman, Chairman

By:   
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 5/17, 1976.

BEFORE THE BOARD OF REAL ESTATE  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed	)	NOTICE OF PROPOSED
amendment of MAC 40-3.98(6)-	)	AMENDMENT of MAC 40-3.98
S98010 Application, MAC 40-3.98(6)-	)	(6)-S98010 Application,
S98020 Grant & Issue Licenses and	)	MAC 40-3.98(6)-S98020
MAC 40-3.98(6)-S98050 Fee Schedule.	)	Grant & Issue Licenses
	)	and MAC 40-3.98(6)-S98050
	)	Fee Schedule

No Hearing Contemplated

TO: All Interested Persons

1. On November 15, 1976, the Board of Real Estate proposes to amend MAC 40-3.98(6)-S98010 Application, MAC 40-3.98(6)-S98020 Grant & Issue Licenses and MAC 40-3.98(6)-S98050 Fee Schedule.
2. The amendment of MAC 40-3.98(6)-S98010 Application will delete the following subsections (3)(b) and (c):

"(3)(b) An applicant for licensure as a non-resident real estate salesman shall possess an active real estate license of equal merit in their state of residency.

(c) All applicants for a non-resident real estate salesman's license must be sponsored by a non-resident Montana real estate broker or by a resident Montana real estate broker."
3. The amendment of MAC 40-3.98(6)-S98020 Grant & Issue Licenses will delete in their entirety the following subsections (3)(b) and (d):

"(3)(b) All applicants for licensure as a Non-Resident Real Estate Salesman shall pass the Montana Real Estate Board real estate salesman's examination.

(d) All applicants for licensure as Non-Resident Real Estate Salesman shall, as a prerequisite to licensure in this state, be licensed as an active real estate salesman in their state of residency."

10/10/25/76

MAC Notice No. 40-3-98-7

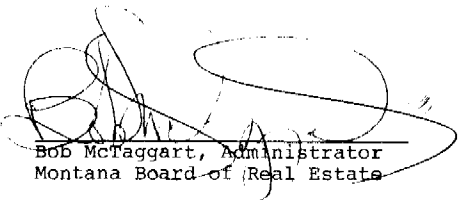


4. The amendment of MAC 40-3.98(6)-S98050 Fee Schedule will read as follows: (New Matter)

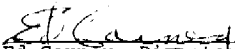
" (2) Examination Fees  
    (a) For initial examination, a fee.....\$50.00  
    (b) For each subsequent examination by the same nominee,  
        a fee.....\$20.00"

5. The purpose of the amendments to MAC 40-3.98(6)-S98010 and MAC 40-3.98(6)-S98020 is to eliminate any references to non-resident salesmens licenses and to thereby remove the licensure category itself. Title 66 Chapter 19 makes no reference to or authorization for non-resident salesmens' licenses and the Board therefore feels it has no authority to so create by rule.
6. The purpose of the amendment of MAC 40-3.98(6)-S98050 Fee Schedule is to allow an applicant who must retake the examination to pay a fee in the amount of \$20, rather than the \$50 initial Examination Fee, which has been heretofore required. This change is commensurate with the actual cost of administering a subsequent examination.
7. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Real Estate, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than November 14, 1976.
8. If any person directly affected wishes to express his views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Real Estate, LaLonde Building, Helena, Montana, on or before November 14, 1976.
9. If the Board of Real Estate receives requests for a public hearing on the proposed amendment from more than twenty-five (25) persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.
10. The authority of the Board of Real Estate to make the proposed amendment's is based on Section 66-1927 R.C.M. 1947.

DATED THIS 14<sup>TH</sup> DAY OF OCTOBER, 1976,



Bob McTaggart, Administrator  
Montana Board of Real Estate



Ed Carney, Director  
Department of Professional  
and Occupational Licensing

CERTIFIED to the Secretary of State 10-14 1976.

10/10/25/76

MAC Notice No. 40-3-98-7

# Chapter 102

## Veterinarians, Board

BEFORE THE BOARD OF VETERINARIANS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PROPOSED ADOPTION  
adoption of a rule to implement ) OF A RULE TO IMPLEMENT  
Section 66-2207 R.C.M. 1947, ) SECTION 66-2207 R.C.M. 1947,  
relating to Continuing Education.) Relating to Continuing  
Education.

No Hearing Contemplated

TO: All Interested Persons

1. On March 17, 1976, the Board of Veterinarians proposes to adopt a rule to implement Section 66-2207 R.C.M. 1947, relating to Continuing Education.

2. The rule proposed for adoption will read as follows:

"(1) Each Veterinarian licensed by the Montana Board of Veterinarians shall be required to attend a Continuing Education Program each year before becoming eligible for license renewal on July 1.

(2) The Continuing Education Program shall consist of a minimum of ten (10) hours and not to exceed fifty (50) hours. This requirement shall be set by the Board annually.

(3) Credit hours may be earned by one (1) hour credit for each hour of attendance at in-depth meetings approved by the Board. American Veterinary Medical Association, American Animal Hospital Association, Western States Veterinary Conference, Veterinary College Conferences, State Association Meetings, and specific seminars are examples of Board approved programs. Local Veterinary Meetings with Scientific Programs, shall be equal to only one (1) hour.

(4) The programs shall be strictly of a medical nature to qualify. Business, nutrition, management or other associated subjects will not qualify.

(5) Each year each veterinarian will be required to certify the number of credit hours earned on a form provided

by the Board. These forms will be mailed to each veterinarian with the annual renewal notice."

3. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Veterinarians, LaLonde Building, Helena, Montana 59601. Written comments in order to be considered must be received no later than March 16, 1976.
4. If any person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Veterinarians, LaLonde Building, Helena, Montana, on or before March 16, 1976.
5. If the Board of Veterinarians receives requests for a public hearing on the proposed adoption from more than 25 persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.
6. The authority of the Board of Veterinarians to make the proposed adoption is based on Section 66-2213 R.C.M. 1947.

Dated this 17th day of February, 1976. Board of Veterinarians  
Dr. Robert D. Painter,  
Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 2-17, 1976.

BEFORE THE BOARD OF WARM AIR HEATING, VENTILATION  
AND AIR CONDITIONING  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

IN THE MATTER of the proposed ) NOTICE OF PUBLIC HEARING  
adoption of rules to interpret )  
Section 66-3503 R.C.M. 1947; )  
and a rule to adopt the Mobile )  
Home Code; and to amend MAC )  
40-3.104(6)-S10420, Definitions;) )  
and MAC 40-3.104(6)-S10470, )  
Master's Bond or Liability )  
Insurance. )

TO: All Interested Persons

1. On March 10, 1976 at 9:00 A.M. in Rooms 405-406 of the State Capitol Building, Sixth Avenue, Helena, Montana a public hearing will be held to consider the proposed adoptions and amendments.
2. The adoption of a rule to interpret Section 66-3503 will read as follows:  
  
"The exemption of work involving "portable heating, ventilation, or air conditioning equipment, which does not become affixed to real property", does not include work done for mobile or modular homes. The exemption does include work done for recreational vehicles."
3. The proposed adoption of the Mobile Home Code will read as follows:  
  
"The Board herein adopts by reference as its applicable standard, the NFPA 501 B, Standard for Mobile Homes, 1973 Edition. This code has been adopted by the Department of Administration as part of the State Building Code. (See MAC 2-2.10(6)-S10180)."
4. The amendment of MAC 40-3.104(6)-S10420 as proposed will replace subsection (1) in its entirety and will read as follows:  
  
"(1) A master licensee is a person who has qualified for and been issued a license by the Board. As such master licensee he is authorized to plan, estimate, bid, and

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MAC Notice No. 40-3-104-5

and contract for warm air heating, ventilation and air conditioning work."

5. The amendment of MAC 40-3.104(6)-S10470 as proposed will replace subsection (1) in its entirety with the following language:

"(1) The bond required under Section 66-3510 R.C.M. 1947 shall be issued and renewed in the name of the applicant for licensure for master's licensure, or jointly in the name of the applicant and the firm, corporation, or partner with which he is associated."

6. Interested persons may present their data, views or arguments either orally or in writing at the hearing.
7. The Board of Warm Air Heating, Ventilation, and Air Conditioning or its designee shall preside over and conduct the hearing.
8. The authority of the Board to make the proposed adoptions and amendments is based on Section 66-3504 R.C.M. 1947.

Dated this 17th day of February, 1976. Board of Warm Air Heating, Ventilation and Air Conditioning  
Ronald Matteucci,  
Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State 2-17, 1976

Chapter 106  
Water-Well  
Contr., Board



BEFORE THE BOARD OF WATER WELL CONTRACTORS  
OF THE  
DEPARTMENT OF PROFESSIONAL AND  
OCCUPATIONAL LICENSING  
OF THE  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PROPOSED  
adoption of new Rules on Surface ) adoption of new Rules  
Casing and Grouting. ) on Surface Casing and  
Grouting.

No Hearing Contemplated

TO: All Interested Persons

1. On August 15, 1976, the Board of Water Well Contractors proposes to adopt the Rule on Surface Casing and Grouting.

2. The Rules as proposed will read as follows:

"1. The use of plastic well casing in connection with a pitless adaptor is not acceptable. A metal transition section shall be used to attach the pitless adaptor to the casing and the metal casing shall be carried to at least one (1) foot above the finished surface grade. The earth fill around the terminus of the well shall be graded and compacted so that surface water shall flow away from the casing."

"2. Sealing and grouting of the annular space between the casing and the drill hole or the space between the inner and outer casing is necessary to prevent contamination from entering a well. The depth of seal required for protection depends upon the character of the formation, whether porous or impervious, fine or coarse grained, and upon the depth and proximity of pollution sources, such as sink holes, sewage disposal units, abandoned or poorly constructed wells, mine workings, outcrops, etc. The seal shall extend to a minimum of 1 1/2 inches thick. There shall be placed a slab two feet long and two feet wide and four inches thick around the casing, immediately under the pitless adaptor.

When no pitless adaptor is used all wells drilled by the rotary method and those wells of less than 40 feet deep drilled by the cable tool method shall be sealed for a minimum depth of 20 feet below the top

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MAC Notice No. 40-3-106-2

of the ground and completed at the surface with a slab of grout or cement 2 feet x 2 feet by 4 inches thick."

- "3. Abandoned wells must be sealed by filling the hole with neat cement grout, concrete, puddled clay or bentonite. In no instance shall abandoned wells be used for the disposal of sewage, household waters or other contaminating material."
- "4. Variances from the above rules may be granted when drilling conditions indicate no detriment to health will be caused by the variance."
3. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Water Well Contractors, LaLonde Building, Helena, Montana. Written comments in order to be considered must be received no later than August 15, 1976.
4. If any person directly affected wishes to express his views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to the Board of Water Well Contractors, LaLonde Building, Helena, Montana, on or before August 15, 1976.
5. If the Board of Water Well Contractors receives requests for a public hearing on the proposed amendment from more than twenty-five (25) persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.
6. The authority of the Board of Water Well Contractors to make the proposed adoption is based on Section 66-2605 R.C.M. 1947.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1976.

BOARD OF WATER WELL CONTRACTORS  
Wes Lindsey, Chairman

By: Ed Carney  
Ed Carney, Director  
Department of Professional  
and Occupational Licensing

Certified to the Secretary of State \_\_\_\_\_ 1976.

# Title 42

## Revenue

In the matter of the amendment ) NOTICE OF AMENDMENT OF RULES  
of rule 31-1.11(2)-S22050 As- ) PERTAINING TO THE ASSESSMENT  
sessment of Tractor and Farm ) OF TRACTOR AND FARM EQUIPMENT.  
Equipment. )  
 ) NO PUBLIC HEARING CONTEMPLATED

1. On April 15, 1976, the Department of Revenue proposes to amend rule 42-2.22(2)-S22050 Assessment of Tractor and Farm Equipment.

42-2.22(2)-S22050 ASSESSMENT OF TRACTOR AND FARM EQUIPMENT

(2) Farm machinery not listed in the above publication including, but not limited to, farm irrigation systems, shall be assessed from a schedule based upon a fifteen year life depreciated to a minimum of nineteen percent (19%) of original cost, if still in use, times a seventy percent (70%) loan value.


4. Interested parties may submit their data, views, or arguments concerning the proposed amendments in writing to W. A. Groff, Director of the Department of Revenue, Mitchell Building, Helena, Montana 59601. Written comments in order to be considered must be received not later than April 15, 1976.

6. If the Department receives requests for a public hearing on the proposed rules from more than twenty-five persons directly affected, a public hearing will be held at a later

(2)

date. Notification of parties will be made by publication in the Administrative Register.

7. The authority of the Department to make the proposed rule is based on Section 84-708.1, R.C.M. 1947.

  
W. A. GROFF  
Director  
Department of Revenue

Certified to the Secretary of State March 17, 1976.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF AMENDMENT OF RULES  
of rule 42-2.22(2)-S22070 As- ) PERTAINING TO THE ASSESSMENT  
essment of Oil Field Machinery) OF OIL FIELD MACHINERY AND  
and Supplies. ) SUPPLIES.  
 )  
 ) NO PUBLIC HEARING COMTEMPLATED

TO: All Interested Persons

1. On April 15, 1976, the Department of Revenue proposes to amend rule 42-2.22(2)-S22070 Assessment of Oil Field Machinery and Supplies.

2. The proposed rules provide as follows:

42-2.22(2)-S22070 ASSESSMENT OF OIL FIELD MACHINERY AND SUPPLIES

(1) The assessed value for oil field machinery equipment and supplies shall be forty percent (40%) of the current market price.

3. Matter to be stricken is interlined and new material is underlined.


4. Interested parties may submit their data, views or arguments concerning the proposed amendments in writing to W. A. Groff, Director of the Department of Revenue, Mitchell Building, Helena, Montana 59601. Written comments in order to be considered must be received not later than April 15, 1976.

5. If a person directly affected wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to W. A. Groff, on or before April 15, 1976.

6. If the Department receives requests for a public hearing on the proposed rules from more than twenty-five persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

(2)

7. The authority of the Department to make the proposed rule is based on Section 84-708.1, R.C.M. 1947.

  
\_\_\_\_\_  
W. A. Groff  
Director  
Department of Revenue

Certified to the Secretary of State March 17, 1976

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF REPEAL OF RULES PER-
repeal of rule 42-2.22(2)-	)	TAINING TO ASSESSMENT OF FARM
S22100 Assessment of Farm	)	IRRIGATION SPRINKLER SYSTEMS.
Irrigation Sprinkler Systems.	)	
	)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On April 15, 1976, the Department of Revenue proposed to repeal rule 42-2.22(2)-S22100 Assessment of Farm Irrigation Sprinkler Systems.

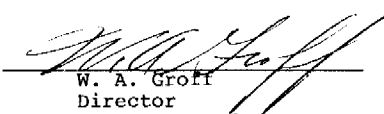
2. The Department has proposed the repeal of this rule to insure uniformity of taxation of farm equipment.

3. Interested persons may submit their data, views or arguments concerning the proposed repeal orally or in writing to W. A. Groff, Director of the Department of Revenue, Mitchell Building, Helena, Montana 59601. Written comments in order to be considered must be received not later than April 15, 1976.

4. If a person directly affected wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to W. A. Groff, on or before April 15, 1976.

5. If the Department receives requests for a public hearing on the proposed rules from more than twenty-five persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

6. The authority of the Department to make the proposed rule is based on Section 84-708.1, R.C.M. 1947.

  
W. A. Groff  
Director  
Department of Revenue

Certified to the Secretary of State March 17, 1976.



BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of adoption	)	NOTICE OF PUBLIC HEARING FOR
of rules relating to the ap-	)	ADOPTION OF RULES RELATING TO
praisal and assessment of cen-	)	THE APPRAISAL AND ASSESSMENT
trally assessed property.	)	OF CENTRALLY ASSESSED PROPERTY

TO: All Interested Persons

1. On April 22, 1976 at 9:30 a.m., a public hearing will be held in the Conference Room of the Montana Historical Society Building, Helena, Montana, to consider the adoption of rules relating to appraisal and assessment of centrally assessed property.

2. The proposed rules do not replace or modify any section currently found in the Montana Administrative Code.

3. The proposed rules provide in summary as follows:

Rule 1. INTER-STATE AND INTER-COUNTY CONTINUOUS PROPERTY.

(1) The Department of Revenue shall appraise and assess the inter-county and inter-state property of railroads, microwave, telephone, telegraph, gas, electric, ditch, canal, flume, natural gas pipeline, oil pipeline and airline companies which have a continuous property which is inter-county or inter-state.

(2) The property of the above-named companies will be divided into the categories of operating and non-operating. The operating property will be appraised and assessed by the Department of Revenue and its agents. The non-operating property with situs in Montana will be appraised and assessed by the agents of the Department of Revenue.

Rule 2. DEFINITIONS.

Rule 3. REPORT.

(1) Each year on forms supplied by the Department of Revenue all centrally assessed companies will report on the preceeding year's operations.

(2) The report shall contain among other things a balance sheet for the entire system, a statement of income for the system, a description and cost of system property both owned and leased.

(3) Each year a centrally assessed company must revise

(2)

and update its statement of mileage provided by the Department.

Rule 4. VALUATION.

(1) The unit method or rule of assessment will be used where applicable in the appraisal of centrally assessed companies.

(2) When the unit method is used in multiple indices of value are determined they will be blended to determine system value.

Rule 5. ALLOCATION.

(1) The Department shall allocate that portion of a unit valuation to this state which will represent the market value of a centrally assessed company's property in the state.

(2) For the purpose of allocating the unit value, quantity, use and productivity ratios may be applied.

Rule 6. EQUALIZATION AND APPORTIONMENT.

(1) Centrally assessed property will be equalized at the rate of 40% of Montana's system value.

(2) Apportionment of assessed value to taxing jurisdictions will depend upon type of company.

Rule 7. NOTIFICATION AND HEARING.

(1) Between the months of March and June the companies will be given a proposed valuation. During that time representatives of the companies and the Department may informally meet to review the proposed valuation.

(2) Upon final notification a centrally assessed company will have ten (10) days to request a formal hearing before the Director of Revenue. Airlines will be allowed thirty (30) days. Any such request must state in detail the grounds upon which the request has been made.

(3) Appeals from the final determination of the Montana Department of Revenue may be taken to the Montana State Tax Appeal Board.

(4) If additional time is needed for the filing of reports or preparing for hearings, the Department must receive their request prior to the due date if the extension request is to be considered.

4. A complete copy of the proposed rules may be obtained by contacting: Kenneth Morrison, Inter-Property Bureau Chief,

Inter-County Property Bureau, Property Assessment Division, Montana Department of Revenue, Mitchell Building, Helena, Montana, 59601. Interested persons may present their data, views or arguments whether orally or in writing at the hearing.

5. William A. Groff, Director of Revenue, Department of Revenue, Mitchell Building, Helena, Montana, 59601, has been designated to preside over and conduct the hearing. The authority of the Department to make the proposed rules is based upon Section 84-708.1, R.C.M. 1947.

  
W. A. GROFF

Director

Department of Revenue

Certified to the Secretary of State March 17, 1976.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption ) NOTICE OF PUBLIC HEARING FOR  
of rules relating to the Mont- ) ADOPTION OF RULES RELATING TO  
ana Economic Land Development ) THE MONTANA ECONOMIC LAND  
Act (MELDA) ) DEVELOPMENT ACT (MELDA).

TO: All Interested Persons

1. Upon the request of an Interested Party, pursuant to Sec. 82-4204(b), R.C.M. 1947, as amended, the previously noticed hearing for January 15, 1976, has been extended to February 18, 1976, at 9:30 a.m.. The hearing will be held in the auditorium of the Montana Department of Highways building, 6th & Roberts, Helena, Montana, to consider the adoption of Rules relating to the Montana Economic Land Development Act (MELDA).

2. The proposed Rules do not replace or modify any Section currently found in the Montana Administrative Code. The proposed rules provide as follow; a complete copy of the proposed Rules may be obtained by contacting the Property Assessment Division, Montana Department of Revenue, Mitchell Building, Helena, Montana, 59601.

3. The proposed summary is as follows:

Rule 1. STATEMENT OF INTENT

Rule 2. SUMMARIZATION OF THE PROVISIONS OF THE MONTANA  
ECONOMIC LAND DEVELOPMENT ACT (MELDA)

- A. Local government classification.
- B. Local government hearing.
- C. Provisions for adopting land classification plan.
- D. Department of Revenue Hearings.
- E. Management of land classification plan.
- F. Subclassification of agricultural land.
- G. Subclassification of recreational land.
- H. Tax treatment of residential, commercial and industrial land.
- I. Classification of land as open space.

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J. Ambiguous provisions in MELDA.

1. Reclassification
2. Increased mill levies
3. Multiple classification of multiple ownerships
4. Nonconforming use of tax exempt property
5. Exemption for the elderly and impoverished

Rule 3. ORIGINAL CLASSIFICATION OF DESIRABLE USE

- A. Department of Revenue (DR) hearings office - county assessor.
- B. Hearings held pursuant to Montana Administrative Code (MAC).
- C. Property Valuation Division classification established pursuant to Section 84-7508.

Rule 4. CHANGE IN CLASSIFICATION AFTER FINAL ADOPTION OF LAND USE PLAN

- A. Local government must inform DR by November 1.
- B. DR hearing pursuant to MAC prior to January 1.
- C. County Assessor hearings officer.
- D. Decision pursuant to Section 84-7508 rendered prior to March 1.

Rule 5. SUBCLASSIFICATION OF AGRICULTURAL AND RECREATIONAL LAND BY OWNER

- A. Class A<sub>a</sub> Land definition and valuation.
- B. Class B<sub>a</sub> Land definition and valuation.
- C. Class C<sub>a</sub> Land definition and valuation.
- D. Class D<sub>a</sub> Land definition and valuation.
- E. Class A<sub>r</sub> Land definition and valuation.
- F. Class B<sub>r</sub> Land definition and valuation.

Rule 6. VALUATION OF RESIDENTIAL LAND

- A. Class A<sub>rsm</sub> definition and valuation.
- B. Class B<sub>rs</sub> definition and valuation.  
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C. Class  $C_{r_m}$  definition and valuation.

D. Class  $D_{r_c}$  definition and valuation.

Rule 7. VALUATION OF COMMERCIAL LAND

A. Class  $A_{c_o}$  definition and valuation.

B. Class  $A_{c_i}$  definition and valuation.

C. Class  $C_{c_i}$  definition and valuation.

D. Class  $D_{c_n}$  definition and valuation.

Rule 8. VALUATION OF INDUSTRIAL LAND

A. Class  $A_i$  definition and valuation.

B. Class  $B_i$  definition and valuation.

C. Class  $C_i$  definition and valuation.

D. Class  $D_i$  definition and valuation.

E. Class  $A_{i_n}$  definition and valuation.

F. Class  $B_{i_n}$  definition and valuation.

G. Class  $C_{i_n}$  definition and valuation.

H. Class  $D_{i_n}$  definition and valuation.

Rule 9. OPEN SPACE

A. Definition.

B. Permitted uses.

C. Valuation.

Rule 10. FIVE YEAR REAPPRAISAL CYCLE

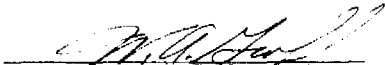
4. Interested persons may present their data, views or arguments whether orally or in writing at the hearing.

5. Dennis M. Burr, Administrator, Property Tax Division, Department of Revenue, Mitchell Building, Helena, Montana, 59601, has been designated by the Director of Revenue to


(4)

preside over and conduct the hearing.

6. The authority of the Department to make the proposed amendment is based upon Section 84-7521, R.C.M. 1947.

  
\_\_\_\_\_  
W. A. GROFF  
Director  
Department of Revenue

Certified to the Secretary of State January 14, 1976.

1-1/26/76 

MAC Not. No. 42-2-60

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF ADOPTION OF RULES
of rules providing for the	)	PROVIDING FOR THE IMPLE-
implementation of the Montana	)	MENTATION OF THE MONTANA
Corporate License Tax Credit	)	CORPORATE LICENSE TAX CREDIT
Act of 1975 as codified in	)	ACT OF 1975
Section 84-1519 - 84-1525,	)	
R.C.M. 1947.	)	No Public Hearing Contemplated

TO: All Interested Persons

1. On February 16, 1976, the Department of Revenue proposes to adopt rules to implement the Montana Corporation License Tax Credit Act of 1975.

2. The proposed rules do not replace or modify any section currently found in the Montana Administrative Code.

3. The proposed rules provide in summary the following:

Rule I. DETERMINATION OF ELIGIBILITY

Rule II. PERIOD OF ELIGIBILITY

Rule III. MANUFACTURING DEFINED

Rule IV. EXPANDING DEFINED

Rule V. NEW CORPORATION DEFINED

Rule VI. EXPANDING CORPORATION DEFINED

Rule VII. FAILURE TO COMPLY

Rule VIII. HOW CREDIT MAY BE USED

Rule IX. APPLICABILITY OF CREDIT

Rule X. WHEN CREDIT MAY BE CLAIMED

Rule XI. FULL TIME JOB DEFINED

Rule XII. SUBMISSION OF EMPLOYEE LISTS

Rule XIII. DETERMINATION OF NEW JOBS

1-1/26/76

MAC Not. No. 42-2-61



(2)

Rule XIV. DETERMINATION OF WAGES

4. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comment he has to W. A. Groff, on or before February 16, 1976.

5. If the Department receives requests for a public hearing on proposed regulations from more than twenty-five persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

6. A complete copy of the proposed rules may be obtained by writing to W. A. Groff, Director of the Department of Revenue, Mitchell Building, Helena, Montana, 59601.

7. The authority of the Department of Revenue to make the proposed rules is based upon Sections 84-708.1 and 84-1524, R.C.M. 1947.



W. A. Groff  
Director  
Department of Revenue

Certified to the Secretary of State January 14, 1976.

(1)

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PUBLIC HEARING FOR  
of Rule 42-2.22(2)-S22150 pro- ) AMENDMENT OF RULE 42-2.22(2)-  
viding for the assessment of ) S22150 (ASSESSMENT OF RECREA-  
recreational vehicles. ) TIONAL VEHICLES).

TO: All Interested Persons

1. On February 19, 1976, at 9:30 a.m., a public hearing will be held in Room 215 of the Mitchell Building, Capitol Complex, Helena, Montana, to consider the amendment of Rule 42-2.22(2)-S22150, requiring the assessment of recreational vehicles. The hearing is being held in response to a petition filed by a group of interested persons to amend the existing rule.

2. The proposed amendment replaces present Rule 42-2.22(2)-S22150 found in the Montana Administrative Code. The proposed amendment would provide for the assessment of recreational vehicles on a depreciation schedule similar to that used by the Department of Revenue to assess mobile homes.

3. Rule 42-2.22(2)-S22150, as proposed to be amended, is as follows: (Matter to be stricken is interlined and new matter is underlined.)

~~{2}--The minimum assessed value of camping and travel trailers shall be the wholesale value (W-S) of such property as shown in the "N.A.D.A. Recreation Vehicle Appraisal Guide," January edition of the year of assessment, National Automobile Dealer's Association, P. O. Box 1407, Covina, Calif. 91722. This guide may be reviewed in the Department or published from the publisher.~~

(2) The minimum assessed value of camping and travel trailers shall be assessed in accordance with the formula followed for mobile home assessment schedule herein incorporated by the Department of Revenue as provided for under Rule 42-2.22(2)-S22030, supra. The suggested list price or suggested retail price to be utilized with the proper depreciation schedule shall be by the N.A.D.A. Recreation Vehicle Appraisal Guide, January issue of the year of assessment, National Automobile Dealer's Association, P. O. Box 1407, Covina, Calif. 91722. This guide may be reviewed in the Department or purchased from the publisher.

(2)

~~(3) -- The minimum assessed value of truck campers and motor homes shall be the wholesale value (W-S) of such property as shown in the N.A.D.A. Recreation Vehicle Guide, January edition of the year of assessment. National Automobile Dealer's Association, P. O. Box 1407, Covina, Calif. 91722. This guide may be reviewed in the Department or purchased from the publisher.~~


(3) The minimum assessed value of truck campers and motor homes shall be in accordance with the formula followed for mobile home assessment schedule herein incorporated by the Department of Revenue, as provided for under 42-2.22(2)-S22030, supra. The suggested list price, or suggested retail price to be utilized with the proper depreciation schedule shall be by the N.A.D.A. Recreation Vehicle Appraisal Guide, January issue of the year of assessment, National Automobile Dealers Association, P. O. Box 1407, Covina Calif. 91722. This guide may be reviewed in the Department or purchased from the publisher.

4. Interested persons may present their data, views or arguments whether orally or in writing at the hearing. Interested parties may also present their data, views or arguments in writing to the Department. Written material to be considered by the Director of Revenue must be received by the Department not later than February 19, 1976.


5. Rationale. The Department of Revenue is conducting this hearing in response to a petition filed requesting the amendment by a group of interested citizens. The petitions state the amendment is necessary to equitably and fairly tax recreational vehicles.

6. William A. Groff, Director of Revenue, Mitchell Building, Helena, Montana 59601, will serve as hearings officer and preside over and conduct the hearing.

7. The authority of the Department to make the proposed amendment is based upon Section 84-708.1, R.C.M. 1947.

  
W. A. GROFF  
Director  
Department of Revenue

Certified to the Secretary of State January 14, 1976.

1-1/26/76 

MAC Not. No. 42-2-62

In the matter of the adoption ) NOTICE OF PUBLIC HEARING FOR  
of rules relating to the Taxa- ) ADOPTION OF RULES RELATING TO  
tion of Building and Loan or ) TAXATION OF BUILDING AND LOAN  
Savings and Loan Associations. ) OR SAVINGS AND LOAN ASSOCIA-  
                                     ) TIONS.

1. On February 24, 1976, at 9:00 a.m., a public hearing will be held in Room 215 of the Department of Revenue, Sam Mitchell Building, Helena, Montana, to consider the adoption of Rules 1 through 5, relating to assessment and taxation of Building and Loan Associations.

3. The proposed rule provides as follow:

(1) The purpose of these regulations is to provide guidelines for determining the value of Moneyed Capital for ad valorem taxation. The regulations state the manner of preparing and filing the "Statement for Assessment" by the secretary of an association, and the Department of Revenue's authority and duties for auditing and verifying the validity of the values reported.

(1) The secretary of every association shall furnish to the Department of Revenue or its agent in the county in which the principal office of the association is located a "Statement for Assessment" verified by oath, of the resources and liabilities of the association as disclosed by its year end after closing statement of condition as of the day next preceding the first day of January.

(2) The secretary completing the "Assessment Statement" is required to swear to the fact that no property has been disposed of or placed out of the county or state in which the association is located or possession of the association for the purpose of avoiding assessment.

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MAC Not. No. 42-2-63

(2)

(1) Moneyed capital shall be ascertained by deducting from the amount of real estate loans and contracts, stock loans, loans to other associations, bonds and warrants, cash on hand and in Banks, claims and judgements, insurance and taxes advanced, and other assets representing evidences of indebtedness, the amount of installment stock, prepaid stock, fully paid stock, bills payable, amounts due borrowers, amounts due agents, other liabilities representing money borrowed for use as moneyed capital.

(2) Each association will be notified of the assessment on moneyed capital. Any changes made in auditing the "Statement for Assessment" which result in a change of assessment from the amount shown by the taxpayer will be explained in a letter sent to the county assessor and the association involved.

Rule 4. RIGHT TO AUDIT.

(1) The Department of Revenue has the right to audit all persons, corporations, partnerships and associations, to enable the Department of Revenue to ascertain the value of the relative burdens born by all kinds of property and occupations in the state.

Rule 5. CLASSIFICATION OF MONEYED CAPITAL.

(1) Moneyed capital shall be taxed at the same rate and take the same classification as shares of stock in a national bank or moneyed capital coming in substantial competition therewith.

(2) The value of moneyed capital assessed to the association is classified by R.C.M. 84-308. The taxable value of the association's Reserve Fund up to 5% of the book value of the outstanding stock is 7%. The balance of moneyed capital is taxable at 30%.


4. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing. Written comments must be received no later than February 24, 1976.

5. Department of Revenue intends to adopt these rules to clarify and implement statutes relating to taxation of Savings and Loans.


6. Laury M. Lewis, Deputy Director, Department of Revenue, Mitchell Building, Helena, Montana, 59601, has been designated by the Director of Revenue to preside over and con-

duct the hearing.

7. The authority of the Department to make the proposed rule is based on section 84-708.1, R.C.M. 1947.

  
\_\_\_\_\_  
W. A. GROFF  
Director  
Department of Revenue

Certified to the Secretary of State January 14 , 1976.

1-1/26/76 

MAC Not. No. 42-2-63

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF AMENDMENT OF RULES  
of rule 42-2.22(6)-S22200 New ) PERTAINING TO THE NEW INDUS-  
Industrial Property. ) TRIAL PROPERTY.  
)  
) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On May 17, 1976, the Department of Revenue proposes to amend the rule 42-2.22(6)-S22200 New Industrial Property.

2. The new material is underlined.

42-2.22(6)-S22200 NEW INDUSTRIAL PROPERTY

(1) Amend rule 42-2.22(6)-S22200 at subsection (1)(c)(ii) by adding:

"(ii) Industrial endeavor which does not consist of industries which manufacture, mill, mine, produce, or fabricate materials; or extract, process, make fit for use, or substantially alter or treat materials so as to create commercial products or materials; or engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the 1972 Industrial Classification Manual."

(2) Further amend rule 42-2.22(6)-S22200 at subsection (1)(c)(iii) by adding:

"(iii) The service industries where the processing or handling of materials is only incidental, and specified in the 1972 Standard Industrial Classification Manual as retail or wholesale merchants, commercial services, agriculture, trades or professions."

(3) Further amend rule 42-2.22(6)-S22200 by adding the following new subsection (9):

"(9) ADVERSE IMPACT OF A NEW INDUSTRIAL FACILITY A new industrial facility which will create an adverse impact on existing local government services is: (1) a manufacturing or mining facility which will employ at least one hundred (100) or more people during construction or operation (2) and which is located in an area which does not have a government infrastructure of sufficient magnitude to readily absorb the new

facility without significant expansion.

The state of the government infrastructure existing in an area proposed for the location of a new industrial facility employing one hundred (100) persons or more and the possible impact of such a facility shall be ascertained through public hearings conducted by the department.

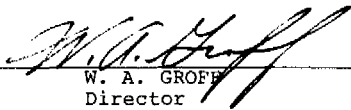
New industrial facilities which constitute an adverse impact shall be required to prepay property taxes in accordance with Section 84-41-105."

3. Interested parties may submit their data, views, or arguments concerning the proposed amendments in writing to W. A. Groff, Director of the Department of Revenue, Mitchell Building, Helena, Montana 59601. Written comments in order to be considered must be received not later than May 17, 1976.

4. If a person directly affected wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to W. A. Groff, on or before May 17, 1976.

5. If the Department receives requests for a public hearing on the proposed rules from more than twenty-five persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

6. The authority of the Department to make the proposed rule is based on Section 84-708.1 and 84-301, R. C. M. 1947.

  
\_\_\_\_\_  
W. A. GROFF  
Director  
Department of Revenue

Certified to the Secretary of State April 15, 1976.



BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF AMENDMENT OF RULES
of the rule 42.22(20)-S22390	)	PERTAINING TO THE PROCEDURES
Procedures in Filing Bank	)	IN FILING BANK STATEMENT FOR
Statement for Assessment under	)	ASSESSMENT UNDER LIABILITIES
Liabilities.	)	
	)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On June 15, 1976, the Department of Revenue proposes to amend the rule 42.22(20)-S22390 Procedures in Filing Bank Statement for Assessment under Liabilities.

2. The new material is underlined.

42.22(20)-S22390 PROCEDURES IN FILING BANK STATEMENT FOR ASSESSMENT UNDER LIABILITIES

(1) Amend rule 42.22(20)-S22390 at item 19) Loan Loss Reserve (IRS) authorized by deleting sub-item A) in its entirety and substituting the following new language:

"The amount of both valuation and contingency reserves which have been established by transfers calculated through either the experience or the percent of eligible loans method required by Section 585 of the Tax Reform Act of 1969. Any transfers to loan loss reserves which exceed the greater of the experience or the percent of eligible loans calculation shall be reported in item 20) Other Reserve."

3. Interested parties may submit their data, views, or arguments concerning the proposed amendments in writing to W. A. Groff, Director of the Department of Revenue, Mitchell Building, Helena, Montana, 59601. Written comments in order to be considered must be received not later than June 15, 1976.

4. If a person directly affected wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to W. A. Groff, on or before June 15, 1976.

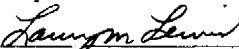
5. If the Department receives requests for a public hearing on the proposed rules from more than twenty-five persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

(2)

6. The authority of the Department to make the proposed rule is based on Section 84-708.1, R.C.M. 1947.

W. A. GROFF  
Director  
Department of Revenue

BY

  
LAURY M. LEWIS  
Deputy Director

Certified to the Secretary of State May 17, 1976.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PUBLIC HEARING FOR  
of rule 42-2.22(6)-S22200 New ) AMENDMENT OF RULE PERTAINING  
Industrial Property. ) TO THE NEW INDUSTRIAL  
 ) PROPERTY.

TO: All Interested Persons

1. On July 15, 1976 at 9:30 a.m., a public hearing will be held in the Conference Room of the Montana Historical Society Building, Helena, Montana, to consider the amendment of the rule relating to New Industrial Property. This hearing is being held in response to the sufficient number of requests received by the Department of Revenue.

2. The new material is underlined.

3. The proposed rule provides in summary as follows:

42-2.22(6)-S22200 NEW INDUSTRIAL PROPERTY

(1) Amend rule 42-2.22(6)-S22200 at subsection (1)(c)(ii) by adding:

"(ii) Industrial endeavor which does not consist of industries which manufacture, mill, mine, produce, or fabricate materials; or extract, process, make fit for use, or substantially alter or treat materials so as to create commercial products or materials; or engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the 1972 Industrial Classification Manual."

(2) Further amend rule 42-2.22(6)-S22200 at subsection (1)(c)(iii) by adding:

"(iii) The service industries where the processing or handling of materials is only incidental, and specified in the 1972 Standard Industrial Classification Manual as retail or wholesale merchants, commercial services, agriculture, trades or professions."

(3) Further amend rule 42-2.22(6)-S22200 by adding the following new subsection (9):

"(9) ADVERSE IMPACT OF A NEW INDUSTRIAL FACILITY A new industrial facility which will create an adverse impact on existing local government services is: (1) a manufacturing or mining facility which will employ at least one hundred (100) or more people during construction or operation (2) and which

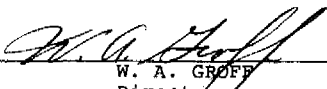
is located in an area which does not have a government infrastructure of sufficient magnitude to readily absorb the new facility without significant expansion.

The state of the government infrastructure existing in an area proposed for the location of a new industrial facility employing one hundred (100) persons or more and the possible impact of such a facility shall be ascertained through public hearings conducted by the department.

New industrial facilities which constitute an adverse impact shall be required to prepay property taxes in accordance with Section 84-41-105."

4. Interested parties may submit their data, views, or arguments to W. A. Groff, Director of the Department of Revenue, Mitchell Building, Helena, Montana, 59601. Written arguments must be received on or before July 15, 1976.

5. William A. Groff, Director of Revenue, Department of Revenue, Mitchell Building, Helena, Montana, 59601, has been designated to preside over and conduct the hearing. The authority of the Department to make the proposed rule is based on Section 84-708.1 and 84-301, R.C.M. 1947.

  
\_\_\_\_\_  
W. A. GROFF  
Director  
Department of Revenue

Certified to the Secretary of State June 15, 1976.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PUBLIC HEARING FOR  
of Rule 42-22(1)-S2255 Montana ) AMENDMENT OF RULE 42-2.22(1)-  
Appraisal Plan. ) S2255(MONTANA APPRAISAL PLAN).

TO: All Interested Persons

1. On July 21, 1976 at 10:00 a.m., a public hearing will be held in the auditorium of the Montana Department of Highways building, 6th & Roberts, Helena, Montana, to consider the amendment of Rule 42-22(1)-S2255, Montana Appraisal Plan. The hearing is being held in response to a petition filed by a group of interested persons to amend the existing rule.

2. The proposed amendment would provide for the nonimplementation of the reappraisal until the 1977 Legislature meets and considers the constitutional, legal and equitable questions concerning Section 84-429.14 and Rule 42-2.22(1)-S2255.

3. Rule 42-2.22(1)-S2255, as proposed to be amended, is as follows: (New matter is underlined.)

"(3) Implementation of the Montana Appraisal Plan shall be suspended until adjournment of the 1977 Legislature or until passage of a Joint Resolution amending this rule (and/or clarification or amendment of Section 84-429.14), whichever comes first. New construction and subdivision of existing land shall continue to be appraised under the method presently being used and the taxes assessed on such property. Reappraisal shall continue according to the Plan but taxes shall not be assessed in accordance with the reappraisal until the above-mentioned date."

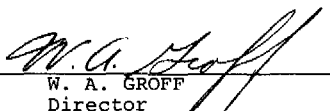
4. Interested persons may present their data, views or arguments whether orally or in writing at the hearing. Interested parties may also present their data, views or arguments in writing to the Department. Written material to be considered by the Director of Revenue must be received by the Department not later than July 21, 1976.

5. Rationale. The Department of Revenue is conducting this hearing in response to a petition filed requesting the amendment by a group of interested legislators for their constituents. The petitioners assert that the Legislature did not intend such vast inequities to exist in the reappraisal plan and that Section 84-429.14, R.C.M. 1947, which mandates the periodic revaluation is not specific about when the reappraisal is to be implemented.

(2)

6. William A. Groff, Director of Revenue, Mitchell Building, Helena, Montana, 56601, will serve as hearings officer and preside over and conduct the hearing.

7. The authority of the Department to make the proposed amendment is based upon Section 84-708.1, R.C.M. 1947.

  
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W. A. GROFF  
Director  
Department of Revenue

Certified to the Secretary of State June 15, 1976.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment )	NOTICE OF PUBLIC HEARING FOR
of Rule 42-2.22(20)-S22400 )	AMENDMENT OF RULE 42-2.22(20)
Computation of the Value )	-S22400 COMPUTATION OF THE
of Bank Stock. )	VALUE OF BANK STOCK.

TO: All Interested Persons

1. On July 20, 1976, at 9:30 a.m., a public hearing will be held in the Conference Room of the Montana Historical Society Building, Helena, Montana, to consider the amendment of the rule relating to Computation of the Value of Bank Stock.

2. The new material is underlined.

"42-2.22(20)-S22400 COMPUTATION OF THE VALUE OF BANK STOCK.

(1) The Department of Revenue will calculate the value of capital stock and the value of stock to be assessed to each of the stockholders to be ascertained and determined in the following manner.

A. Add the values of capital stock, surplus, undivided profits, current net earnings, and any taxable reserves after all accounts and items have been converted to a cash accounting value if not so maintained by the subject bank. Subtract from the above total the net book value of all real estate, furniture and fixtures and other personal property assessed and taxed to the bank; and in addition subtract the book value of all stocks, bonds, Treasury notes, and other obligations of the United States of America held by such bank on assessment day as required by Section 742, United States Codes, Title 31. The balance is the value of stock to be assessed to stockholders.

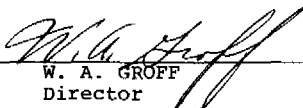
3. Interested persons may present their data, views or arguments whether orally or in writing at the hearing. Interested parties may also present their data, views or arguments in writing to the Department. Written material to be considered by the Director of Revenue must be received by the Department not later than July 20, 1976.

4. Rationale. The Department of Revenue is conducting this hearing in response to a petition filed requesting the amendment by the Montana Bankers Association. The petition stated the amendment is that all stocks, bonds, Treasury notes, and other obligations of the United States are exempt from taxation under the provisions of Section 742, Title 31, United States Codes.

(2)

5. Laury M. Lewis, Deputy Director, Department of Revenue, Mitchell Building, Helena, Montana, 59601, has been designated by the Director of Revenue to preside over and conduct the hearing.

6. The authority of the Department to make the proposed rule is based on Section 74-708.1, R.C.M. 1947.

  
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W. A. GROFF  
Director  
Department of Revenue

Certified to the Secretary of State June 15, 1976.



BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment )	NOTICE OF AMENDMENT OF RULE
of Rule 42-2.22(20)-S22400 )	42-2.22(20)-S22400 COMPUTATION
Computation of the Value )	OF THE VALUE OF BANK STOCK.
of Bank Stock )	
)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Interested Persons

1. On July 15, 1976, the Department of Revenue proposes to amend the rule 42-2.22(20)-S22400 Computation of the Value of Bank Stock.

2. The new material is underlined.

"42-2.22(20)-S22400 COMPUTATION OF THE VALUE OF BANK STOCK

(1) The Department of Revenue will calculate the value of capital stock and the value of stock to be assessed to each of the stockholders to be ascertained and determined in the following manner:

A. Add the value of capital stock, surplus, undivided profits, current net earnings, and any taxable reserves after all accounts and items have been converted to a cash accounting value if not so maintained by the subject bank. Subtract from the above total the net book value of all real estate, furniture and fixtures and other personal property assessed and taxed to the bank."

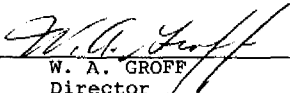
3. Interested parties may submit their data, views, or arguments concerning the proposed amendment in writing to W. A. Groff, Director of the Department of Revenue, Mitchell Building, Helena, Montana, 59601. Written comments in order to be considered must be received not later than July 15, 1976.

4. If a person directly affected wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to W. A. Groff, on or before July 15, 1976.

5. If the Department receives requests for a public hearing on the proposed rules from more than twenty-five persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

(2)

6. The authority of the Department to make the proposed rule is based on Section 84-708.1, R.C.M. 1947.

  
\_\_\_\_\_  
W. A. GROFF  
Director  
Department of Revenue

Certified to the Secretary of State June 15, 1976.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption ) NOTICE OF PUBLIC HEARING FOR  
of rules relating to the Rea- ) ADOPTION OF RULES RELATING  
lty Transfer Act. ) TO THE REALTY TRANSFER ACT.

TO: All Interested Persons

1. On July 23, 1976, at 10:00 a.m., a public hearing will be held in Room 215 of the Department of Revenue, Sam Mitchell Building, Helena, Montana, to consider the adoption of Rules 1 through 3, relating to the Realty Transfer Act.

2. The proposed rule does not replace or modify any section currently found in the Montana Administrative Code.

3. The proposed rule provides as follows:

Rule 1. STATEMENT OF INTENT.

(1) The Realty Transfer Act serves two purposes. First, it is intended to identify all transfers of real property in order that the assessment roll in each county may be updated in a timely and accurate manner, reflecting the names and addresses of the people to whom property taxes are to be assessed. Second, the Realty Transfer Act provides market information on the current selling price of real estate and improvements. It is not the intent of the act to apply sales information obtained to each sold parcel. Instead, sales of similar properties are grouped so that the market indicator of value will reflect current trends, and sales which are uncharacteristically high or low will have an offsetting effect.

Rule 2. THE REALTY TRANSFER CERTIFICATE.

(1) The certificate must be completed for all transfers of real property. Before an instrument may be recorded or the assessment changed to reflect the transfer of a new owner, a completed certificate must be presented to the County Clerk and Recorder.

(2) Certain types of property are exempt from the Realty Transfer Act provisions which require the disclosure of sales information. Agricultural land, which will continue in an agricultural use, is exempt because the Department of Revenue is required by law to assess agricultural land on the basis of its productive ability rather than its market value. The other exempt transfers are sales which are not arms-length transactions or involve sales to a government entity.

(2)

Since these transactions are not reliable indicators of market value, the sales information is not useable for assessment purposes. However, in order to effectuate changes in the assessment roll, even exempt transfers must be filed with a certificate giving the names of the parties to the transfer, a description of the property and the reason for exemption from the provisions relating to sales information.

Rule 3. REAL PROPERTY TRANSFERS AND THE ASSESSMENT ROLL.

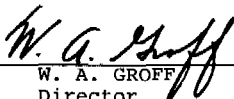
(1) The County Assessor shall not make any change in the person to whom real property is assessed unless properly notified by means of an accurately prepared Realty Transfer Certificate. Property assessments will continue to be made in the name of the previous owner until a Realty Transfer Certificate has been completed and filed in the manner prescribed by law.

4. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing. Written comments must be received no later than July 23, 1976.

5. Department of Revenue intends to adopt these rules to clarify and implement statutes relating to the Realty Transfer Act.

6. Dennis M. Burr, Administrator, Property Assessment Division, Department of Revenue, Mitchell Building, Helena, Montana 59601, has been designated by the Director of Revenue to preside over and conduct the hearing.

7. The authority of the Department to make the proposed rule is based on Section 84-7306, R.C.M. 1947.



W. A. GROFF  
Director  
Department of Revenue

Certified to the Secretary of State June 10, 1976.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the proposed )	NOTICE OF PUBLIC HEARING
adoption of the Multistate Tax )	FOR ADOPTION OF MULTISTATE
Commission Allocation and Ap- )	TAX COMMISSION ALLOCATION
portionment Regulations. )	AND APPORTIONMENT REGULA-
)	TIONS

TO: All Interested Persons

1. On September 9, 1976, at 10:00 a.m., a public hearing will be held in Room 215 of the Department of Revenue, Sam Mitchell Building, Helena, Montana, to consider the adoption of the Multistate Tax Commission Allocation and Apportionment Regulations.

2. The proposed rules will replace those in MAC 42-2.6(1)-S6270 through 42-2.6(1)-S6450. These proposed rules were adopted by the Multistate Tax Commission in 1973, and are subject to adoption by each member of the Multistate Tax Compact, Section 84-6701, R.C.M. 1947. They are applicable to both Article IV of the Compact and Section 84-1503, R.C.M. 1947.

3. The proposed rules provide in summary the following:

Rule 1. Statement of intent.

Rule 2. Business and nonbusiness income defined.

Rule 3. Two or more businesses of a single taxpayer.

Rule 4. Business and nonbusiness income: application of definitions.

Rule 5. Proration of deductions.

Rule 6. Definitions.

Rule 7. Apportionment and allocation generally.

Rule 8. Combined report.

Rule 9. Consistency and uniformity in reporting.

Rule 10. Taxable in another state: in general.

Rule 11. Taxable in another state: when a corporation is "subject to" a tax under Subsection 84-1503(3) (a), R.C.M. 1947.

Rule 12. Taxable in another state: when a state has jurisdiction to subject a taxpayer to a net income tax.

Rule 13. Apportionment formula.

Rule 14. Property factor: in general.

Rule 15. Property factor: property used for the production of business income.

Rule 16. Property factor: consistency in reporting.

Rule 17. Property factor: numerator.

Rule 18. Property factor: valuation of owned property.

Rule 19. Property factor: valuation of rented property.

Rule 20. Property factor: averaging property values.

Rule 21. Payroll factor: in general.

Rule 22. Payroll factor: numerator.

Rule 23. Sales factor: in general.

Rule 24. Sales factor: numerator.

Rule 25. Sales factor: sales of tangible personal property in this state.

Rule 26. Sales factor: sales of tangible personal property to United States Government in this state.

Rule 27. Sales factor: sales other than sales of tangible personal property in this state.

Rule 28. Special rules: in general.

Rule 29. Special rules: property factor.

Rule 30. Special rules: sales factor.

Rule 31. Exceptions to apportionment formula--modified factors for carriers of freight or passengers.

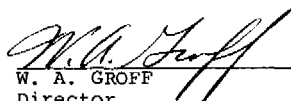
A complete copy of the proposed rules may be obtained by writing or phoning Gerald Foster, Administrator, Corporation Tax Division, Department of Revenue, Mitchell Building, Helena, Montana 59601 (Phone 449-2441).

4. Interested parties may present their data, views or arguments whether orally or in writing at the hearing.

5. Interested parties may submit their data, views or arguments concerning the proposed adoption of the rules in writing to Gerald Foster, Administrator, Corporation Tax Division, Department of Revenue, Mitchell Building, Helena, Montana 59601. Written comments in order to be considered must be received not later than September 9, 1976.

6. W. A. Groff, Director of the Department of Revenue has designated Laury Lewis, Deputy Director, as hearings officer, to preside over and conduct the hearing.

7. The authority of the Department of Revenue to make the proposed rules is based on Section 84-1503(19), R.C.M. 1947, and Article VII.3 of the Multistate Tax Compact, Section 84-6701, R.C.M. 1947.

  
W. A. GROFF  
Director  
Department of Revenue

Certified to the Secretary of State August 16, 1976.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PROPOSED REPEAL  
repeal of MAC 42-2.6(1)-S6270 ) OF MAC 42-2.6(1)-S6270  
through 42-2.6(1)-S6450 relating ) THROUGH 42-2.6(1)-S6450  
to the Corporation License Tax. )

NO PUBLIC HEARING  
CONTEMPLATED

TO: All Interested Persons

1. On September 15, 1976, the Department of Revenue proposes to repeal MAC 42-2.6(1)-S6270 through 42-2.6(1)-S6450 relating to the Corporation License Tax. The rules proposed for repeal will be replaced by new rules promulgated by the Department. These new rules have been scheduled for a public hearing on September 9, 1976, as noticed in MAC Not. No. 42-2-75.

2. The rules under consideration for repeal are found on pages 42-35 through 42-40 of the Montana Administrative Code.

3. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to W.A. Groff, Director of the Department of Revenue, Mitchell Building, Helena, Montana 59601. Written comments in order to be considered must be received not later than September 15, 1976.

4. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Groff on or before September 15, 1976.

5. If the Department of Revenue receives requests for a public hearing on this proposed repeal from more than twenty-five (25) persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.

6. The authority of the Department of Revenue to repeal these rules is based on Section 84-1503(19), R.C.M. 1947.




(2)



W.A. GROFF  
Director  
Department of Revenue

. Certified to the Secretary of State August 16, 1976.

8-8/26/76 

MAC Not. No. 42-2-76

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PROPOSED AMENDMENT  
and transfer of rules presently) AND TRANSFER OF RULES IN TITLE  
in Sub-Chapter 1 of Chapter 6 ) 42, SUBCHAPTER 1 of CHAPTER 6  
to Sub-Chapter 3 of Chapter 6 ) (Corporation Tax Division)  
of Title 42, Montana Admin- )  
istrative Code ) NO PUBLIC HEARING  
CONTEMPLATED

TO: All Interested Persons

1. On October 14, 1976, the Department of Revenue proposes:

(a) to transfer rules 42-2.6(1)-S680 through 42-2.6(1)-S6010 and 42-2.6(1)-S6030 through 42-2.6(1)-S6110 in Sub-Chapter 1 of Chapter 6, Title 42, to a new Sub-Chapter 3 (Small Business Corporations) of Chapter 6, Title 42 of the Montana Administrative Code;

(b) to renumber these rules pertaining to the Corporation License Tax necessary to reflect the transfer to the new Sub-Chapter;

(c) to amend the text of these rules as part of the annual review of the regulations of the Department pursuant to Section 82-4204(6), R.C.M. 1947.

2. The proposed changes provide as follows, (old matter interlined, new matter underlined):

~~42-2.6(1)-S680 ELECTION BY SMALL BUSINESS CORPORATION-~~  
~~42-2.6(3)-S61610 DEFINITION OF AND ELECTION BY SMALL BUSINESS CORPORATION~~ (1) ~~In general--The term "small business corporation"~~ Small business corporation, as defined in Section 84-1501.1, R.C.M. 1947, means a corporation doing business in Montana which does not have:

- (a) more than 10 shareholders,
- (b) as a shareholder a person (other than an estate) who is not an individual,
- (c) a nonresident alien as a shareholder, and
- (d) more than one class of stock.

~~Section 2 of Chapter 122, Laws of 1959, permits a qualified small business corporation to elect not to be subject to the tax imposed by Chapter 15, Title 84.~~ (2) A qualified small business corporation may elect not to be subject to the tax imposed by Section 84-1501.2, R.C.M. 1947, as amended, provided, the stockholders of such corporation include the corporate net income or loss in their adjusted gross income as such is defined in Section 84-4905, R.C.M. 1947, as amended. ~~The election may be made only with respect to taxable years beginning after December 31, 1959, and ending after July 1,~~

9-9/24/76

MAC Notice No. 42-2-77

1959. An election is effective for the entire taxable year of the corporation for which it is made and for all succeeding taxable years, unless it is terminated with respect to any taxable year. ~~Thus, the~~ The election has a continuing effect and it does not need to be renewed annually. ~~The term "electing small business corporation."~~

(3) Electing small business corporation means, with respect to any taxable year, a small business corporation which has made the election under ~~Section 2 of Chapter 122, Laws of 1959,~~ Section 84-1501.2, R.C.M. 1947, and such election is in effect for the taxable year in question. A corporation is not an electing small business corporation as to a particular taxable year if it was ineligible to make the election or if a termination is effective as to such taxable year. (History: Sec. 84-1501.1, R.C.M. 1947; Order MAC No. 42-1; Adp. 12/22/72; Eff. 12/31/72.)

~~42-2.6(1)-S690 42-2.6(3)-S61620 STATEMENT OF SHAREHOLDER CONSENT (1)--The election is valid only if all persons who are shareholders of the corporation on the first day of the first taxable year for which the election is effective, or on the day of election, whichever is later, consent to such election. Such shareholder's consent shall be in the form of a statement signed by the shareholders in which each consents to the election of the corporation. The statement shall set forth the name and address of the corporation and of each shareholder; the number of shares of stock owned by each shareholder; and the date (or dates) on which such stock was acquired. The consents of all shareholders shall be attached to the election of the corporation filed with the Department.~~

(1) An election by a corporation eligible for the small business corporation exemption is valid only when all shareholders of the corporation which are shareholders on the first day of the first taxable year for which the election is effective, or on the day of election, whichever is later, give consent to such an election. Each shareholder's consent shall be made in statement form, and signed by the shareholder. Each statement shall set forth:

- (a) the name and address of the corporation;
- (b) the name and address of the shareholder;
- (c) the date (or dates) on which such stock was acquired

and,

- (d) that consent to the election is given.

These statements shall be made on form CT-3 which shall be filed with the Corporation Tax Division, Department of Revenue.

(2) If the election is made before the first day of the corporation's taxable year for which it is effective, the consents of persons consent of shareholders who become shareholders after the date of election and on or before such first day of the corporation's taxable year shall be filed with the Department as soon as practicable after such first day. Except as provided in MAC 42-2.6(1)-S6030 42-2.6(3)-S61650,

and an election will shall not be valid if any ~~of-the-consents~~ consent statement is filed after the last day prescribed for making the election.

(3) For the purposes of subsection (2) hereof, a consent statement means a declaration by the shareholder giving the assent and information required by this rule. For example: "I, (name), of (street address or post office box, city or town, state, zip code), own (number) shares of (corporation name), headquartered at (corporation address), purchased on (date, year), and hereby give my consent for (purpose). Signed: (signature) at (city or town) on (date, year)." (History: Sec. 84-1501.2(1) and Sec. 84-1501.2(b), R.C.M. 1947; Order MAC No. 42-1; Adp. 12/22/72; Eff. 12/31/72.)

~~42-2.6(1)-S6000~~ 42-2.6(3)-S61630 ELECTION BY SMALL BUSINESS CORPORATION-WHERE AND HOW MADE (1) The election must be made by the corporation filing form ~~CM-3~~ CT-3, containing the information required by such form, ~~and-by-filing, in-the-manner-provided-in-MAC-42-2.6(1)-S6020-a-statement-of-the-consent-of-each-shareholder-of-the-corporation,~~ including a statement of consent of each shareholder of the corporation, in the manner provided in MAC 42-2.6(3)-S61620. The election shall be signed by: one of the following:

(a) the president, vice president, or other principal officer, ~~and-by-(b)~~ or the treasurer, assistant treasurer, or chief accounting officer; and. The form shall be filed with the Department. ~~of-Revenue, Helena, Montana--Form-CM-3-will-be-furnished-by-the-Department-upon-request.~~ (History: Sec. 84-1501.2(c), R.C.M. 1947; Order MAC No. 42-1; Adp. 12/22/72; Eff. 12/31/72.)

~~42-2.6(1)-S6010~~ 42-2.6(3)-S61640 TIME OF MAKING ELECTION (1) ~~For-taxable-years-beginning-on-or-after-July-2,-1959,-the~~ The election shall be filed either:

(a) during the first calendar month of such taxable year, or  
(b) during the calendar month preceding such first month.

(2) In the case of a new corporation ~~where~~ which has a taxable year ~~begins~~ beginning after the first day of a particular month, the term "month" means the period commencing with the first day of the taxable year and ending on the day preceding the numerically corresponding day of the succeeding calendar month.

(3) Should a corporation fail to physically tender to the Department its election in the manner and within the time specified by Section 84-1501.2(c), the Department shall nevertheless consider such election to have, constructively been properly and timely made:

(a) if the election was made within the taxable year for which the election is desired to take effect, and,  
(b) if the corporation can substantiate its intent to

file the election for the year in which the election is desired to take effect.

(4) An election shall not be deemed made within the contemplation of subsection (3), above, and Section 84-1501.2(c) unless:

(a) the corporation has an acknowledgement from the Department that the election was received, or

(b) the corporation has proof by return receipt, that the election was sent to the Department by certified mail.

Any election sought to be effected by a corporation in any manner other than is herein provided or by the provisions of Section 84-1501.2(c) shall not be recognized. (History: Sec. 84-1501.2(c), R.C.M. 1947; Order MAC No. 42-1; Adp. 12/22/72; Eff. 12/31/72.)

42-2-6(1)-S6030 42-2.6(3)-S61650 NEW SHAREHOLDERS (1)

If a person becomes a shareholder of an electing small business corporation after the first day of the taxable year for which the election is effective, or after the day ~~of~~ on which the election is made (if such day is later than the first day of the taxable year) the statement of consent of such shareholder shall be filed with the Department within the period of 30 days, beginning with the day on which the person became a new shareholder.

(2) If the new shareholder is an estate, the thirty-day period shall not begin until the ~~executor or administrator~~ personal representative has been appointed, but in no event shall such period begin later than 30 days following the close of the corporation's taxable year in which the estate became a shareholder. (History: Sec. 84-1501.2(a), R.C.M. 1947; Order MAC No. 42-1; Adp. 12/22/72; Eff. 12/31/72.)

42-2-6(1)-S6040 42-2.6(3)-S61660 FAILURE OF NEW SHAREHOLDER TO CONSENT (1) The election ~~will~~ shall terminate if any person who was not a shareholder on the first day of the first taxable year for which the election is effective, or on the day on which the election is made (if such day is later than the first day of the taxable year), becomes a shareholder and does not file a statement of consent to the election within the time prescribed in ~~MAC 42-2-6(1)-S6030~~ MAC 42-2.6(3)-S61650. Such termination ~~will~~ shall be effective for the taxable year of the corporation in which such person becomes a shareholder and for all succeeding years. In the event of a termination under this section, the corporation shall notify the Department within 30 days from the date the termination occurred. (History: Sec. 84-1501.2(e), R.C.M. 1947; Order MAC No. 42-1; Adp. 12/22/72; Eff. 12/31/72.)

42-2-6(1)-S6050 42-2.6(3)-S61670 REVOCATION (1) ~~The election may be revoked by the corporation for any taxable year of the corporation~~ after the first taxable year for which the

~~election is effective--A revocation can be made only with the consent of all persons who are shareholders at the beginning of the day of revocation. The revocation is made by the corporation filing a statement with the Department explaining that the corporation revokes the election made under Section 84-1501.2, R.C.M. 1947. Such This statement shall be signed by one of the following officers:~~

(a) the president, vice president or other principal officer, ~~and by (b) or the treasurer, assistant treasurer or other chief accounting officer.~~

(2) In addition, there shall be attached to the statement of revocation a statement of consent, signed by each person who is a shareholder of the corporation at the beginning of the day on which the statement of revocation of the election is filed, ~~in which each such shareholder consents to the revocation of the election by the corporation.~~ Each statement of consent shall contain consent for the revocation of the small business corporation election. A termination by revocation is effective for the taxable year in which it is made and for all subsequent taxable years if it is made during the first month of that year. If the revocation is not made during the first month of a taxable year, it is effective for the following taxable year and all subsequent taxable years. A termination by revocation cannot be made effective for the first taxable year of the corporation ~~for which the first taxable year of the corporation~~ for which the election is made. (History: Sec. 84-1501.2(e), R.C.M. 1947; Order MAC No. 42-1; Adp. 12/22/72; Eff. 12/31/72.)

~~42-2-641}-86060~~ 42-2.6(3)-S61680 CEASES TO BE A SMALL BUSINESS CORPORATION (1) The election terminates if at any time after the first day of the taxable year for which the election is effective, or after the day on which the election is made (if such day is later than the first day of the taxable year), the corporation ceases to be a small business corporation. In the event of a termination under this paragraph, the corporation shall immediately notify the Department. (History: Sec. 84-1501.2(e), R.C.M. 1947; Order MAC No. 42-1; Adp. 12/22/72; Eff. 12/31/72.)

~~42-2-641}-86070~~ 42-2.6(3)-S61690 ELECTION AFTER TERMINATION (1) After the revocation or termination of an election there can be no reelection prior to the fifth taxable year after such termination unless the Department consents to such an election before that time. (History: Sec. 84-1501.2(f), R.C.M. 1947; Order MAC No. 42-1; Adp. 12/22/72; Eff. 12/31/72.)

~~42-2-641}-86080~~ 42-2.6(3)-S61700 FAILURE OF STOCKHOLDERS TO REPORT ELECTING CORPORATION'S NET INCOME OR LOSS (1) An otherwise valid election is ineffective if any shareholder

fails to include his share of the electing corporation's net income or loss in adjusted gross income reported on his Montana Individual Income Tax Return for the taxable year in which or with which the taxable year of the corporation ends. The reporting of each stockholder's share is explained in MAC ~~42-2-6(1)-56100~~ 42-2.6(3)-S61720. (History: Sec. 84-1501.2(g) R.C.M. 1947; Order MAC No. 42-1; Adp. 12/22/72; Eff. 12/31/72.)

~~42-2-6(1)-56090~~ 42-2.6(3)-S61710 RETURN OF ELECTING SMALL BUSINESS CORPORATION (1) Every electing small business corporation shall file, ~~with respect to~~ either Form CT-4 or a certified copy of federal return 1120S for each taxable year the election is in effect, ~~a return of income on Form CBT-4 and shall attach thereto Form CBT-46~~ showing the distribution of income to its shareholders. Such return shall be filed with the Department on or before the 15th day of the fifth month following the close of the taxable year. (History: Sec. 84-1501.2(g), R.C.M. 1947; Order MAC No. 42-1; Adp. 12/22/72; Eff. 12/31/72.)

~~42-2-6(1)-56100~~ 42-2.6(3)-S61720 ELECTING CORPORATION'S INCOME OR LOSS TAXABLE TO SHAREHOLDERS (1) An electing corporation's net income or loss ~~must~~ shall be included in its individual shareholder's Montana Income Tax adjusted gross income in the manner and to the extent provided for Federal Income Tax purposes under Sections 1373, 1374 and 1375 of the Internal Revenue Code, 1954, or as such sections may be labeled or amended. Unless the income or loss is so reported, the corporation's election is ineffective and the said income or loss is taxable directly to the corporation. (History: Sec. 84-1501.2(g), R.C.M. 1947; Order MAC No. 42-1; Adp. 12/22/72; Eff. 12/31/72.)

~~42-2-6(1)-56110~~ 42-2.6(3)-S61730 MINIMUM FEE FOR ELECTING CORPORATION (1) Every electing corporation is required to pay the minimum fee imposed by Section 84-~~1401-5~~ 1501.5, R.C.M. 1947. Such fee ~~must~~ shall be paid on or before the ~~fifteenth~~ 15th day of the fifth month following the close of the taxable year. (History: Sec. 84-1501.2(h), R.C.M. 1947; Order MAC No. 42-1; Adp. 12/22/72; Eff. 12/31/72.)

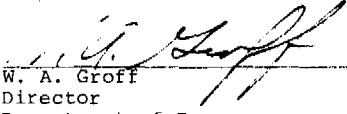
3. Interested parties may submit their data, views or arguments concerning the proposed amendments, transfers and re-numbering in writing to: W. A. Groff, Director, Department of Revenue, 205 Mitchell Building, Helena, Montana 59601. Written comments must be received no later than October 14, 1976, in order to be considered.

4. If a person directly affected wishes to express his or her views, data and arguments orally or in writing at a public hearing, he or she shall make a written request for a

public hearing and submit this request along with any written comments, to W. A. Groff, on or before October 14, 1976.

5. If the Department receives a request for a public hearing on the proposed changes from more than twenty-five (25) persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

6. The authority of the Department to make the proposed rule amendments, transfers and renumbering is based on Section 84-1501.2, R.C.M. 1947.

  
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W. A. Groff  
Director  
Department of Revenue

Certified to the Secretary of State September 15, 1976.



In the matter of the adoption )	NOTICE OF ADOPTION OF RULES
of rules relating to the )	PERTAINING TO THE ASSESSMENT
assessment of furniture and )	OF FURNITURE AND FIXTURES
fixtures used in commercial )	USED IN COMMERCIAL ESTABLISH-
establishments and ski lift )	MENTS AND SKI LIFT EQUIPMENT.
equipment. )	
	NO PUBLIC HEARING CONTEMPLATED

1. On November 15, 1976, the Department of Revenue proposes to adopt Rule A - Assessment of Furniture and Fixtures Used in Commercial Establishments and Rule B - Assessment of Ski Lift Equipment.

Rule A. ASSESSMENT OF FURNITURE AND FIXTURES USED IN COMMERCIAL ESTABLISHMENTS. The assessed value of commercial furniture and fixtures shall be determined using assessment tables established by the Department of Revenue. These assessment tables reflect the average remaining life of these kinds of property times a forty percent (40%) equalization factor. The average life of these properties necessitates the use of two tables. A five year tables to be used for those designated properties which research indicates depreciate rapidly and a ten year table which is to be used for all commercial furniture and fixtures which has a longer life. The kinds of fixtures that the five year assessment table has been designed and our instruction specifies are: electronic machines, computer system, data processing equipment, cash registers and all coin operated equipment. All other property will use the ten year table.

Rule B. ASSESSMENT OF SKI LIFT EQUIPMENT.

(1) The assessed value of ski life equipment, which are classified as Aerial Lifts, Surface Lifts, Portable Lifts and Tows and which include the towers, cables, ropes, sheave assemblies, the conveying devices, power units, and all accessories, shall be determined using assessment tables and procedures established by the Department of Revenue.

(2) The assessment table reflects the average remaining life of these properties times a sixty percent (60%) equalization factor.

(3) The installation cost of these properties can be determined by applying the designated percentage, by lift classification, to the invoice cost.

(4) The minimum assessed values for the lift equipment shall be (15%) of its installed cost.

(5) Five percent (5%) of the installed cost of the entire lift will be used as the cost of the tower bases and will be appraised and assessed as are all other improvements to real estate.

TABLE FOR ASSESSMENT  
SKI LIFT EQUIPMENT

Installed Cost X Assessment Factor = Assessed Value

<u>YEAR</u>	<u>ASSESSMENT FACTOR</u>
1st	55%
2nd	54%
3rd	53%
4th	49%
5th	44%
6th	39%
7th	34%
8th	29%
9th	23%
10th	19%
11th & older	15%

Method of determining installation cost using invoice price of equipment by classification invoice price x percent for that classification = installation cost.

<u>CLASSIFICATION</u>	<u>PERCENT OF INVOICE FOR INSTALLATION</u>
Aerial Lifts (Gondola-Chair)	40%
Surface Lifts (T-Bar, J-Bar, Platter)	30%
Tows (Rope, Cable)	20%
Portable Lift	10%

Note: 5% of installed costs on Aerial and Surface Lifts will be placed in Class 4, Improvements to Real Property.

Taxpayer must list each year as of January first.

- (1) All equipment by year of installation.
- (2) Invoice costs as per year of installation.
- (3) Make special note of any addition or deletion from previous years list, with invoice cost.

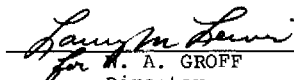
(3)

3. Interested parties may submit their data, views or arguments concerning the proposed amendments in writing to W. A. Groff, Director of the Department of Revenue, Mitchell Building, Helena, Montana 59601. Written comments in order to be considered must be received not later than November 15, 1976.

4. If a person directly affected wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to W. A. Groff, on or before November 15, 1976.

5. If the Department receives requests for a public hearing on the proposed rules from more than twenty-five persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

6. The authority of the Department to make the proposed rule is based on Section 84-708.1, R.C.M. 1947.

  
for W. A. GROFF  
Director  
Department of Revenue

Certified to the Secretary of State October 14, 1976.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of adoption of ) NOTICE OF PUBLIC HEARING FOR  
rules relating to the appraisal- ) ADOPTION OF RULES RELATING TO  
al and assessment of centrally) THE APPRAISAL AND ASSESSMENT  
assessed property. ) OF CENTRALLY ASSESSED PROPERTY

TO: All Interested Persons

1. On November 8, 1976, at 9:30 a.m., a public hearing will be held in the Conference Room of the Montana Historical Society Building, Helena, Montana, to consider the adoption of rules relating to appraisal and assessment of centrally assessed property.

2. The proposed rules do not replace or modify any section currently found in the Montana Administrative Code.

3. The purpose of the hearing is to consider the proposed changes to the rules as previously noticed as recommended by the Advisory Committee.

The proposed rules provide in summary as follows:

Rule 1. INTER-STATE AND INTER-COUNTY CONTINUOUS PROPERTY.

(1) The Department of Revenue shall appraise and assess the inter-county and inter-state property of railroads, microwave, telephone, telegraph, gas, electric, ditch, canal, flume, natural gas pipeline, oil pipeline and airline companies which have a continuous property which is inter-county or inter-state.

(2) The property of the above-named companies will be divided into the categories of operating and non-operating. The operating property will be appraised and assessed by the Department of Revenue and its agents. The non-operating property with situs in Montana will be appraised and assessed by the agents of the Department of Revenue.

Rule 2. DEFINITIONS.

Rule 3. REPORT.

(1) Each year on forms supplied by the Department of Revenue all centrally assessed companies will report on the preceeding year's operations.

(2) The report shall contain among other things a balance sheet for the entire system, a statement of income for the system, a description and cost of system property both owned and leased.

(2)

(3) Each year a centrally assessed company must revise and update its statement of mileage provided by the Department.

Rule 4. VALUATION.

(1) The unit method or rule of assessment will be used where applicable in the appraisal of centrally assessed companies.

(2) When the unit method is used in multiple indices of value are determined they will be blended to determine system value.

Rule 5. ALLOCATION.

(1) The Department shall allocate that portion of a unit valuation to this state which will represent the market value of a centrally assessed company's property in the state.

(2) For the purpose of allocating the unit value, quantity, use and productivity ratios may be applied.

Rule 6. EQUALIZATION AND APPORTIONMENT.

(1) Centrally assessed property will be equalized at the rate of 40% of Montana's system value.

(2) Apportionment of assessed value to taxing jurisdictions will depend upon type of company.

Rule 7. NOTIFICATION AND HEARING.

(1) Between the months of March and June the companies will be given a proposed valuation. During that time representatives of the companies and the Department may informally meet to review the proposed valuation.

(2) Upon final notification a centrally assessed company will have ten (10) days to request a formal hearing before the Director of Revenue. Airlines will be allowed thirty (30) days. Any such request must state in detail the grounds upon which the request has been made.

(3) Appeals from the final determination of the Montana Department of Revenue may be taken to the Montana State Tax Appeal Board.

(4) If additional time is needed for the filing of reports or preparing for hearings, the Department must receive their request prior to the due date if the extension request is to be considered.

Rule 8. ASSESSMENT PERIOD.

Rules 1 through 7 will apply to all reports and assessments for the assessment period ending on December 31, 1976.

(3)

4. A complete copy of the proposed rules may be obtained by contacting: Kenneth Morrison, Inter-Property Bureau Chief, Inter-County Property Bureau, Property Assessment Division, Montana Department of Revenue, Mitchell Building, Helena, Montana 59601. Interested persons may present their data, views or arguments whether orally or in writing at the hearing.

5. William A. Groff, Director of Revenue, Department of Revenue, Mitchell Building, Helena, Montana 59601, has been designated to preside over and conduct the hearing. The authority of the Department to make the proposed rules is based upon Section 84-708.1, R.C.M.-1947.

  
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W. A. GROFF  
Director  
Department of Revenue

Certified to the Secretary of State October 14, 1976.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PUBLIC HEARING FOR  
of Rule 42-2.22(1)-S2250 Ag- ) AMENDMENT OF RULE 42-2.22(1)  
ricultural Lands. ) -S2250 Agricultural Lands.

TO: All Interested Persons

1. On December 13, 1976, at 9:30 a.m., a public hearing will be held in the Conference Room of the Montana Historical Society Building, Helena, Montana, to consider the amendment of the rule relating to Agricultural Lands.

2. Matter to be stricken is interlined and new material is underlined.

3. Rule 42-2.22(1)-S2250 as proposed to be amended is as follows:

Classes and Grades for Montana Agricultural Land Classification

Schedule 1

<u>NON-IRRIGATED FARM LAND</u>		<u>NON-IRRIGATED CONTINUOUSLY CROPPED FARM LAND</u>	
<u>Grade</u>	<u>Bu. of wheat per acre on summer fallow</u>	<u>Grade</u>	<u>Bushels of wheat per acre</u>
1A8 . . . . .	40 & over	1A4 . . . . .	44 & over
1A7 . . . . .	38 - 39	1A3 . . . . .	42 - 43
1A6 . . . . .	36 - 37	1A2 . . . . .	40 - 41
1A5 . . . . .	34 <del>&amp; over</del> - 35	1A1 . . . . .	38 - 39
1A4 . . . . .	32 - 33	1A . . . . .	36 - 37
1A3 . . . . .	30 - 31	1 . . . . .	34 <del>&amp; over</del> - 35
1A2 . . . . .	28 - 29	2 . . . . .	32 - 33
1A1 . . . . .	26 - 27	3 . . . . .	30 - 31
1A . . . . .	24 - 25	4 . . . . .	28 - 29
1B . . . . .	22 - 23	5 . . . . .	26 - 27
2A . . . . .	20 - 21	6 . . . . .	24 - 25
2B . . . . .	18 - 19	7 . . . . .	22 - 23
2C . . . . .	16 - 17	8 . . . . .	20 - 21
3A . . . . .	14 - 15	9 . . . . .	18 - 19
3B . . . . .	12 - 13	10 . . . . .	16 - 17
4A . . . . .	10 - 11	11 . . . . .	14 - 15
4B . . . . .	8 - 9	12 . . . . .	12 - 13
5 . . . . .	Under 8	13 . . . . .	10 - 11
		14 . . . . .	Less than 10

WILD HAY LAND

<u>Grade</u>	<u>Tons of hay per acre</u>	<u>*Note: About 4 range ewes with lambs are considered the equiv- alent of a 1000-lb. steer. Calves are usually not considered until weaned, and 4 yearling steers or heifers are considered as equivalent to three 1000-lb. steers. A dry cow is considered the equivalent of a 1000-lb. steer. About 4 cows with calves are considered the equivalent of five 1000-lb. steers.</u>
1 . . . . .	3.0 & over	
2 . . . . .	2.5 - 2.9	
3 . . . . .	2.0 - 2.4	
4 . . . . .	1.5 - 1.9	
5 . . . . .	1.0 - 1.4	
6 . . . . .	.5 - .9	
7 . . . . .	Less than .5	

## Schedule 2

NON-IRRIGATED FARM LAND

<u>Grade</u>	<u>Bu. Wheat Per A. on Summer Fallow</u>	<u>Assessed Value Per Acre</u>
1A8	40 & over	81.08
1A7	38 - 39	74.51
1A6	36 - 37	67.94
1A5	34 & over - 35	61.37
1A4	32 - 33	54.80
1A3	30 - 31	48.60
1A2	28 - 29	42.79
1A1	26 - 27	37.31
1A	24 - 25	32.22
1B	22 - 23	27.50
2A	20 - 21	23.15
2B	18 - 19	19.17
2C	16 - 17	15.56
3A	14 - 15	12.31
3B	12 - 13	9.44
4A	10 - 11	6.94
4B	8 - 9	4.81
5	Under 8	3.06

WILD HAY LAND

<u>Grade</u>	<u>Tons of Hay Per Acre</u>	<u>Assessed Value Per Acre</u>
1	3.0 & over	67.60
2	2.5 - 2.9	53.03
3	2.0 - 2.4	41.38



(cont.)

WILD HAY LAND

<u>Grade</u>	<u>Tons of Hay Per Acre</u>	<u>Assessed Value Per Acre</u>
4	1.5 - 1.9	29.43
5	1.0 - 1.4	19.38
6	.5 - .9	10.05
7	Less than .5	5.54

## Schedule 2

GRAZING LAND

<u>Grade</u>	<u>Ac. Per 1000# Steer 10 Mos.</u>	<u>Assessed Value Per Acre</u>
1A2	Under 3	71.69
1A1	3 - 5	44.18
1A+	5 - 6	31.27
1A	6 - 10	20.51
1B	11 - 18	10.53
2A	19 - 21	7.17
2B	22 - 27	5.42
3	28 - 37	3.72
4	38 - 55	2.52
5	56 - 99	1.47
6	100 or over	.82

NON-IRRIGATED CONTINUOUSLY CROPPED  
FARM LAND

<u>Grade</u>	<u>Bu. of Wheat Per Acre Each Year</u>	<u>Assessed Value Per Acre</u>
1A4	44 & over	125.71
1A3	42 - 43	116.94
1A2	40 - 41	108.17
1A1	38 - 39	99.40
1A	36 - 37	90.63
1	34 & over - 35	81.86
2	32 - 33	73.09
3	30 - 31	64.81
4	28 - 29	57.05
5	26 - 27	49.75
6	24 - 25	42.96
7	22 - 23	36.67
8	20 - 21	30.87
9	18 - 19	25.56

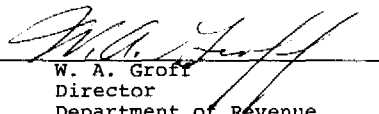
(cont.)

<u>Grade</u>	<u>Bu. of Wheat Per Acre Each Year</u>	<u>Assessed Value Per Acre</u>
10	16 - 17	20.75
11	14 - 15	16.41
12	12 - 13	12.59
13	10 - 11	9.25
14	Less than 10	6.41

3. Interested persons may present their data, views or arguments whether orally or in writing at the hearing. Interested parties may also present their data, views or arguments in writing to the Department. Written material to be considered by the Director of Revenue must be received by the Department not later than December 13, 1976.

4. Laury M. Lewis, Deputy Director, Department of Revenue, Mitchell Building, Helena, Montana, 59601, has been designated by the Director of Revenue to preside over and conduct the hearing.

5. The authority of the Department to make the proposed rule is based on Section 84-708.1, R.C.M. 1947.

  
 W. A. Groff  
 Director  
 Department of Revenue

Certified to the Secretary of State November 10, 1976.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption ) NOTICE OF AMENDMENT OF RULES  
of rules relating to the ) PERTAINING TO THE MONTANA  
Montana Appraisal Manual. ) APPRAISAL MANUAL.  
)  
) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On November 15, 1976, the Department of Revenue proposes to amend Rule 42-2.22(1)-S2200 Montana Appraisal Manual.

2. The proposed changes provide as follows, (new matter underlined):

42-2.22(1)-S2200 MONTANA APPRAISAL MANUAL AND MARSHALL VALUATION SERVICE (1) The Department of Revenue has herein adopted and incorporated the "Montana Appraisal Manual," 1972 Edition, by reference. Copies of this manual may be reviewed in this Department or purchased for \$10.00 per copy from the Department.

Subsection 2:

(a) Marshall Valuation Service shall be used for the valuation of real and personal properties not specifically or sufficiently covered in the 1972 edition of Montana Appraisal Manual or other valuation schedules made a part of administrative codes by reference for property tax purposes.

(b) Replacement sections and updated cost multiplier tables for Marshall Valuation Service, that are received monthly, shall be used to replace the outdated sections only as of July of each year or when all appraisals have been completed for the current tax year. This will insure that the same levels of values are used for the appraisal of all properties valued from the publication for the assessment year.

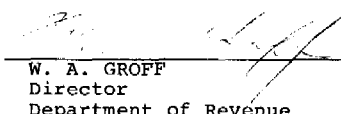
(c) Montana Appraisal Manual and Marshall Valuation Service. The Department of Revenue has herein adopted and incorporated the "Marshall Valuation Service", 1617 Beverly Boulevard, Los Angeles, California 90026 by reference. Copies of this publication may be reviewed in this Department or purchased from the publisher.

(2)

3. Interested parties may submit their data, views or arguments whether orally or in writing to: W. A. Groff, Director, Department of Revenue, 205 Mitchell Building, Helena, Montana 59601. Written comments must be received no later than November 12, 1976, in order to be considered.

4. If the Department receives requests for a public hearing on the proposed rules from more than twenty-five persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

5. The authority of the Department to make the proposed rule is based on Section 84-708.1, R.C.M. 1947.

  
\_\_\_\_\_  
W. A. GROFF  
Director  
Department of Revenue

Certified to the Secretary of State November 15, 1976.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PROPOSED REPEAL OF  
repeal of MAC 42-2.6(1)-S6020 ) MAC 42-2.6(1)-S6020  
relating to the Corporation )  
License Tax ) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On January 15, 1977, the Department of Revenue proposes to repeal MAC 42-2.6(1)-S6020 relating to the Corporation License Tax. The rule proposed for repeal duplicates the new MAC 42-2.6(3)-S61620.

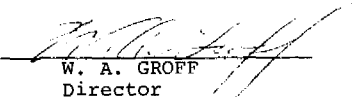
2. The rule under consideration for repeal is found on page 42-29 of the Montana Administrative Code.

3. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to W. A. Groff, Director of the Department of Revenue, Mitchell Building, Helena, Montana 59601. Written comments in order to be considered must be received not later than January 15, 1977.

4. If a person directly affected wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has to Mr. Groff on or before January 15, 1976.

5. If the Department of Revenue receives requests for a public hearing on this proposed repeal from more than twenty-five (25) persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Montana Administrative Register.

6. The authority of the Department of Revenue to repeal the rule is based on Section 84-1503(19), R.C.M. 1947.

  
W. A. GROFF  
Director  
Department of Revenue

Certified to the Secretary of State December 15, 1976.

12-12/23/76

MAC Not. No. 42-2-82

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption ) NOTICE OF AMENDMENT OF RULES  
of rules relating to the ) PERTAINING TO THE MONTANA  
Montana Appraisal Manual. ) APPRAISAL MANUAL.  
)  
) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On January 14, 1977, the Department of Revenue proposes to amend Rule 42-2.22(1)-S2200 Montana Appraisal Manual. This MAC Notice No. 83 supercedes MAC Notice No. 81 which was erroneously dated.

2. The proposed changes provide as follows: new material is underlined.

42-2.22(1)-S2200 MONTANA APPRAISAL MANUAL AND MARSHALL VALUATION SERVICE (1) The Department of Revenue has herein adopted and incorporated the "Montana Appraisal Manual," 1972 Edition, by reference. Copies of this manual may be reviewed in this Department or purchased for \$10.00 per copy from the Department.

Subsection 2:

(a) Marshall Valuation Service shall be used for the valuation of real and personal properties not specifically or sufficiently covered in the 1972 edition of Montana Appraisal Manual or other valuation schedules made a part of administrative codes by reference for property tax purposes.

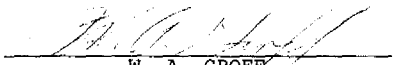
(b) Replacement sections and updated cost multiplier tables for Marshall Valuation Service, that are received monthly, shall be used to replace the outdated sections only as of July of each year or when all appraisals have been completed for the current tax year. This will insure that the same levels of values are used for the appraisal of all properties valued from the publication for the assessment year.

(c) Montana Appraisal Manual and Marshall Valuation Service. The Department of Revenue has herein adopted and incorporated the "Marshall Valuation Service", 1916 Beverly Boulevard, Los Angeles, California 90026 by reference. Copies of this publication may be reviewed in this Department or purchased from the publisher.

3. Interested parties may submit their data, views or arguments whether orally or in writing to: W. A. Groff, Director, Department of Revenue, 205 Mitchell Building, Helena, Montana 59601. Written comments must be received no later than December 13, 1976, in order to be considered.

4. If the Department receives requests for a public hearing on the proposed rules from more than twenty-five persons directly affected, a public hearing will be held at a later date. Notification of parties will be made by publication in the Administrative Register.

5. The authority of the Department to make the proposed rule is based on Section 84-708.1, R.C.M. 1947.

  
W. A. GROFF  
Director  
Department of Revenue

Certified to the Secretary of State December 15, 1976.

Title 44  
Secretary of  
State



Chapter 10

Commissioner of  
Campaign  
Finances &  
Practices

BEFORE THE COMMISSIONER OF CAMPAIGN  
FINANCES AND PRACTICES OF  
THE STATE OF MONTANA

In the matter of the amendment)  
of MAC 44-3.10(6)-S1060, 44- )  
3.10(6)-S1080, 44-3.10(6)- )  
S1090, 44-3.10(10)-S10170, 44- )  
3.10(10)-S10180, and 44-3.10 )  
(10)-S10300 excluding the cost)  
of any communication by a mem- )  
bership organization to its )  
members from the definition of )  
contribution and expenditure )  
as used in the Act; interpret- )  
ing the definition of a po- )  
litical committee as a group )  
of individuals or person mak- )  
ing an expenditure; requiring )  
disclosure of the source of )  
contributions by certain in- )  
cidental political committees; )  
further defining initial re- )  
port; and further defining )  
earmarked contribution. )

NOTICE OF PUBLIC HEARING FOR  
AMENDMENT OF MAC 44-3.10(6)-  
S1060, 44-3.10(6)-S1080, 44-  
3.10(6)-S1090, 44-3.10(10)-  
S10170, 44-3.10(10)-S10180,  
and 44-3.10(10)-S10300  
(Campaign Finances and  
Practices)

1. On March 18, 1976, at 10:00 a.m., a public hearing will be held in Room 405 of the State Capitol, Helena, Montana, to consider the amendment of MAC 44-3.10(6)-S1060, 44-3.10(6)-S1080, 44-3.10(6)-S1090, 44-3.10(10)-S10170, 44-3.10(10)-S10180, and 44-3.10(10)-S10300 excluding the cost of any communication by a membership organization to its members from the definition of contribution and expenditure as used in the Act; interpreting the definition of a political committee as a group of individuals or person making an expenditure; requiring disclosure of the source of contributions by certain incidental political committees; further defining initial report; and further defining earmarked contribution.

2. The proposed amendments replace present MAC 44-3.10(6)-S1060, 44-3.10(6)-S1080, 44-3.10(6)-S1090, 44-3.10(10)-S10170, 44-3.10(10)-S10180, and 44-3.10(10)-S10300 found in the Montana Administrative Code. The proposed amendments would provide, in general, that the definition of contribution and expenditure do not include the costs of communications by a membership organization, so long as such organization is not a primary political committee; require, in general, that any group of individuals or person making or receiving an expenditure to or on behalf of a candidate or political committee organized for a candidate, issue, or petition or as an earmarked contribution is a political committee; establish, in general, a method for an incidental political committee to disclose the source of contributions; establish, in general, the period covered in the initial report; and require that a

contribution received for the purpose of being expended on behalf of a candidate, issue, or petition be reported as an earmarked contribution.

3. MAC 44-3.10(6)-S1060, 44-3.10(6)-S1080, 44-3.10(6)-S1090, 44-3.10(10)-S10170, 44-3.10(10)-S10180, and 44-3.10(10)-S10300 as proposed to be amended are as follows (matter to be stricken is interlined, new matter is underlined):

MAC 44-3.10(6)-S1060 CONTRIBUTION-DEFINITION (1) For the purposes of Title 23, chapter 47, and these rules, the term "contribution" as defined in section 23-4777(6) includes, but is not limited to:

(a) Each contribution as listed in section 23-4779(2) through (8).

(b) The purchase of tickets or admissions to, or advertisements in journals or programs for testimonial or fund raising events, including, but not limited to dinners, luncheons, cocktail parties, and rallies held for the support or opposition of a candidate, issue, or political committee.

(c) A candidate's own money used on behalf of his candidacy, except as provided in section 23-4777(7)(b).

(d) An in-kind contribution, as defined in subsection (1)(d)(i) of this rule.

(i) The term "in-kind contribution" means the furnishing of services, property, or rights without charge or at a charge which is less than fair market value to a candidate or political committee for the purpose of supporting or opposing any candidate or political committee, except as provided in section 23-4777(6)(c) and (d).

(aa) An "in-kind contribution", as defined in subsection (1)(d)(i) of this rule, includes, but is not limited to:

(aaa) Forgiveness of any loan to or debt of a candidate or political committee.

(aab) Payment of a loan or other debt by a third person.

(aac) An expenditure made at the behest of a candidate or political committee, as specified in MAC 44-3.10(10)-S10290.

(2) The fact that the public office being sought by the individual is not known by the contributor or has not yet been determined by the potential candidate at the time that the contribution is made or the fact that a candidate and/or issue being supported or opposed by a political committee is not known by the contributor or has not yet been determined by a political committee at the time that the contribution is made has no effect on the determination or reporting of that contribution.

(3) The term "contribution" does not include:

(a) Filing fees paid for by the candidate.

(b) Interest on monies deposited in a campaign depository.

(c) The cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation.

(d) The cost of any communication by any membership organization to its members, so long as such organization is not a primary political committee.

MAC 44-3.10(6)-S1080 EXPENDITURE-DEFINITION (1) For the purposes of Title 23, chapter 47, and these rules, the term "expenditure" as defined in section 23-4777(7) includes, but is not limited to:

(a) Each expenditure as listed in section 23-4779(10) through (15).

(b) Expenses incurred by a candidate or political committee with respect to polls, surveys, and the solicitation of funds.

(c) Expenses incurred in support of or opposition to the drafting, printing, distribution and collection of signatures for any petition for nomination to office or petition for referendum or initiative.

(d) A candidate's own expenses, except as provided in section 23-4777(7)(b).

(e) Payment of interest on a loan or other credit received.

(f) An in-kind expenditure, as defined in subsection (1)(f)(i) of this rule.

(i) The term "in-kind expenditure" means the furnishing of services, property, or rights of a candidate or political committee without charge or at a charge which is less than fair market value to a person, candidate, or political committee for the purpose of supporting or opposing any person, candidate, or political committee, except as provided in section 23-4777(6)(c) and section 23-4777(7)(a).

(aa) An "in-kind expenditure", as defined in (1)(f)(i) of this rule, includes, but is not limited to:

(aaa) Forgiveness of any loan or debt owed to a candidate or political committee.

(2) The term "expenditure" does not include:

(a) Filing fees paid for by the candidate.

(b) The cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation.

(c) The cost of any communication by any membership organization to its members, so long as such organization is not a primary political committee.

MAC 44-3.10(6)-S1090 POLITICAL COMMITTEE-DEFINITION (1) For the purposes of the definition of "political committee" as

defined in section 23-4777(9) ~~includes~~, any combination of two or more individuals, or a person other than an individual, is a political committee if it makes an expenditure: supporting or opposing any petition for nomination to office or petition for referendum or initiative.

(a) To or on behalf of a candidate or a committee organized to support a candidate; or

(b) On behalf of a ballot issue or a petition for nomination, initiative, or referendum; or

(c) To a committee organized to support or oppose a ballot issue or petition for nomination, initiative, or referendum; or

(d) As an earmarked contribution.

(1) Any combination of two or more individuals, or a person other than an individual, who receives an expenditure which is made in a manner as specified in subsection (1) (a) through (d), is a political committee and must report it as a contribution.

(2) The fact that the identity and/or number of specific candidates or issues to support or oppose has not been determined at the time of the formation of any political committee does not exclude it from the definition of political committee.

(3) A candidate and his or her campaign treasurer does do not constitute a political committee. The campaign treasurer, while performing the statutory duties of a campaign treasurer, is the agent of the candidate.

(4) If a political committee has subdivisions within the state, such as county committees, which have authority to receive contributions and make expenditures independent of the parent political committee, each subdivision is considered a separate political committee for purposes of Title 23, chapter 47, and these rules.

MAC 44-3.10(10)-S10170 INCIDENTAL POLITICAL COMMITTEE, FILING SCHEDULE, REPORTING (1) An incidental political committee shall file reports only for the reporting periods in which it receives contributions or makes expenditures to or on behalf of a candidate, issue, or political committee or for the purpose of directly or indirectly influencing the result of an election.

(2) An incidental political committee shall report contributions received and expenditures made to or on behalf of a candidate, issue, or political committee or to influence the results of an election in accordance with the requirements of MAC 44-3.10(10)-S10250 and 44-3.10(10)-S10340, with the following differences:

(a) If the incidental political committee is a firm, partnership, or other business entity, it need not report the original sources of the contributions so long as they were received in the normal course of business and were not gained,

expressly or implicitly, for the purpose of being used, directly or indirectly, to influence an election.

~~(a)~~ (b) If the incidental political committee is an organization which has as its principle source of income, the collection of dues, fees, subscriptions, or other sources of funds of a uniform amount from every member, it need not report the individual sources of the funds, unless the result of the following calculation equals more than twenty-five dollars (\$25) per person. Multiply the amount of the individual dues gained in a year, or whatever the period of membership paid for covers, whichever is greater, by the percentage of the total resources of the committee for the same period allocated to the influencing of elections; or

~~(b)~~ (c) If the incidental political committee is an organization which has as its principle source of income, the collection of dues, fees, subscriptions, or other sources of funds of varying amounts from members, it must report the sources of the income of twenty-five dollars (\$25) or more from each person or the committee may utilize the formula set forth in subsection (2)~~(a)~~(b) of this rule.

~~(c)~~ (d) Contribution:

(i) The term "contribution" does not include:

(aa) Non-partisan activity of an incidental political committee which is designed to educate or to encourage individuals to register to vote, or to vote, and which does not favor any particular candidate, party, issue, or political committee.

~~(d)~~ (e) Expenditure:

(i) The term "expenditure" does not include:

(aa) The costs incurred with respect to non-partisan activity of an incidental political committee which is designed to educate or to encourage individuals to register to vote, or to vote, and which does not favor any particular candidate, party, issue, or political committee.

MAC 44-3.10(10)-S10180 INITIAL REPORT (1) For the purposes of section 23-4778, "initial report" means the first report required to be filed by a candidate or political committee.

(a) For a candidate, The the period covered begins on the date that the person first receives a contributions or makes an expenditures; on the date that a political committee files a Statement of Organization; or on the date a candidate or political committee gives consent for any other person to receive any contribution or make any expenditure, whichever is earlier, and ends on the closing date of books, as specified in MAC 44-3.10(10)-S10190, for the filing of the first pre-election report as specified in MAC 44-3.10(10)-S10190 for an election at which the candidate's name appears on a ballot.

(b) For a political committee, the period covered begins on the date that the person first receives a contribution or makes an expenditure or gives consent for any other person to receive any contribution or make any expenditure, whichever is earlier, and ends on the closing date of books, as specified in MAC 44-3.10(10)-S10190, for the reporting period in which an expenditure, as specified in MAC 44-3.10(6)-S1090, subsections (1)(a) through (d), is made.

(2) If a candidate or political committee required to report by section 23-4778 received contributions or made expenditures before April 21, 1975, the effective date of the act, the candidate or political committee need only disclose, in the initial report, the amount of cash on hand and indebtedness ~~after~~ as of April 20, 1975, for purposes of this act.

#### MAC 44-3.10(10)-S10300 EARMARKED CONTRIBUTION-REPORTING

(1) For the purposes of section 23-4737 and these rules, A a contribution made by a person ~~or political committee~~ to another candidate or political committee for the express or implied purpose of having all or part of that contribution expended on behalf of a candidate or expended to support or oppose a ballot issue or petition for nomination, initiative, or referendum; or transferred to another candidate or political committee organized on behalf of a candidate or organized to support or oppose a ballot issue or petition for nomination, initiative, or referendum is an "earmarked contribution".

(2) An earmarked contribution shall be reported as follows:

(a) The intermediary candidate or political committee receiving an earmarked contribution shall report it pursuant to the provisions of MAC 44-3.10(10)-S10250 and, in addition, shall:

- (i) Report it as an "earmarked contribution";
- (ii) Report the name and address of the candidate or political committee for which the earmarked contribution is ultimately intended.

(b) The intermediary candidate or political committee, when transferring an earmarked contribution or thing of value received, shall report it pursuant to the provisions of MAC 44-3.10(10)-S10340 and, in addition, shall:

- (i) Report it as an "earmarked contribution";
- (ii) Inform the candidate or political committee ultimately receiving the transfer of the earmarked contribution of the full name and mailing address (occupation and principal place of business, if any) of the original contributor.

(c) The candidate or political committee ultimately receiving an earmarked contribution shall report it pursuant to the provisions of MAC 44-3.10(10)-S10250 and, in addition, shall:

- (i) Report it as an "earmarked contribution";

(ii) Report it as a contribution of the original contributor, disclosing the full name, mailing address (occupation and principal place of business, if any);

(iii) Report the full name and mailing address (occupation and principal place of business, if any) of the intermediary candidate or political committee, if any.

4. Interested persons may submit their data, views or arguments, either in writing to John N. Hanson, Commissioner of Campaign Finances and Practices, P. O. Box 39, Capitol Station, Helena, Montana 59601, prior to March 17, 1976, or in writing or orally at the hearing.

5. Jack J. Lowe, Capitol Station, Helena, Montana 59601, has been designated by the Commissioner of Campaign Finances and Practices to preside over and conduct the hearing.

6. The authority of the Commissioner to make the proposed amendments is based on section 23-4786, R.C.M. 1947.

John N. Hanson  
John N. Hanson  
Commissioner of Campaign  
Finances and Practices

Certified to the Secretary of State February 10, 1976.



Title 46  
Social & Rehab.  
Serv.

BEFORE THE DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES OF THE  
STATE OF MONTANA

In the matter of the adoption of)	NOTICE OF PUBLIC HEARING
rules MAC 46-2.10(38)-S101950 )	FOR ADOPTION OF RULES
through MAC 46-2.10(38)-S102040 )	MAC 46-2.10(38)-S101950
relating to the County Medical )	THROUGH MAC 46-2.10(38)-
Programs for Medically Needy )	S102040, COUNTY MEDICAL
Persons. )	PROGRAMS FOR MEDICALLY
	NEEDY PERSONS.

TO: All Interested Persons

1. On Wednesday, February 4, 1976, at 10:00 a.m., a public hearing will be held in the auditorium of the Department of Highways building at Sixth and Roberts, Helena, Montana, to consider the adoption of rules MAC 46-2.10(38)-S101950 through MAC 46-2.10(38)-S102040 relating to the County Medical Programs for Medically Needy Persons.

2. The Department of Social and Rehabilitation Services proposes to adopt a new sub-chapter under the Economic Assistance Division's Chapter 10 of the Montana Administrative Codes. The sub-chapter will deal with the county medical programs for needy Montana persons. The rules contain general information regarding the program, application, residency requirements, scope and duration of services, income, negotiable resources, non-essential personal property, real property, medical resources, and payment procedures. Because of the length of these ten proposed rules under a new sub-chapter which will be Sub-Chapter 38, the text of the rules is not printed herein. However, anyone wishing to obtain copies of the proposed rules may do so by contacting the Legal Unit, Department of Social and Rehabilitation Services, P. O. Box 1723, Helena, Montana, 59601.

3. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing.

4. M. Gene McLatchy, P. O. Box 1723, Helena, Montana, has been designated by the Director of the Department of Social and Rehabilitation Services to preside over and conduct the hearing.

5. The authority of the Department to adopt the proposed rules is based on R.C.M. 1947, Section 71-308 and Section 82-4204.

(2)

Theodore Parkulis  
Director, Social and Rehabilitation  
Services

Certified to the Secretary of State January 14, 1976.

BEFORE THE DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendments ) NOTICE OF PUBLIC HEARING  
of rules MAC 46-2.10(14)-S11320 ) FOR AMENDMENTS OF RULES  
relating to relative responsi- ) PERTAINING TO RELATIVE RES-  
bility; MAC 46-2.10(14)-S11180 ) PONSIBILITY, EVALUATING IN-  
relating to evaluating income; ) COME, & PROPERTY LIMITATIONS.  
MAC 46-2.10(14)-S11210 relating )  
to property limitations. )

TO: All Interested Persons

1. On Tuesday, February 10, 1976, at 10:00 a.m., a public hearing will be held in the auditorium of the Department of Highways building at Sixth and Roberts, Helena, Montana, to consider the amendments of rules MAC 46-2.10(14)-S11320 relating to relative responsibility; MAC 46-2.10(14)-S11180 relating to evaluating income; and MAC 46-2.10(14)-S11210 relating to property limitations.

2. The proposed rule changes shall read as follows:

"46-2.10(14)-S11320 RELATIVE RESPONSIBILITY (1) No application for or recipient of assistance will be denied nor payment to a recipient withheld, delayed or closed due to difficulty in determining the liability of a responsible relative to pay support or make a contribution. An assistance payment may not be closed, reduced or delayed on the assumption support or relative contribution is available. However, the liability of the relative to contribute to the support of a child must be determined (established) or eligibility is not fully established. (Refer to 46-2.10(14)-S11200). (1) (2) Subject to fulfilling \*\*\*"

"46-2.10(14)-S11180 EVALUATING INCOME (1) \*\*\*  
(2) \*\*\* (a) The client reports the gross amount of income received during the previous three (3) months. The income received from the 16th of the 1st month to the 15th of the 4th month shall be divided by 3 to determine the amount of the grant to be received on the 1st of the 5th month in any given 5-month period. first to the last (30th) day of each of three (3) months (calendar month) will be added up and divided by three (3) to determine the average income received to be applied against the assistance grant for regular six (6) month review period. Where income averaging is not used, the income received from the 16th of the 1st

month-to-the-15th-of-the-2nd-month first to the thirtieth (30th), last day of the month, will affect the grant received on the 1st of the 3rd month in any-given-three-month-period. In computing monthly income for averaging, or where averaging is not used, income received weekly may be multiplied by 4.3, and 2.15 for income received bi-weekly.

(b) \$30.00 plus 1/3 of the remainder is deducted from the portion of gross income representing earned income. This deduction is not made in cases of ~~initial~~ application unless the applicant has received AFDC within any of the previous four (4) months. The \$30.00 plus 1/3 may not be disregarded in step-father cases since the mother is not included in the AFDC grant for the children. Refer to MAC 46-2.10(14)-S11080(2) for definition of step-father household. (i) The 30 plus 1/3 disregard will not be made if any person included in the AFDC grant reduced his earned income within the preceding thirty (30) days without good cause. Refer to MAC 46-2.10(14)-S11190(2)(a). \*\*\*

"46-2.10(14)-S11210 PROPERTY LIMITATIONS (1) \*\*\*

(a) \*\*\* (iii) Applicants-for-or-recipients-of-assistance-having-unencumbered-property-with-a-total assessed-valuation-of-\$1000-or-more,-or-whose-clear equity--is-\$1000-or-more,-who-are-not-residing-on-said property,-may-not-be-granted-assistance-or-continue to-receive-assistance-until-a-determination-is-made-as to-why-a-lean-cannot-be-secured-or-the-property-sold. Income producing property (rental, farm, land, business) will be considered part of the total real property limitation of \$25,000 that a person may have and be eligible for public assistance. Income from such property will be deducted from the assistance payment, less any cost involved in producing the income.

(b) \*\*\* (ii) Personal property limitations will exclude household goods, clothing and other essential personal effects, home produce, and livestock produced for-family-use-only- producing food for family consumption only. Face value \*\*\*"

3. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing.

4. M. Gene McLatchy, P. O. Box 1723, Helena, Montana, has been designated by the Director of the Department of Social and Rehabilitation Services to preside over and conduct the hearing.

5. The authority of the Department to amend the pro-

(3)

posed rules is based on R.C.M. 1947, Sections 71-210, 71-221, and 82-4204.

*Thodore Carkulis*

Director, Social and Rehabilitation  
Services

Certified to the Secretary of State January 14, 1976.

1-1/26/76

MAC Not. No. 46-2-100

BEFORE THE DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment )	NOTICE OF PUBLIC HEARING
of rules MAC 46-2.6(2)-S640, )	FOR AMENDMENT AND
S650, S660, S670, S680, S690; )	ADOPTION OF RULES PERTAIN-
and the adoption of rules MAC )	ING TO DAY CARE SERVICES
46-2.6(2)-S674, S684, S688 )	AND TO LEGAL AND PROTECTIVE
relating to Day Care Services )	SERVICES
and to Legal and Protective )	
Services. )	

TO: All Interested Persons

1. On Thursday, February 5, 1976, at 10:00 a.m., a public hearing will be held in the auditorium of the Department of Highways building at Sixth and Roberts, Helena, Montana, to consider the amendment of rules MAC 46-2.6(2)-S640, S650, S660, S670, S680, S690; and the adoption of rules MAC 46-2.6(2)-S674, S688, S684 relating to Day Care Services and to Legal and Protective Services.

2. The proposed adoption and amendment of the foregoing rules is initiated to more completely delineate the program for Day Care Facilities for Children as provided by Title 10, Chapter 8 and Chapter 13 of the Revised Codes of Montana, 1947, as amended. The rules are new and some are amended and provide for definitions, for general and specific requirements for individuals, families and facilities as concerns day care services. The rules also provide for types of enrollment with guidelines. Also provided are general and specific rates, and provisions for termination of day care services. Also included are rules concerning child protection, legal termination of parental rights, reporting of child abuse or neglect and the central registry operation. The Sub-Chapter 2 title is being changed from Child Welfare Services Bureau to Social Services Bureau to reflect departmental change. Because the rule changes are too lengthy to be printed herein, a copy of the changes may be obtained by contacting the Legal Unit, Department of Social and Rehabilitation Services, P. O. Box 1723, Helena, Montana, 59601.

3. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing.

4. M. Gene McLatchy, P. O. Box 1723, Helena, Montana, has been designated by the Director of the Department of Social and Rehabilitation Services to preside over and conduct the hearing.

(2)

5. The authority of the Department to make the proposed changes relating to the Day Care Program is based on R.C.M. 1947, Sections 82-4204, 10-801, 10-802, 10-803, 10-806; and to make the proposed changes relating to the Legal and Protective Services is based on R.C.M. 1947; Sections 10-1304, 10-1305, 10-1315, 82-4204.

*Theodore Carkulis*  
Director, Social and Rehabilitation  
Services

Certified to the Secretary of State January 14, 1976.



BEFORE THE DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PUBLIC HEARING  
of rule MAC 46-2.10(18)-S11420 ) FOR AMENDMENT OF RULE  
relating to medical assistance,) PERTAINING TO MEDICAL AS-  
eligibility requirements. ) SISTANCE, ELIGIBILITY RE-  
QUIREMENTS.

TO: All Interested Persons

1. On Tuesday, February 10, 1976, at 10:00 a.m., a public hearing will be held in the auditorium of the Department of Highways building at Sixth and Roberts, Helena, Montana, to consider the amendment of rule MAC 46-2.10(18)-S11420 relating to eligibility requirements for medical assistance.

2. The proposed change to the rule shall read as follows:

"46-2.10(18)-S11420 MEDICAL ASSISTANCE, ELIGIBILITY REQUIREMENTS (1) \*\*\* (b) \*\*\* (ii) \*\*\* (aa) \*\*\* (aab) A personal property limitation of \$1,500 shall be imposed for a single person or \$2,250 for a couple and an automobile not to exceed \$1,500 retail value. Where the auto is encumbered, the amount of owner's equity only will be considered. Exempted for the personal property limitations stated above are household goods, life insurance policies not exceeding a cash value of \$1,500 and an automobile used for employment or needed for medical purposes. Any individual in a nursing home will be allowed a \$25.00 exemption from his income. (aac) \*\*\*."

3. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing.

4. M. Gene McLatchy, P. O. Box 1723, Helena, Montana, has been designated by the Director of the Department of Social and Rehabilitation Services to preside over and conduct the hearing.

5. The authority of the Department to amend the proposed rules is based on R.C.M. 1947, Sections 71-210, 71-221, 82-4204; and 45 C.F.R. 248.3.

(2)

Thomas P. Cerkulis  
Director, Social and Rehabilitation  
Services

Certified to the Secretary of State January 14, 1976.

BEFORE THE DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PUBLIC HEARING  
of rule MAC 46-2.10(14)-S11280 ) FOR AMENDMENT OF RULES PER-  
relating to Failure to Comply ) TAINING TO AFDC AND THE  
(WIN) and the amendment of rule ) MEDICAL ASSISTANCE PROGRAM  
46-2.10(18)-S11470 relating to )  
Peer Review, Utilization Review )  
and Medical Review. )

TO: All Interested Persons

1. On November 15, 1976, the Department of Social and Rehabilitation Services intends to amend its rules relating to the failure to comply (WIN) and to peer review, utilization review and medical review. On Tuesday, November 9, 1976, a public hearing will be held at 2:00 p.m. in the Auditorium of the Department of Highways Building at Sixth and Roberts, Helena, Montana, to consider these amendments. Interested persons may submit data, views or arguments, orally or in writing, at the public hearing. Written comments, data, views, or arguments may be submitted to M. Gene McLatchy, P. O. Box 1723, Helena, Montana, 59601, anytime before November 9, 1976.

2. The amendments of these rules shall read as follows:

"46-2.10(14)-S11280 FAILURE TO COMPLY (WIN) (1) \*\*\*  
(2) \*\*\* ((b) \*\*\* (i) The specified sanctions wiii  
shall not be applied during the period of 60 days in  
which an individual is being provided counseling and  
other services for the purpose of persuading him to  
accept appropriate training, except that financial  
assistance paid in behalf of the individual and his or  
her family will be provided in the form of protective  
or vendor payments. or employment-{provided-the-client  
is-accepting-of-counseling}- \*\*\*."

"46-2.10(18)-S11470 PEER REVIEW, UTILIZATION REVIEW AND  
MEDICAL REVIEW (1) Utilization, peer and medical re-  
view shall be conducted by the federally designated  
Professional Standards Review Organization (PSRO) as  
provided for in 42 U.S.C. 1320, (c)(1). If the PSRO  
cannot provide utilization review for all medical care  
programs in Title XIX of the Social Security Act, the  
Department may designate other qualified third parties  
to provide utilization review. Level of care evaluations  
will be made in accordance with Federal Regulations 45  
C.F.R. 249.10(b)(4)(i). Whenever a fair hearing is

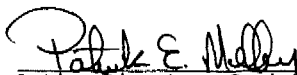
10-10/25/76

MAC Notice No. 46-2-112

requested by a recipient concerning a decision under this regulation, the hearing officer shall request the designated reviewing agency to appoint a fact-finding committee of three physicians not involved in the contested decision who shall collect and summarize the evidence and render an opinion thereon which opinion shall be submitted as evidence at the fair hearing. The reviewing agency's decisions shall be effective immediately and said decisions are not stayed by a request for a fair hearing. However, if the reviewing agency's decision is reversed at a fair hearing, the medical benefits shall be paid retroactively. Also, a recipient whose nursing home care is terminated and who requests a fair hearing may continue to receive nursing home care benefits pending the outcome of the fair hearing. (a) \*\*\*"

3. M. Gene McLatchy, P. O. Box 1723, Helena, Montana, has been designated by the Director of the Department of Social and Rehabilitation Services to preside over and conduct the hearing.

4. The authority of the Department for the amendment of the above rules is based on Sections 71-1511, 71-1515, and 71-1517 for rule MAC 46-2.10(18)-S11470 and Sections 71-210, 71-230, 71-314, 71-501, and 71-509 for rule MAC 46-2.10(14)-S11280.



Acting Director, Social and Rehabilitation Services

Certified to the Secretary of State October 14, 1976.

BEFORE THE DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES OF THE  
STATE OF MONTANA

In the matter of the adoption ) NOTICE OF PUBLIC HEARING  
of rules MAC 46-2.10(18)-S11441) FOR ADOPTION OF RULES PER-  
through MAC 46-2.10(18)-S11446 ) TAINING TO LEVEL OF CARE  
relating to level of care ) SCREENING GUIDELINES.  
screening guidelines. )

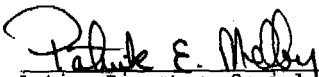
TO: All Interested Persons

1. On November 15, 1976, the Department of Social and Rehabilitation Services intends to adopt rules relating to the level of care screening guidelines. On Tuesday, November 9, 1976, at 2:00 p.m., a public hearing will be held in the Auditorium of the Highways Building at Sixth and Roberts, Helena, Montana, to consider these adoptions. Interested persons may submit data, views or arguments, orally or in writing, at the public hearing. Written comments, data, views or arguments may be submitted to M. Gene McLatchy, P. O. Box 1723, Helena, Montana, 59601, anytime before November 9, 1976.

2. The proposed adoption of these rules shall outline the level of care determinations, skilled care, intermediate nursing care, personal care, services commonly furnished by nursing personnel in skilled nursing homes and their usual skill classification, and problem cases. The content of these proposed rules are too lengthy to be printed herein. If you wish to obtain a copy, please contact the Legal Unit, Department of Social and Rehabilitation Services, P. O. Box 1723, Helena, Montana, 59601.

3. M. Gene McLatchy, P. O. Box 1723, Helena, Montana, has been designated by the Director of the Department of Social and Rehabilitation Services to preside over and conduct the hearing.

4. The authority of the Department to adopt these rules is based on Sections 71-1511 and 71-1512, R.C.M. 1947.

  
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Acting Director, Social and Rehabili-  
tation Services

Certified to the Secretary of State October 14, 1976.

10-10/25/76

MAC Notice No. 46-2-113

46-2.10(14)-S10950

SOCIAL AND  
REHABILITATION SERVICES

must be made for reinstatement of assistance. Reapplications for assistance are processed in the same manner as original applications. An application may be made by a third party when the physical or mental condition of the needy person precludes his ability to make application for himself. (History: Sections 71-503, 71-505, R.C.M. 1947; NEW, MAC Notice No. 46-2-57; Order MAC No. 46-2-26; Adp. 10/15/74; Eff. 11/4/74.)

BEFORE THE DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PUBLIC HEARING  
of rules MAC 46-2.10(14)-S10940;) FOR AMENDMENT OF RULES PER-  
46-2.10(14)-S11130; 46-2.10(14)-) TAINING TO THE ECONOMIC AS-  
S11180; 46-2.10(14)-S11190; 46-) SISTANCE, ADC AND MEDICAL  
2.10(14)-S11210; 46-2.10(14)-) ASSISTANCE  
S11240; 46-2.10(14)-S11280; and )  
46-2.10(18)-S11420 relating to )  
Aid to Dependent Children assis-)  
tance and Medical Assistance. )

TO: All Interested Persons

1. On September 15, 1976, the Department of Social and Rehabilitation Services intends to amend its rules relating to the Economic Assistance Division, Aid to Dependent Children assistance and Medical Assistance. On Thursday, September 9, 1976, a public hearing will be held at 10:00 a.m. in the Auditorium of the Department of Highways Building at Sixth and Roberts, Helena, Montana, to consider the amendments. Interested persons may submit data, views or arguments, orally or in writing, at the public hearing. Written comments, data, views, or arguments may be submitted to M. Gene McLatchy, P. O. Box 1723, Helena, Montana, 59601, anytime before September 9, 1976.

2. The amendments to each rule shall read as follows:

"46-2.10(14)-S10940 INTERVIEWS REQUIRED AND CONTENT OF INTERVIEWS (1) \*\*\* (2) \*\*\* (3) No person shall be excluded from participation in, be denied the benefits, or be subjected to discrimination under any state welfare program or activity, including those programs and activities receiving federal financial assistance, on the grounds of race, color, religion, sex, culture, age, creed, physical or mental handicap, or national origin, except when the distinction is based on reasonable grounds."

"46-2.10(14)-S11130 PROTECTIVE AND/OR VENDOR PAYMENTS (1) \*\*\* (b) \*\*\* (i) The protective payee shall be bonded in the amount equal to six times the amount of the monthly payment involved, the cost of such bond to be paid by the county. The protective payee shall be bonded in an amount equal to six (6) times the amount of the monthly payment involved, with adequate corporate surety; the form for said bond to be approved by the

Department of Social and Rehabilitation Services and paid for by the county welfare department involved. The bond must run in favor of the dependent child(ren) and the state of Montana and be conditioned upon the faithful use by the protective payee of the AFDC payments for the welfare of the dependent child(ren)."

"46-2.10(14)-S11180 EVALUATING INCOME (1) \*\*\*

(2) \*\*\* (b) \*\*\* The \$30.00 plus 1/3 may-not-be disregarded disregard is not allowed from the children's natural mother's earned income in step-father cases since ~~the mother~~ she is not included in the AFDC grant for the children when the step-father is supporting her. If the step-father is not supporting her, and she is included in the AFDC grant for the children as a needy caretaker relative, the \$30.00 plus 1/3 is to be applied to any earned income she has. \*\*\*

(d) \*\*\* (1) Work expenses are those one time expenses necessary to obtain employment and those recurring expenses which are necessary to continue employment or comply with employment requirements. A work allowance of \$25.00 per month, or more, if documented by the client, to include full cost if public transportation is used ~~of 9¢~~ and 12¢ per mile if own car is used shall be disregarded as a work related expense. \*\*\*"

"46-2.10(14)-S11190 DISREGARD OF INCOME (1) \*\*\*

(c) Income offered through training incentive programs and work allowance under the federal Manpower Training and Development Act, payments under Title I of the Elementary and Secondary Education Act; the weekly incentive allowance paid under federal P. L. 93-203, the federal Comprehensive Training and Employment Act of 1973. \*\*\*

(f) The value of the U. S. Department of Agriculture donated foods (commodities), the value of supplemental food assistance received under the federal Child Nutrition Act of 1966, as amended, and the special food services program for children under the federal National School Lunch Act, as amended, (federal P. L. 92-433 and federal P. L. 93-150). \*\*\*

(i) All per capita payments awarded to Indian Tribes by the Indian Claims Commission or Court of Claims shall be disregarded as authorized by federal P. L. 93-134 or federal P. L. 92-254. \*\*\*

(k) Any compensation provided to individual volunteers under VISTA (P. L. 93-113, pursuant to Section 404(g) of that law), Action, Retired Senior Volunteers Program, Foster Grandparent Program, Older American's Community Services Program established under Title VI of the fed-



eral Older American's Act of 1976, as amended, and the National Volunteer Program to Assist Small Business; ~~any payments for supportive services~~ or reimbursement of out-of-pocket expenses made to individual volunteers, foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under Titles II and III of the federal Domestic Volunteer Services Act of 1973 (Federal Public Law 93-113). \*\*\*

(m) The tax-exempt portions of payments made pursuant to federal Public Law 92-203, the federal Alaska Native Claims Settlement Act. \*\*\*

46-2.10(14)-S11210 PROPERTY LIMITATIONS (1) \*\*\*

(b) \*\*\* (ii) Personal property limitations will exclude household goods, clothing and other essential personal effects, home produce, and livestock-producing food for family consumption only. Essential tools for a trade or equipment needed for employment are exempt from consideration under personal property limitation. Recreational equipment not required for securing food are subject to the personal property limitation of \$1,500.00. Hunting and fishing equipment are exempt from the personal property limitation as essential to securing food. Face value \*\*\* "

46-2.10(14)-S11240 WORK REGISTRATION REQUIREMENTS (WIN)

(1) \*\*\* (b) ~~Students~~ Children, age 16-21, who are enrolled full time, as defined by the institutional program in which they are enrolled, in any school or training program recognized by federal, state or local government agencies. \*\*\*"

46-2.10(14)-S11280 FAILURE TO COMPLY (WIN) (1) \*\*\*

(2) \*\*\* (b) \*\*\* (i) The specified sanctions will not be applied during the period of 60 days in which an individual is being provided counseling, and other services for the purpose of persuading him to accept appropriate training or employment ~~(provided the client is accepting of counseling)~~. During the 60-day counseling period, even though the person accepts counseling, the persons needs will be removed from the AFDC grant. If the person who fails to comply with WIN requirements is the Adult Caretaker Relative of dependent children, a protective payee will be appointed to receive and disburse the assistance payments to meet the needs of the dependent children, or vendor payments will be made on the children's behalf to meet their needs. \*\*\*"

46-2.10(18)-S11420 MEDICAL ASSISTANCE, ELIGIBILITY  
 REQUIREMENTS (1) \*\*\* (b) \*\*\* (ii) \*\*\* (aa)

Clients most closely related to eligibility criteria of Supplemental Security Income and Aid to Families with Dependent Children for the medically needy program shall have their resources and income evaluated in the following manner: \*\*\*"

(ab) Aid to Families with Dependent Children cases shall have their resources and income evaluated in the following manner for medically needy as outlined above.  
 (aaa) The income and resources ~~regulations~~ requirements found in the ~~chapter covering Aid to Families with Dependent Children~~ above paragraph (b)(ii) of this rule shall govern in Medically Needy cases related to Aid to Dependent Children.

3. M. Gene McLatchy, P. O. Box 1723, Helena, Montana, has been designated by the Director of the Department of Social and Rehabilitation Services to preside over and conduct the hearing.

4. The authority of the Department to amend the above rules is based on Sections 71-210, 71-230, 71-314, 71-501, 71-509, 71-1516, 71-1517, 71-1520, R.C.M. 1947.

*Patricia E. Melby*

Acting Director, Social and Rehabilitation Services

Certified to the Secretary of State August 12, 1976.

BEFORE THE DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment )	NOTICE OF PUBLIC HEARING
of rules MAC 46-2.10(18)-S11450 )	FOR AMENDMENT OF RULES PER-
and 46-2.10(18)-S11470 relating )	TAINING TO THE MEDICAL AS-
to Medical Assistance, Nursing )	SISTANCE PROGRAM.
Home Care Provider Reimbursement)	
and Peer Review, Utilization )	
Review and Medical Review. )	

TO: All Interested Persons

1. On September 15, 1976, the Department of Social and Rehabilitation Services intends to amend its rules relating to the Medical Assistance Program, Nursing Home Care Provider Reimbursement and Peer Review, Utilization Review and Medical Review. On Thursday, September 9, 1976, a public hearing will be held at 2:00 p.m. in the Auditorium of the Department of Highways Building at Sixth and Roberts, Helena, Montana, to consider these amendments. Interested persons may submit data, views or arguments, orally or in writing, at the public hearing. Written comments, data, views, or arguments may be submitted to M. Gene McLatchy, P. O. Box 1723, Helena, Montana, 59601, anytime before September 9, 1976.

2. The amendments of each rule shall read as follows:

"46-2.10(18)-S11450 MEDICAL ASSISTANCE, NURSING HOME CARE PROVIDER REIMBURSEMENT (1) \*\*\* (2) If a patient requires and qualifies for skilled nursing home care benefits under Titles XVIII and XIX of the Social Security Act, Title XIX skilled nursing home care benefits will not be used to reimburse any skilled nursing home care facility for caring for said patient even if the skilled nursing home care facility does not participate in the Title XVIII program. Those skilled nursing home care facilities not participating in the Title XVIII skilled nursing home care program on the effective date of this regulation shall have 120 days from the effective date of this regulation to apply and be certified as Title XVIII facilities before this regulation is applicable to them or their patients."

"46-2.10(18)-S11470 PEER REVIEW, UTILIZATION REVIEW AND MEDICAL REVIEW (1) Utilization, peer and medical review shall be conducted by the federally designated Professional Standards Review Organization

(PSRO) as provided for in 42 U.S.C. 1320, (c)(1). If the PSRO cannot provide utilization review for all medical care programs in Title XIX of the Social Security Act, the Department may designate other qualified third parties to provide utilization review. Level of care evaluations will be made in accordance with Federal Regulations 45 C.F.R. 249.10(b)(4)(i). The Department shall abide by the decisions of PSRO concerning utilization review except when decisions can be demonstrated by reasonable evidence to be arbitrary and capricious. For application to this rule, the appeal procedure of the Montana Foundation for Medical Care shall be included as the first step in the Montana administrative review remedies.

(a) Medical review shall be accomplished annually in each nursing home by a physician-headed team making a minimum of one annual visit to each Title XIX (Medicaid) participating skilled nursing home to assess quality medical care. Medical review and medical inspection as defined in 45 C.F.R. Section 250.23 and 250.24 shall be conducted by the Department annually in every nursing home participating in benefits from Title XIX of the Social Security Act by a physician-headed team. The team shall conduct a minimum of one annual medical review and inspection to assess quality of care in each nursing home facility. Unscheduled visits may be made if required. The Department may delegate this function to any qualified third party who has no financial interest or employment in any nursing home. \*\*\*

(1) (2) \*\*\*  
 (2) (3) \*\*\*  
 (3) (4) \*\*\*  
 (4) (5) \*\*\*  
 (5) (6) \*\*\*  
 (6) (7) \*\*\*  
 (7) (8) \*\*\*  
 (8) (9) \*\*\*\*

3. M. Gene McLatchy, P. O. Box 1723, Helena, Montana, has been designated by the Director of the Department of Social and Rehabilitation Services to preside over and conduct the hearing.

4. The authority of the Department for the amendment of the above rules is based on Sections 71-1511 and 71-1515, R.C.M. 1947.

(3)

*Patrick E. Mahoney*

Acting Director, Social and Rehabilitation Services

Certified to the Secretary of State August 12, 1976.

BEFORE THE DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment )	NOTICE OF PUBLIC HEARING
of rule MAC 46-2.10(18)-S11440 )	FOR AMENDMENT OF RULE PER-
relating to Medical Assistance, )	TAINING TO MEDICAL ASSIS-
Services Provided, Amount, Dur- )	TANCE, SERVICES PROVIDED,
ation; and rule MAC 46-2.10(18)- )	AMOUNT, DURATION; AND RULE
S11470 relating to Peer Review, )	PERTAINING TO PEER REVIEW,
Utilization Review and Medical )	UTILIZATION REVIEW AND
Review. )	MEDICAL REVIEW

TO: All Interested Persons

1. On Wednesday, April 14, 1976, at 10:00 a.m., a public hearing will be held in the Auditorium of the Department of Highways building at Sixth and Roberts, Helena, Montana, to consider the amendment of rule MAC 46-2.10(18)-S11440 relating to medical assistance, services provided, amount, duration; and to consider the amendment of rule MAC 46-2.10(18)-S11470 relating to peer review, utilization review and medical review.

2. The proposed amendment of rule MAC 46-2.10(18)-S11440 shall read as follows:

"46-2.10(18)-S11440 MEDICAL ASSISTANCE, SERVICES PROVIDED, AMOUNT, DURATION (l) \*\*\* (d) inpatient-hospital services-are-available-not-to-exceed-14-days-for-each admission-(except-that-the-attending-physician-may-request-an-extension-of-this-time-and-an-extension-may-be granted-provided-that-the-hospital-has-an-approved utilization-review-plan)-and-may-not-exceed-an-accumulative-total-of-30-days-per-person-in-each-fiscal-year. Inpatient hospital services are available but shall be limited to appropriate hospitalization as defined in rule MAC 46-2.10(18)-S11470(2). (h) \*\*\* (iii) Drugs will-be-paid-for-at-the-usual-and-customary-retail-rate (the-prevailing-charge-in-the-locality-for-a-comparable prescription-dispensed-under-comparable-circumstances). Drugs will be paid for on the basis of the "estimated acquisition cost" or the Federal "maximum allowable cost" plus a dispensing fee, or the providers usual and customary charge (the prevailing charge in the locality for a comparable prescription dispensed under comparable circumstances) to the general public whichever is lowest; except that the "Federal maximum allowable cost limitation" shall not apply in any case where a physician certifies in his own handwriting that in his medical judgment a specific brand is medically necessary for a

particular patient. An example of an acceptable certification would be the notation "brand necessary". In establishing the dispensing fee, the State will periodically survey the pharmacies operational data as outlined in the Federal Regulations on Medicaid Drug Reimbursement. There shall be no monthly dollar limitation on the drugs purchased for a recipient. However, inappropriate use of drugs, as is determined by professional review, may result in the imposition of a limitation upon the quantities of medications which are payable for by the Medical Assistance Program. ~~Each recipient shall be allowed up to \$35.00 for the purchase of drugs in one month.~~ Each recipient must pay to the pharmacist 50¢ per prescription, except for two (2) prescriptions received in any single month, which are exempt from the 50¢ co-payment. \*\*\*."

The proposed amendment of rule MAC 46-2.10(18)-S11470 shall read as follows:

"46-2.10(18)-S11470 PEER REVIEW, UTILIZATION REVIEW AND MEDICAL REVIEW (1) \*\*\* (2) The institutional review component will incorporate ~~pre-admission-screening-of-all elective-admissions-for-medical-necessity~~, certification within 48 hours of ~~urgent-and-emergent~~ all admissions, concurrent review during hospitalization to determine appropriate length of stay, discharge planning to facilitate patient transfer to an appropriate level of care when medically indicated, collection of data in order to effectively measure results and support management in quality control of the program using established practice standards as criteria to review the above functions. Although the criteria are too lengthy to be printed herein, a complete copy of the criteria for practice standards is available from the Montana Foundation for Medical Care, 1400 Eleventh Avenue, Helena, Montana, 59601. (3) \*\*\*."

3. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing.

4. M. Gene McLatchy, P. O. Box 1723, Helena, Montana, has been designated by the Director of the Department of Social and Rehabilitation Services to preside over and conduct the hearing.

5. The authority of the Department to amend the proposed rules is based on R.C.M. 1947, Section 71-1517.

(3)

*Thomas C. Sullivan*  
Director, Social and Rehabilitation  
Services

Certified to the Secretary of State March 17, 1976.

3-3/26/76

MAC Notice No. 46-2-103



BEFORE THE DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PUBLIC HEARING  
of rule MAC 46-2.10(18)-S11420 ) FOR AMENDMENT OF RULE PER-  
relating to Medical Assistance,) TAINING TO MEDICAL ASSIS-  
Eligibility Requirements. ) TANCE, ELIGIBILITY REQUIRE-  
MENTS

TO: All Interested Persons

1. On Wednesday, April 14, 1976, at 10:00 a.m., a public hearing will be held in the Auditorium of the Department of Highways building at Sixth and Roberts, Helena, Montana, to consider the amendment of rule MAC 46-2.10(18)-S11420 relating to medical assistance, eligibility requirements.


2. The proposed amendment of rule shall read as follows:

"46-2.10(18)-S11420 MEDICAL ASSISTANCE, ELIGIBILITY REQUIREMENTS (1) \*\*\* (b) \*\*\* (ii) \*\*\* (aa) \*\*\* (aaa) ~~A real property limitation of~~ All real property including a home and lot not to exceed a market value of ~~\$25,000~~ \$26,000 shall be imposed. Income-producing property necessary for self-support, producing a reasonable rate of return, is to be excluded as a resource for medically needy eligibility. \*\*\*"

3. Interested parties may present their data, views or arguments, whether orally or in writing, at the hearing.

4. M. Gene McLatchy, P. O. Box 1723, Helena, Montana, has been designated by the Director of the Department of Social and Rehabilitation Services to preside over and conduct the hearing.

5. The authority of the Department of Social and Rehabilitation Services to amend the proposed rule is based on R.C.M. 1947, Sections 71-210, 71-1516 and 71-1520.

  
Director, Social and Rehabilitation  
Services

Certified to the Secretary of State March 17, 1976.

BEFORE THE DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment )	NOTICE OF PUBLIC HEARING
of rule MAC 46-2.10(18)-S11450 )	FOR AMENDMENT OF RULE PER-
relating to Medical Assistance,) TAINING TO MEDICAL ASSIS-	
Nursing Home Care Provider )	TANCE, NURSING HOME CARE
Reimbursement. )	PROVIDER REIMBURSEMENT.

TO: All Interested Persons

1. On Wednesday, April 7, 1976, at 9:00 a.m., a public hearing will be held in the State Room of the Holiday Inn, 5 Baxter Lane, Bozeman, Montana, to consider the amendment of rule MAC 46-2.10(18)-S11450 relating to medical assistance, nursing home care provider reimbursement.


2. The proposed amendment of rule shall read as follows:

"46-2.10(18)-S11450 MEDICAL ASSISTANCE, NURSING HOME CARE PROVIDER REIMBURSEMENT (1) Reimbursement of nursing home care shall be made in accordance with the Manual of Reimbursement for Nursing Home Care, revised 1976, not printed herein due to its length, a copy of which is available from the Budget and Management Bureau, Department of Social and Rehabilitation Services, P. O. Box 1723, Helena, Montana, 59601.

3. Interested parties may present their data, views or arguments, whether orally or in writing, at the hearing.

4. M. Gene McLatchy, P. O. Box 1723, Helena, Montana, has been designated by the Director of the Department of Social and Rehabilitation Services to preside over and conduct the hearing.

5. The authority of the Department of Social and Rehabilitation Services to amend the proposed rule is based on R.C.M. 1947, Section 71-1511.

  
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Director, Social and Rehabilitation  
Services

Certified to the Secretary of State March 17, 1976.

BEFORE THE DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES OF THE  
STATE OF MONTANA

In the matter of the adoption ) NOTICE OF PUBLIC HEARING  
of rules pertaining to the Certi-) FOR ADOPTION OF RULES PER-  
fication of Developmental Dis-) TAINING TO THE CERTIFICA-  
abilities Professional Persons ) TION OF PROFESSIONAL PERSONS  
and Mental Health Professional )  
Persons. )

TO: All Interested Persons


1. On Monday, April 19, 1976, at 10:00 a.m., a public hearing will be held in the Auditorium of the Department of Highways building at Sixth and Roberts, Helena, Montana, to consider the adoption of rules relating to the certification of developmental disabilities professional persons and mental health professional persons. The rules will be a new Sub-Chapter 68 of Chapter 14.

2. The proposed adoption of the foregoing rules is initiated to implement R.C.M. 1947, Title 38, Chapter 12, a chapter entitled "Treatment of Developmentally Disabled". Section 38-1202, sub-paragraph 7(b) thereof, gives the responsibility of certifying professional persons to the Department of Social and Rehabilitation Services and the Department of Institutions. The proposed rules are intended to provide standards and definitions by which professional persons can be certified. Because of the length of the proposed rules, the content of the rules is not printed herein. However, if you wish a copy of the proposed rules, they can be obtained by contacting the Legal Unit, Department of Social and Rehabilitation Services, P. O. Box 1723, Helena, Montana, 59601.

3. Interested parties may present their data, views or arguments, whether orally or in writing, at the hearing.

4. M. Gene McLatchy, P. O. Box 1723, Helena, Montana, has been designated by the Director of the Department of Social and Rehabilitation Services to preside over and conduct the hearing.

5. The authority of the Department to adopt these rules is based on R.C.M. 1947, Section 38-1202.

  
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Director, Social and Rehabilitation  
Services

3-3/26/76



MAC Notice No. 46-2-106

(2)

Certified to the Secretary of State March 17, 1976.

MAC Notice No. 46-2-106

3-3/26/76

BEFORE THE DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PUBLIC HEARING  
of rule MAC 46-2.10(18)-S11440 ) FOR AMENDMENT OF RULE PER-  
relating to Medical Assistance,) TAINING TO MEDICAL ASSIS-  
Services Provided, Amount, Dur-) TANCE, SERVICES PROVIDED,  
ation. ) AMOUNT, DURATION

TO: All Interested Persons

1. A public hearing was held on April 14, 1976, at 10:00 a.m., in the auditorium of the Department of Highways building at Sixth and Roberts, Helena, Montana, to consider the amendment of rule MAC 46-2.10(18)-S11440 relating to Medical Assistance, services provided, amount, duration; and to consider the amendment of rule MAC 46-2.10(18)-S11470 relating to peer review, utilization review and medical review. As to rule MAC 46-2.10(18)-S11440, above described, the public hearing was continued and there will be a second public hearing on said rule on May 15, 1976, at 2:00 p.m. in the Remington Room of the Outlaw Inn, Kalispell, Montana. The public hearing of April 14, 1976, regarding MAC 46-2.10(18)-S11470 was concluded on that date.

2. The proposed amendment of rule MAC 46-2.10(18)-S11440 shall read as follows:

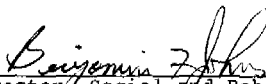
"46-2.10(18)-S11440 MEDICAL ASSISTANCE, SERVICES PROVIDED, AMOUNT, DURATION (l) \*\*\* (h) \*\*\* (iii) ~~Drugs will be paid for at the usual and customary retail rate (the prevailing charge in the locality for a comparable prescription dispensed under comparable circumstances).~~ Drugs will be paid for on the basis of the "estimated acquisition cost" or the Federal "maximum allowable cost" plus a dispensing fee, or the providers usual and customary charge (the prevailing charge in the locality for a comparable prescription dispensed under comparable circumstances) to the general public whichever is lowest; except that the Federal "maximum allowable cost limitation" shall not apply in any case where a physician certifies in his own handwriting that in his medical judgment a specific brand is medically necessary for a particular patient. An example of an acceptable certification would be the notation "brand necessary". In establishing the dispensing fee, the State will periodically survey the pharmacies operational data as outlined in the Federal Regulations on Medicaid Drug Reimbursement. There shall be no monthly dollar limitation on the drugs

purchased for a recipient. However, inappropriate use of drugs, as is determined by professional review, may result in the imposition of a limitation upon the quantities of medications which are payable for by the Medical Assistance Program. Each recipient must pay to the pharmacist 50¢ per prescription, except for two (2) prescriptions received in any single month, which are exempt from the 50¢ co-payment. \*\*\*."

3. Interested persons may present their data, views or arguments, whether orally or in writing, at the hearing.

4. M. Gene McLatchy, P. O. Box 1723, Helena, Montana, has been designated by the Director of the Department of Social and Rehabilitation Services to preside over and conduct the hearing.

5. The authority of the Department to amend the proposed rule is based on Section 71-1517, R.C.M. 1947.

  
Director, Social and Rehabilitation  
Services

Certified to the Secretary of State Caprice, 1976.

BEFORE THE DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES OF THE  
STATE OF MONTANA

In the matter of the adoption ) NOTICE OF PUBLIC HEARING  
of Sub-Chapter 42 relating to ) FOR ADOPTION OF RULES PER-  
Supplementary Payments for ) TAINING TO SUPPLEMENTARY  
Personal Care Services. ) PAYMENTS FOR PERSONAL CARE  
SERVICES

TO: All Interested Persons

1. On Tuesday, June 15, 1976, at 8:00 a.m., a public hearing will be held in the Auditorium of the Department of Highways building at Sixth and Roberts, Helena, Montana, to consider the adoption of rules relating to supplementary payments for personal care services. The rules will be a new Sub-Chapter 42 of Chapter 10.

2. The Department of SRS proposes to adopt a new sub-chapter under the Economic Assistance Division's Chapter 10 of the Montana Administrative Codes. The sub-chapter will provide for rules setting forth standards of assistance and eligibility requirements whereby the Department of SRS will be able to provide supplementary payments from state funds to recipients of Supplementary Security Income for the Aged, Blind or Disabled under Title XVI of the Social Security Act of the United States, or any future amendments thereto. The principle thrust behind these rules will allow the Department of SRS to supplement the income of Montana citizens who do not require nursing home care, but no longer should or can remain safely in their homes, and receive personal care services in non-medical facilities. These citizens require personal care services and minimal supervision in order to safely remain in the community. Such services and supervision need not be provided by licensed nursing homes, but can be provided by properly licensed non-medical facilities. Because of the length of the proposed rules, the content of the rules is not printed herein. However, if you wish a copy of the proposed rules, they can be obtained by contacting the Legal Unit, P. O. Box 1723, Helena, Montana, 59601.

3. Interested parties may present their data, views or arguments, whether orally or in writing, at the hearing.

4. M. Gene McLatchy, P. O. Box 1723, Helena, Montana, has been designated by the Director of the Department of Social and Rehabilitation Services to preside over and conduct the hearing.

(2)

5. The authority of the Department to adopt the proposed rules is based on Sections 71-210.2 and 71-210.3, R.C.M. 1947.

Thomas Carulis  
Director, Social and Rehabilitation  
Services

Certified to the Secretary of State May 17, 1976.



BEFORE THE DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES OF THE  
STATE OF MONTANA

In the matter of the repeal of )	NOTICE OF PROPOSED REPEAL OF
all existing rules found in )	ALL EXISTING RULES AND THE
Chapter 14 of Title 46 of the )	ADOPTION OF NEW RULES PER-
Montana Administrative Codes )	TAINING TO REHABILITATIVE
and the adoption of new regula-)	SERVICES ADMINISTERED BY THE
tions to be found in Sub-Chap-)	REHABILITATIVE SERVICES
ters 74 through Sub-chapter 114)	DIVISION.
of Chapter 14 of Title 46 of )	
the Montana Administrative Code)	

TO: All Interested Persons

1. On October 14, 1976, the Department of Social and Rehabilitation Services intends to repeal all existing rules found in Chapter 14 of Title 46 of the Montana Administrative Codes and to adopt new regulations to be found in Sub-Chapters 74 through Sub-Chapter 114 of Chapter 14 of Title 46 of the Montana Administrative Code. On Friday, October 8, 1976, a public hearing will be held at 10:00 a.m. in the Auditorium of the Department of Highways Building at Six and Roberts, Helena, Montana, to consider the adoption of these new rules. Interested persons may submit data, views or arguments, orally or in writing, at the public hearing. Written comments, data, views or arguments may be submitted to M. Gene McLatchy, P. O. Box 1723, Helena, Montana, 59601, anytime before October 8, 1976.

2. The proposed rule adoption is initiated to more completely delineate the programs administered by the Rehabilitative Services Division, the standards and procedures to be applied to the programs, the requirements for eligibility for the programs, and the methods by which eligibility is determined. The proposed rule adoption is primarily a recodification of existing policies and procedures, and contemplates only two substantive changes. Sub-Chapter 94 contains a change making reimbursement of accreditation survey fees by the Department discretionary with Rehabilitative Services Division. Sub-Chapter 110 implements a need requirement for eligibility for the extended work program. Under the adoption Chapter 14 will be structured as follows:

- Sub-Chapter 74 - Nature and Scope of Services
- Sub-Chapter 78 - Establishment of Rehabilitation Facilities
- Sub-Chapter 82 - Facilities and Services for Groups of Handicapped Individuals

9-9/24/76

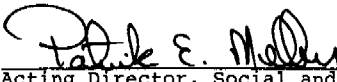
MAC Notice No. 46-2-111

- Sub-Chapter 86 - State Economic Need Policies
- Sub-Chapter 90 - Determination of Financial Need
- Sub-Chapter 94 - Standards for Facilities and Providers  
of Services
- Sub-Chapter 98 - Rates of Payment
- Sub-Chapter 102 - Confidential Information
- Sub-Chapter 106 - Administrative Review of Agency Action  
and Fair Hearing
- Sub-Chapter 110 - Extended Employment Program
- Sub-Chapter 114 - Kidney Dialysis, Transplant Program

Because of the length of the proposed rule adoption, the text is not printed herein. A copy of the complete change can be obtained from the Legal Unit, Department of Social and Rehabilitation Services, P. O. Box 1723, Helena, Montana, 59601.

3. M. Gene McLatchy, P. O. Box 1723, Helena, Montana, 59601, has been designated by the Director of the Department of Social and Rehabilitation Services to preside over and conduct the hearing.

4. The authority of the Department for the amendment of the above rules is based on Sections 41-817, 41-818, 71-2101, 71-2102, 71-2105, 71-2502, 71-1401, 71-1404, R.C.M. 1947.

  
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Acting Director, Social and Rehabili-  
tation Services

Certified to the Secretary of State September 15, 1976.

BEFORE THE DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PUBLIC HEARING  
of rule MAC 46-2.10(18)-S11390 ) FOR AMENDMENT OF RULES  
relating to the goals of the ) PERTAINING TO THE MEDICAL  
medical assistance program and ) ASSISTANCE PROGRAM.  
rule MAC 46-2.10(18)-S11420 )  
relating to the eligibility )  
requirements of the medical )  
assistance program. )

TO: All Interested Persons

1. On January 14, 1977, the Department of Social and Rehabilitation Services intends to amend rules relating to the goals of the medical assistance program and to the eligibility requirements of the medical assistance program. On Thursday, January 6, 1977, at 10:00 a.m. a public hearing will be held in the Auditorium of the State Department of Social and Rehabilitation Services, 111 Sanders, Helena, Montana, to consider these amendments. Interested persons may submit data, views or arguments, orally or in writing, at the public hearing. Written comments, data, views, or arguments may be submitted to M. Gene McLatchy, P. O. Box 4210, Helena, Montana, 59601, anytime before January 6, 1977.

2. The proposed amendments shall read as follows:

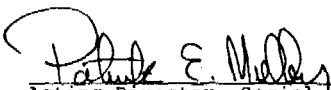
"46-2.10(18)-S11390 MEDICAL ASSISTANCE, ~~GOALS~~ PROGRAM (MEDICAID) (1) The ~~goals-of-the~~ medical assistance program are is to provide medical care to recipients of public assistance, Supplemental Security Income, and medically needy persons who are unable to pay for such care for themselves. The program, commonly referred to as the "Medicaid" program, is partially funded by federal funds, which requires the State Department to comply with the medical assistance program in Title XIX of the Social Security Act. Therefore, all federal law, rules and regulations as amended, namely, but not limited to, Title XIX of the Social Security Act and 45 C.F.R., Parts 246, 248, 249, 250, 251, and 252, which are applicable to the medical assistance program are made applicable to this program and incorporated herein by reference thereto."

"46-2.10(18)-S11420 MEDICAL ASSISTANCE, ELIGIBILITY REQUIREMENTS (1) \*\*\* (b) \*\*\* (v) ~~Applicants-for assistance-under-the-Medically-Needy-program-who-have~~

income-in-excess-of-133 1/3% of eligibility standards may become eligible for assistance under that program by applying for the "spend-down" provision. The applicant may apply the income in excess of the 133 1/3% standard towards medical expenses thus bringing his income down to the level of eligibility for the program. Medical services paid which are licensed medical services under the state law shall be eligible for the "spend-down" provision. Excess income should be applied in the following manner: First towards the payment of medical insurance premiums and the medically-needy premium; secondly, towards old medical bills and services not covered under this medical assistance plan; and thirdly, towards care and services available under this medical assistance plan. Medically needy individuals who have incomes in excess of 133 1/3% of AFDC eligibility standards become eligible for medical assistance when their incurred medical expenses, both paid and unpaid, are greater than or equal to their excess incomes for four consecutive months, including the month in which eligibility is sought. These medical expenses must be actually incurred by the date of application and may be for medical insurance premiums and/or medical services licensed under state law not subject to third party liability. \*\*\*

3. M. Gene McLatchy, P. O. Box 4210, Helena, Montana, has been designated by the Acting Director of the Department of Social and Rehabilitation Services to preside over and conduct the hearing.

4. The authority of the Department to amend these rules is based on Section 71-210 and 71-1511, R.C.M. 1947.

  
 Acting Director, Social and Rehabilitation Services

Certified to the Secretary of State December 15, 1976.