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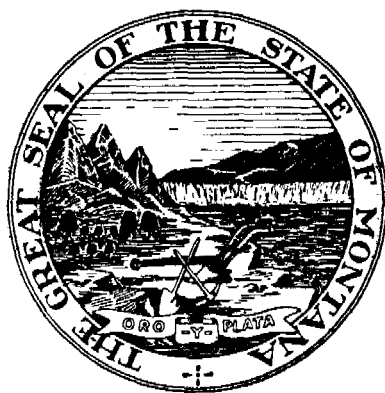
MONTANA ADMINISTRATIVE REGISTER

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MONTANA COLLEGE OF
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1979 ISSUE NO. 24
PAGES 1577-1727



NOTICE: The July 1977 through June 1979 Montana Administrative Registers have been placed on microfiche. For information, please contact the Secretary of State, Room 202, Capitol Building, Helena, Montana 59601.

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 24

TABLE OF CONTENTS

NOTICE SECTION

	<u>Page Number</u>
<u>JUSTICE, Department of, Title 23</u>	
23-2-38 Notice of Proposed Adoption of Rules (Procedure Upon Driver's License Denial, Suspension, Revocation, or Cancellation). No Public Hearing Contemplated.	1577-1578
23-2-39 Notice of Proposed Repeal of Rules (Procedure Upon Driver's License Denial, Suspension, Revocation, or Cancellation. No Public Hearing Contemplated.	1579
23-2-40 Notice of Proposed Repeal of Rules (Procedural Rules for the State Fire Marshal) No Public Hearing Contemplated.	1580
23-2-41 Notice of Proposed Repeal of Rules (Driver Licensing and Driver Improvement). No Public Hearing Contemplated.	1581-1582
23-2-42 Notice of Proposed Adoption of a Rule (Dishonored Checks). No Public Hearing Contemplated.	1583-1584
23-2-43 Notice of Proposed Adoption of Rules (Driver Rehabilitation Program). No Public Hearing Contemplated.	1585-1586
23-2-44 Notice of Proposed Adoption of a Rule (Probationary Licenses) No Public Hearing Contemplated.	1587-1588
-i-	24-12/27/79

	<u>Page Number</u>
23-2-45 Notice of Proposed Amendment of Rule 23-2.6AI(2)-S620 (County Treasurers as Fee Collecting Agents). No Public Hearing Contemplated.	1589-1590

23-2-46 Notice of Proposed Amendment of Rule 23-2.6AI(2)-S630 (Standards for Licensing and Examining) No Public Hearing Contemplated.	1591-1594
---	-----------

23-2-47 Notice of Proposed Amendment of Rule 23-2.6AI(6)-S6180 (Driver Improvement/Habitual Offender Point Systems and Driver Improvement Program). No Public Hearing Contemplated.	1595-1614
--	-----------

LIVESTOCK, Department of, Title 32

32-2-63 Notice of Proposed Repeal of 32-2.6A(26)- S6055; (42)-S6200; (42)-S6210; (46)-6240; (50)- S6250; (54)-S6270; (58)-S6280; (66)-S6300; (70)- S6310 (86)-S6350 Relating to Animal Disease Control. No Public Hearing Contemplated.	1615-1616
---	-----------

32-2-65 Notice of Proposed Adoption of Rules (Brucellosis Control) No Public Hearing Contemplated.	1617-1618
--	-----------

32-2-66 Notice of Proposed Repeal of Rules 32-2.6A(26)-S6100 and -S6110 and the Adoption of New Rules. (Brucellosis-Free Herds). No Public Hearing Contemplated.	1619-1620
---	-----------

32-2-67 Notice of Proposed Amendment of Rule 32-2.6A(106)-S6520 (Ram Epididymitis Vaccine) No Public Hearing Contemplated.	1621-1622
--	-----------

32-2-69 Notice of Proposed Repeal of Rule 32-2.6A(24)-S6015 and Adoption of New Rule. (Swine Identification Code). No Public Hearing Contemplated.	1623-1624
---	-----------

32-2-71 Notice of Proposed Amendment of Rules 32-2.6A(102)-S6460; -S6470; -S6480; -S6490 (Rabies Control). No Public Hearing Contemplated.	1625-1627
---	-----------

32-2-72 Notice of Cancellation of Hearing. (Milk Freshness Dating)	1628
---	------

PROFESSIONAL AND OCCUPATIONAL LICENSING, Department of, Title 40

40-84-25 (Board of Plumbers) Notice of Proposed Amendment 40-2.82(6)-S8260 Applications. No Public Hearing Contemplated.	1629-1632
--	-----------

	<u>Page Number</u>
40-100-2 (Board of Sanitaricians) Notice of Proposed Amendment of 40-3.100(6)-S10070 Applications. No Public Hearing Contemplated.	1633-1634

REVENUE, Department of, Title 42

42-2-150 Notice of Public Hearing on the Amendment of Rules 42-2.22(2)-S22000 Assessment of Heavy Equipment and 42-2.22(2)-S22020 Assessment of Manufacturing and Mining Equipment.	1635-1640
---	-----------

42-2-152 Notice of Public Hearing for the Amendment of Rules Relating to the Assessment and Taxation of Interstate and Intercounty Property.	1641-1644
--	-----------

42-2-153 Notice of Proposed Adoption of Rules Establishing Fees for Child Support Enforcement Services. No Public Hearing Contemplated.	1645-1646
---	-----------

SOCIAL AND REHABILITATION SERVICES, Department of, Title 46

46-2-202 Notice of Proposed Amendment of Rule 46-2.14(114)-S141110 Pertaining to Kidney Dialysis, Transplant Program. No Public Hearing Contemplated.	1647-1649
---	-----------

46-2-203 Notice of Proposed Adoption of a Rule Pertaining to the Extended Employment Program. No Public Hearing Contemplated.	1650-1651
---	-----------

46-2-204 Notice of Proposed Adoption of Rules Pertaining to Rehabilitative Services. No Public Hearing Contemplated.	1652-1653
--	-----------

46-2-205 Notice of Proposed Amendment of Rule 46-2.14(91)-S14875 Pertaining to Determination of Rehabilitation. No Public Hearing Contemplated.	1654-1656
---	-----------

46-2-206 Notice of Proposed Amendment of Rule 46-2.14(76)-S14755 Pertaining to Selection for Services. No Public Hearing Contemplated.	1657-1658
--	-----------

46-2-207 Notice of Public Hearing on Proposed Amendment of Rule 46-2.10(14)-S11121 Pertaining to AFDC Assistance Standards.	1659-1660
---	-----------

RULE SECTION

		<u>Page Number</u>
<u>ADMINISTRATION, Department of, Title 2</u>		
NEW	2-2.11(2)-S11170 Temporary Electrical Connections	1661-1669
AMD	2-2.11(6)-S11400 -S11410 Adoption of the Uniform Plumbing Code by Reference	1662-1669
AMD	2-2.11(6)-S11440 Elevator Code Enforcement Program	1663-1669
AMD	2-2.11(2)-S11110; -S11130; -S11140; S11160 State Electrical Code	1665-1669
AMD	2-2.11(1)-S11100 Uniform Building Code by Reference	1666-1669
AMD	2-2.11(6)-S11430 Uniform Mechanical Code by Reference	1667-1669
AMD	2-2.11(1)-S11130 NFPA 501C Standard for Recreational Vehicles	1668-1669
AMD	2-2.11(1)-S11110 Uniform Housing Code by Reference	1668-1669
AMD	2-2.11(1)-S11120 Uniform Code for the Abatement of Dangerous Buildings by Reference	1668-1669
<u>HEALTH AND ENVIRONMENTAL SCIENCES, Department of, Title 16</u>		
NEW	16-2.22(7)-S2271; -S2272;-S2273; -S2274 -S2275; -S2276; -S2277; - S2278 Relating to Certificate of Need Review for Health Care Facilities.	1670-1679
<u>HIGHWAYS, Department of, Title 18</u>		
REP	18-2.6A(1)-S600 Rules Administered by Right of Way Section	1680
AMD	18-2.6AI(2)-S6040 Encroachments on Controlled Access Right of Way	1681
AMD	18-2.10(10)-S10080 Licensing Under Uniform Agreement	1682
REP	18-2.10(1)-S10090 Lease Policies; -S10100 Instructions and Identification _ Prorate	1683
24-12/27/79 -iv-		

Page Number

PROFESSIONAL AND OCCUPATIONAL LICENSING, Department of, Title 40

AMD 40-3.14(10)-S14030 Weights and Classes 1684
(Board of Athletics)

REP 40-3.42(6)-S4260 Grandfather Clause 1684
(Board of Hearing Aid Dispensers)

(Board of Plumbers)

AMD 40-3.82(6)-S8230 Definitions; -S8280
Examinations; -S8290 Renewals; -S82000
Duplicate or Lost Licenses; -S82060
Master Plumbers; Employment of Journeyman
and Responsibilities Therefore 1685-1686

REP 40-3.82(6)-S8270 Grant and Issue Licenses;
-S82010 Provisions to Whom Not Applicable 1685-1686

(Board of Professional Engineers and Land Surveyors)

AMD 40-3.86(6)-S8630 Quorum; -S8660 Approval
of Schools; -S8680 Affiliation with National
Associations; -S8690 Rules of Professional
Conduct; -S86010 Preparation and Publication
of Rosters, Notices and Orders; -S86020
Applications; -S86030 Grant and Issue Licenses;
-S86040 Preparation of Licenses; -S86050
Examination Procedures; -S86060 Expiration -
Renewals - Verification of Competency; S86070
Reciprocity for Professional Engineers; -S86090
Fees Schedule; -S86080 Duplicate or Lost Certificate; -S86100
Suspensions and Revocations; -S86105 Corporate or
Multi-Person Firms 1687-1688

REVENUE, Department of, Title 42

NEW 42-2.5(1)-S100; -S110; -S120; -S130
-S140; -S150; -S160; -S170 Relating to
the Enforcement of Child Support Obligations 1689-1691

AMD 42-2.2(1)-P200 Model Procedural Rules 1690-1691

AMD 42-2.6(4)-S61760; -S61770; -S61840;
-S61850; -S61880; -S61910; -S61920;
-S61930; -S61940; -S61980; -S61990;
-S62000; -S62020 Rules Implementing Multi-
state Tax Compact 1691

OFFICE OF THE SECRETARY OF STATE, Title 44

NEW Rule for Number of Signatures for Petitions
for Nomination 1692
24-12/27/79

NEW	Rules I through X on Examination of Voting Machines and Devices	1693-1695
-----	--	-----------

SOCIAL AND REHABILITATION SERVICES, Department of, Title 46

AMD	46-2.6(2)-S6181 Child Care Agencies, Payments	1696-1704
NEW	46-2.6(6)-S6517D Adult Protective Services, Eligibility	1705-1706
AMD	46-2.6(6)-S6517C Procedures to Obtain Adult Protective Services	1705-1706
NEW	46-2.10(18)-S11391 Contracts with Other Agencies	1707
NEW	46-2.22(1)-S2201 Purpose of the Develop- mental Disabilities Division	1708-1714
NEW	46-2.22(1)-S2211 Definitions	1708-1714
NEW	46-2.22(1)-S2251 Eligibility Requirements	1709-1714
NEW	46-2.22(1)-S2252 Evaluation Services	1710-1714
NEW	46-2.22(1)-S2221 Confidentiality of In- formation	1710-1714
NEW	46-2.22(1)-S2222 Client Grievance Procedure	1711-1714
NEW	46-2.22(1)-S2231 Service Program Funding	1711-1714
NEW	46-2.22(1)-S2224 Division Quarterly Report	1712-1714
	46-2.22(1)-S2225 Preparation of Montana Developmental Disabilities State Plan	1712-1714
NEW	46-2.22(1)-S2223 Individual Habilitation Plans	1715-1720
NEW	46-2.22(1)-S2241 Regional Councils	1721-1725
REP	46-2.22(1)-S2240 Developmental Disabilities Regional Councils, Recognition of	1721-1725
REP	46-2.22(1)-S2200 Developmentally Disabled, Goals	1708-1714
REP	46-2.22(1)-S2210 Developmentally Disabled, Services Provided	1708-1714
REP	46-2.22(1)-S2220 Developmentally Disabled, Program Structure, Services and Funding	1708-1714

		<u>Page Number</u>
REP	46-2.22(1)-S2230 Developmentally Disabled, Procedures for Applying for Services, Funding	1708-1714
REP	46-2.22(1)-S2250 Developmentally Disabled, Individuals, Eligibility Requirements	1708-1714
REP	46-2.22(1)-S2260 Developmentally Disabled, Eligibility Requirements, Funding	1708-1714
REP	46-2.22(1)-S2270 Developmentally Disabled, Funds, Matching Requirements and Duration	1708-1714
REP	46-2.22(1)-S2280 Developmentally Disabled, Confidentiality of Information	1708-1714

INTERPRETATION SECTION

Declaratory Ruling

Board of Barbers - In the Matter of the Application of BIG
SKY COLLEGE OF BARBER-STYLING, INC. For Approval of an
Alternative Apprenticeship Program. 1726-1727

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED
adoption of rules for	)	ADOPTION OF RULES
procedures upon driver's	)	(Procedure upon Driver's
license denial, suspension	)	License Denial, Suspen-
revocation, or cancellation	)	sion, Revocation, or
	)	Cancellation)
)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons:

1. On February 5, 1980, the Department of Justice proposes to adopt rules clarifying the procedure followed by the Motor Vehicles Division when a driver's license is denied for certain reasons, suspended, revoked, or cancelled, or a probationary license is issued.

2. The proposed rules provide as follows:

Rule I DRIVER'S LICENSE DENIAL, SUSPENSION, REVOCATION, OR CANCELLATION The denial, suspension, revocation, or cancellation of a driver's license is not a contested case under the Attorney General's Model Rules of Procedure.

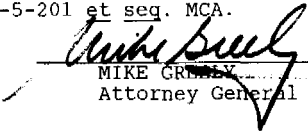
Rule II HEARING (1) If a hearing is properly requested under either ARM 23-2.2(2)-P230 or ARM 23-2.6A(6)-S6250 the hearing must be conducted according to the Attorney General's Model Rules of Procedure concerning the conduct of contested case hearings and section 61-5-206(3) MCA. However, service will be by regular United States mail, postage prepaid.

(2) The Driver Improvement Committee shall render the final decision.

3. The rules are proposed to clarify the procedure followed by the Motor Vehicles Division when a driver's license is denied for certain reasons, suspended, revoked, or cancelled, or a probationary license is issued.

4. Interested parties may submit their data, views or arguments concerning the proposed rules in writing to Assistant Attorney General Dennis J. Dunphy, State Capitol, Room 225, Helena, Montana 59601 no later than January 28, 1980.

5. The authority of the department to make the proposed rules is based on section 2-4-201(2) MCA, and the rules implement sections 61-5-201 et seq. MCA.


MIKE GRIMES
Attorney General

24-12/27/79

MAR Notice No. 23-2-38

-1578-

Certified to the Secretary of State December 18, 1979.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the repeal)	NOTICE OF PROPOSED
of rules 23-2.2(2)-P210,)	REPEAL OF RULES
23-2.2(2)-P220, 23-2.2(2)-P240,)	(Procedure Upon Driver's
23-2.2(2)-P250, and 23-2.2(2)-)	License Denial, Suspen-
P260 concerning procedures)	sion, Revocation, or
upon driver's license denial,)	Cancellation
suspension, revocation, or)	
cancellation)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Interested Persons:

1. On February 5, 1980, the Department of Justice proposes to repeal rules 23-2.2(2)-P210, 23-2.2(2)-P220, 23-2.2(2)-P240, 23-2.2(2)-P250, and 23-2.2(2)-P260, concerning procedures to be followed by the Motor Vehicles Division when a driver's license is suspended or a probationary license is issued.

2. The rules proposed to be repealed are on pages 23-12 and 23-13 of the Administrative Rules of Montana.

3. The agency proposes to repeal these rules because they are unnecessary surplusage; Rule 23-2.2(2)-P260 reflects a practice no longer followed by the Motor Vehicles Division due to lack of funds, and a new rule is being proposed to reflect present practice (see MAR Notice No. 23-2-38 (Rule II(1))).

4. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to Assistant Attorney General Dennis J. Dunphy, State Capitol, Room 225, Helena, Montana 59601 no later than January 28, 1980.

5. The authority of the department to repeal the rules is based on section 2-4-201 MCA.


MIKE GREELY
ATTORNEY GENERAL

Certified to the Secretary of State December 18, 1979.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the repeal	)	NOTICE OF PROPOSED
of rules 23-2.2(2)-P270,	)	REPEAL OF RULES
23-2.2(2)-P280 and 23-2.2(2)-	)	(Procedural Rules
P2000, procedural rules for the	)	for the State Fire
State Fire Marshal	)	Marshal)
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons:

1. On February 5, 1980, the Department of Justice proposes to repeal rules 23-2.2(2)-P270, 23-2.2(2)-P280, and 23-2.2(2)-P2000, procedural rules for the State Fire Marshal.

2. The rules proposed to be repealed are on pages 23-13 through 23-14 of the Administrative Rules of Montana.

3. The agency proposes to repeal these rules because they are unnecessary surplusage. The statute implemented by rule 23-2.2(2)-P280, section 82-1202.2, RCM 1947 was repealed in 1975. 1975 Mont. Laws, ch. 169 § 2. The Model Rule amended by rule 23-2.2(2)-P2000, and the law on which

it was based, are no longer in effect. 1977 Mont. Laws, ch. 285 § 10; ARM 1.3.209.

4. Interested parties may submit their data, views, or arguments concerning the proposed repeal in writing to Assistant Attorney General Sheri K. Sprigg, Room 225, Helena, Montana 59601 no later than January 28, 1980.

5. The authority of the department to repeal the rules is based on section 2-4-201(2) MCA.


MIKE GREELY
ATTORNEY GENERAL

Certified to the Secretary of State December 18, 1979.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the repeal	)	NOTICE OF PROPOSED
of rules 23-2.6(1)-S600, 23-2.6A	)	REPEAL OF RULES
(1)-S600, 23-2.6AI(1)-S600,	)	(Driver Licensing
23-2.6AI(2)-S610, 23-2.6AI(2)-	)	and Driver Improve-
S6050, 23-2.6AI(2)-S6060, 23-	)	ment)
2.6AI(6)-S6130, and 23-2.6AI(6)-)	
S6150, concerning driver licens-	)	NO PUBLIC HEARING
ing and driver improvement	)	CONTEMPLATED

To: All Interested Persons:

1. On February 5, 1980, the Department of Justice proposes to repeal rules 23-2.6(1)-S600, 23-2.6A(1)-S600, 23-2.6AI(1)-S600, 23-2.6AI(2)-S610, 23-6AI(2)-S6050, 23-2.6AI(2)-S6060, 23-2.6AI(6)-S6130, and 23-2.6AI(6)-S6150, concerning driver licensing and driver improvement.

2. The rules proposed to be repealed are on pages 23-17 through 23-48 of the Administrative Rules of Montana.

3. The agency proposes to repeal these rules because they are unnecessary surplusage. Rule 23-2.6AI(2)-S6050 is already covered by section 61-5-114 MCA.

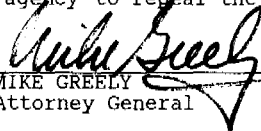
4. Interested parties may submit their data, views, or arguments concerning the proposed repeal in writing to Assistant Attorney General Dennis J. Dunphy, State Capitol, Room 225, Helena, Montana 59601 no later than January 28, 1980.

5. If a person who is directly affected by the proposed repeal of rules 23-2.6(1)-S600, 23-2.6A(1)-S600, 23-2.6AI(1)-S600, 23-2.6AI(2)-S610, 23-2.6AI(2)-S6050, 23-2.6AI(2)-S6060, 23-2.6AI(6)-S6130 or 23-2.6AI(6)-S6150 wishes to express data, views and arguments orally or in writing at a public hearing, he or she must make written request for a hearing and submit that request along with any written comments to Assistant Attorney General Dennis J. Dunphy, at the address in paragraph 4, no later than January 28, 1980.

6. If the agency receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons directly affected; from the Administrative Code Committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of

the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 61,000 based on the 610,000 licensed drivers in Montana.

7. The authority of the agency to repeal the rules is based on section 44-1-103 MCA.


MIKE GREELY
Attorney General

Certified to the Secretary of State December 18,
1979.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED
adoption of a rule stating	)	ADOPTION OF A RULE
the consequences of payment	)	(Dishonored Checks)
of the driver's license fee)	
with a bad check	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons:

1. On February 5, 1980, the Department of Justice proposes to adopt a rule stating the consequences of payment of the driver's license fee with a bad check.

2. The proposed rule provides as follows:

DISHONORED CHECKS If a check drawn and remitted in payment of the driver's license fee is dishonored:

(1) the applicant is not entitled to the issuance of a driver's license, and

(2) the Division shall cancel previously issued licenses.

3. The rule is proposed to give notice as to the policy of the Motor Vehicles Division with respect to dishonored checks.

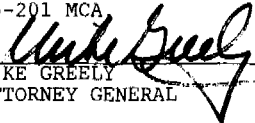
4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to Assistant Attorney General Dennis J. Dunphy, State Capitol, Room 225, Helena, Montana 59601 no later than January 28, 1980.

5. If a person who is directly affected by the proposed rule wishes to express data, views and arguments orally or in writing at a public hearing, he or she must make written request for a hearing and submit this request along with written comments to Assistant Attorney General Dennis J. Dunphy, State Capitol, Room 225, Helena, Montana 59601 no later than January 28, 1980.

6. If the agency receives requests for a public hearing on the proposed rule from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed rule; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 61,000 persons based on the 610,000 licensed drivers in Montana.

-1584-

7. The authority of the agency to make the proposed rule is based on section 44-1-103 MCA, and the rule implements sections 61-5-111 and 61-5-201 MCA.



MIKE GREELY
ATTORNEY GENERAL

CERTIFIED TO THE SECRETARY OF STATE DECEMBER 18,
1979.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED
adoption of rules concerning	)	ADOPTION OF RULES
a driver rehabilitation	)	(Driver Rehabilitation
program	)	Program)
)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons:

1. On February 5, 1980, the Department of Justice proposes to adopt rules concerning a driver rehabilitation program.

2. The proposed rules provide as follows:

RULE I PERSONS ELIGIBLE FOR DRIVER REHABILITATION

PROGRAM (1) A person whose license is suspended because of the accumulation of 15 or more Driver Rehabilitation/Habitual Offender Act points must be referred to a Driver Rehabilitation Program.

(2) A person whose license is suspended for any reason other than refusal to submit to a chemical test of his blood, breath, or urine is eligible to participate in the Driver Rehabilitation Program.

(3) A person whose license has been revoked for 3 months of a 1 year revocation or 1 year of a 3 year revocation is eligible to participate in the Driver Rehabilitation Program if he complies with all requirements for reobtaining a license after revocation.

RULE II DRIVER REHABILITATION PROGRAM The Driver Rehabilitation Program must include but is not limited to:

(1) A personal appearance by the violator at a Driver Rehabilitation Session. The violator must be notified in writing of the time and place of the appearance at least 20 days prior to it.

(2) The violator must be informed of his record and accumulated points, and of the consequences of further violations.

(3) The Rehabilitation Officer shall refer the violator to programs the officer determines are necessary to induce proper driving attitudes, habits, and techniques. Examples of referrals are classroom instruction in rules of the road, driving techniques, defensive driving, or driver attitudes and habits; on-the-road training; alcohol counseling or

treatment; mental evaluation or treatment; physical evaluation or treatment; and visual examination or treatment.

RULE III FEES FOR DRIVER REHABILITATION PROGRAM A person referred to the Driver Rehabilitation Program shall pay \$50 to defray the cost of the program. This fee covers the cost of referrals to defensive driving or alcohol school. All other costs of referrals must be paid by the participant.

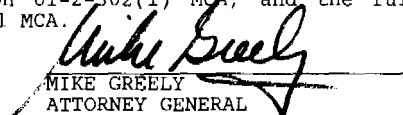
3. The rules are proposed to establish the eligibility criteria, contents, and fees for the Department's Driver Rehabilitation Program authorized by the 1977 legislature. 1977 Mont. Laws, ch. 526.

4. Interested parties may submit their data, views or arguments concerning the proposed rules in writing to Assistant Attorney General Dennis J. Dunphy, State Capitol, Room 225, Helena, Montana 59601 no later than January 28, 1980.

5. If a person who is directly affected by the proposed rules wishes to express data, views and arguments orally or in writing at a public hearing, he or she must make written request for a hearing and submit this request along with any written comments to Assistant Attorney General Dennis J. Dunphy, State Capitol, Room 225, Helena, Montana 59601 no later than January 28, 1980.

6. If the agency receives requests for a public hearing on the proposed rules from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed rules; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 61,000 persons based on the 610,000 licensed drivers in Montana.

7. The authority of the agency to make the proposed rules is based on section 61-2-302(1) MCA, and the rule implements section 61-2-301 MCA.


MIKE GREELY
ATTORNEY GENERAL

CERTIFIED TO THE SECRETARY OF STATE DECEMBER 18, 1979.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED
adoption of a rule	)	ADOPTION OF A RULE
concerning the issuance	)	(Probationary Licenses)
of probationary licenses)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons:

1. On February 5, 1980, the Department of Justice proposes to adopt a rule concerning the issuance of probationary licenses.

2. The proposed rule provides as follows:

PROBATIONARY LICENSES (1) The Division may issue a person a restricted probationary license in lieu of suspension of driving privilege for 6 months upon conviction or forfeiture of bail or collateral not vacated for the offense of driving or being in control of a motor vehicle while under the influence of alcohol or drugs for the first time in 5 years as detailed in section 61-5-208 MCA if:

(a) the judge of the court in which the conviction or forfeiture occurred recommends probation, and

(b) the licensee continues to comply with the alcohol treatment program or driver improvement school participation directed by the court.

(2) The Division may issue a restricted probationary license in lieu of suspension or revocation to any person, not covered in subsection (1), whose license or permission to operate a motor vehicle in Montana is subject to suspension or revocation if:

(a) the licensee is eligible for the Driver Rehabilitation Program under ARM 23.3.203 through 23.3.205, and

(b) the licensee enrolls and continues to participate in the Driver Rehabilitation Program.

(3) If a probationary licensee fails to continue to comply with the requirements for issuance of his or her probationary license or the restrictions thereon, the Division shall reinstate the full term of the originally authorized suspension or revocation.

3. The rule is proposed to give notice of when the Motor Vehicles Division may exercise its discretion to issue a probationary license in lieu of suspension.

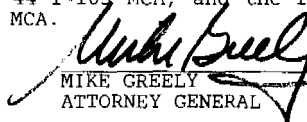
4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to

Assistant Attorney General Dennis J. Dunphy, State Capitol, Room 225, Helena, Montana 59601 no later than January 28, 1980.

5. If a person who is directly affected by the proposed rule wishes to express data, views and arguments orally or in writing at a public hearing, he or she must make written request for a hearing and submit this request along with any written comments to Assistant Attorney General Dennis J. Dunphy, State Capitol, Room 225, Helena, Montana 59601 no later than January 28, 1980.

6. If the agency receives requests for a public hearing on the proposed rule from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed rule; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 61,000 persons based on the 610,000 licensed drivers in Montana.

7. The authority of the agency to make the proposed rule is based on section 44-1-103 MCA, and the rule implements section 61-5-202(2) MCA.


MIKE GREELY
ATTORNEY GENERAL

CERTIFIED TO THE SECRETARY OF STATE DECEMBER 18, 1979.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED
amendment of Rule 23-	)	AMENDMENT OF RULE
2.6AI(2)-S620 providing	)	23-2.6AI(2)-S620
for county treasurers to	)	(County Treasurers as
act as agents for the	)	Fee Collecting Agents)
collection of driver's)	
license fees	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons:

1. On February 5, 1980, the Department of Justice proposes to amend rule 23-2.6AI(2)-S620, providing for county treasurers to act as agents for the collection of driver's license fees.

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

23-2.6AI(2)-S620 COUNTY TREASURERS, FEE COLLECTING AGENTS It is ordered that the various duly elected, (or appointed) qualified and acting County Treasurers of the State of Montana, be, and they are hereby appointed as agents of the Highway Patrol Bureau for the purpose of handling the sale of Driver's Licenses and Identification Cards, and such County Treasurers are hereby authorized to appoint outside agents to represent them for such purpose when in the opinion of the County Treasurer such outside appointments are necessary and feasible, in order that the sale of driver's licenses and identification cards may be handled in the best manner for the accommodation of the citizens of the State of Montana who are required to possess such driver's licenses and identification cards. (1) For purposes of this rule, "driver's licenses receipts" means receipts for driver's licenses, motorcycle endorsements, duplicate licenses, and identification cards.

(2) Except as provided in subsection (3), county treasurers shall act as agents of the Motor Vehicles Division for the sale of driver's licenses receipts.

(3) The county treasurers of Yellowstone, Cascade, Gallatin, Lewis & Clark, Silver Bow, Missoula, Ravalli, Flathead, and Lincoln counties may not act as agents of the Motor Vehicles Division for the sale of driver's licenses receipts. In those counties, the Motor Vehicles Division itself shall sell the receipts.

(4) A county treasurer who is an agent may in turn

appoint outside agents for the same purpose if the county treasurer determines the appointment is:

- (a) necessary to accommodate citizens of the state who must possess driver's licenses; and
- (b) feasible.

3. The rule is proposed to be amended to comply with an amendment to the law that it implements. 1979 Mont. Laws, ch. 361 § 1.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Assistant Attorney General Dennis J. Dunphy, State Capitol, Room 225, Helena, Montana 59601 no later than January 28, 1980.

5. If a person who is directly affected by the proposed amendment wishes to express data, views and arguments orally or in writing at a public hearing, he or she must make written request for a hearing and submit this request along with any written comments to Assistant Attorney General Dennis J. Dunphy, State Capitol, Room 225, Helena, Montana 59601 no later than January 28, 1980.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 61,000 persons based on the 610,000 licensed drivers in Montana.

7. The authority of the agency to make the proposed amendment is based on section 61-5-111(1) MCA and the rule implements section 61-5-111(1) MCA.


MIKE GREELY
ATTORNEY GENERAL

CERTIFIED TO THE SECRETARY OF STATE DECEMBER 18, 1979.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amend-	)	NOTICE OF PROPOSED
ment of Rule 23-2.6AI(2)-S630	)	AMENDMENT OF RULE
providing standards for	)	23-2.6AI(2)-S630
examining and licensing	)	(Standards for Licensing
drivers	)	and Examining)
)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons:

1. On February 5, 1980, the Department of Justice proposes to amend rule 23-2.6AI(2)-S630, providing standards for examining and licensing drivers.

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

23-2.6AI(2)-S630 STANDARDS FOR LICENSING AND EXAMINING
The following items shall be considered the standards for licensing and examining:

1. Order of steps in examining:

(a) - (f) same as present rule

(g) If any question on the application is not answered, ~~except mental~~, read it slowly to the applicant and record his answer. If he refuses to answer the question, explain that it is impossible for the state to grant a license until all of the questions on his application have been answered.

(h) When If the applicant is under the age of eighteen (18) years of age, the parents must sign the financial responsibility affidavit. Be sure to have both parents use their legal names- application is not complete and may not be accepted unless accompanied by one of the two alternative forms of the Affidavit of Consent provided by the Division. The affidavit must be signed by the person and in the manner described in subsection 4.

1.(i) through 3. same as present rule

4. Signatures of parents or guardians

(a) The Highway Patrol Bureau Motor Vehicles Division shall not issue an operator's license to any minor person under the age of eighteen (18) years an operator's licensee unless such the application is signed and verified by the parents of the applicant, if the father or mother are living and have custody of such minor, otherwise by the father or mother, or the guardian having the custody of such minor, or in the event a minor under the age of eighteen (18) years

has no father, mother or guardian, the license shall not be issued to the minor, unless his application is signed by his employer who shall assume liability and responsibility for the act of the minor (see exception, Section 31-131, R.C.M. 1947).

(b) If any person, or persons, other than the father and mother sign the application, the reason therefore must be explained. If only one person signs the application, the reason therefore must be explained. If only one person signs the application, notation must be made, in the space provided for the second signature, why the second signature was not secured, such as "parents deceased", "mother deceased", etc. When parents are divorced, one parent may sign the application only, if that parent is the legal guardian of the minor. This information must be written in the second space.

(c) If the applicant and one parent say that the other parent is unable to sign the application because he or she is not in the state and will not return for some time, an affidavit form may be sent to the parent or guardian for signature.

(d) Section 31-131(a) requires the signature or signatures of the parent/parents or guardian. Such signatures shall be accepted in descending order as follows:

- (i) Both parents
- (ii) Widowed or divorced parent (if divorced, signature is required of the parent with legal custody).
- (iii) The guardian or guardians
- (iv) The employer
- (v) Any responsible person

(e) Signing by parent, guardian or employer must always be completed before the driving test is taken. Inside portion of the test may be completed before the affidavit is signed.

(f) If a signer withdraws his signature, the child's license will be cancelled. Such withdrawal must be in the form of an affidavit to the Examination Section. Death of a signer also results in cancellation.

(g) When a married individual requires a signature, their spouse, if eighteen (18) years of age, or over, may sign for them. Otherwise, have it signed by either set of parents as above, either of the following alternative forms:

(i) Signing party consents to allow the minor to obtain operator's permits until the minor reaches majority unless consent is withdrawn through receipt by the Division of written notification of withdrawal of consent. During such period, signing party agrees to joint and several

liability with the minor for negligent or wilful misconduct of the minor when driving a motor vehicle upon a highway; or

(ii) Signing party consents to allow the minor to obtain operator's permits until the minor reaches majority unless consent is withdrawn through receipt by the Division of written notification of withdrawal of consent. Signing party asserts that there is presently on deposit with the Division proof of financial responsibility of the minor applicant in the form and in amounts required under the Motor Vehicle Safety Responsibility Act and section 61-5-108(3) MCA. Signing party agrees that if for any reason said proof of financial responsibility ceases to be maintained, signing party assumes joint and several liability with the minor for negligent or wilful misconduct of the minor when driving a motor vehicle upon a highway.

(b) A minor's application for an operator's permit must be signed by:

(i) Both parents if verification is in the form described in subsection (1)(a);

(ii) One parent if verification is in the form described in subsection (1)(b);

(iii) A widowed parent;

(iv) A parent with sole legal custody;

(v) A sole legal guardian; or

(vi) An employer or other responsible person if there is no parent or other legal guardian.

(c) If the application is signed by a person other than a parent (under subsections (2)(e) or (f)), the reason for lack of a parent's signature must be stated.

5. through 13. same as present rule

3. Subsection 1.(g) is proposed to be amended because the Motor Vehicles Division no longer uses mental questions on a driver's license application. Subsections 1.(h) and 4. are proposed to be amended to conform with ARM 23-1.6A1(2)-S6010, specifying under what circumstances a minor may obtain a driver's license without the signatures of both parents.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Assistant Attorney General Dennis J. Dunphy, State Capitol, Room 225, Helena, Montana 59601 no later than January 28, 1980.

5. If a person who is directly affected by the proposed amendment wishes to express data, views and arguments orally or in writing at a public hearing, he or she must make written request for a hearing and submit this request along with any written comments to Assistant Attorney General Dennis J. Dunphy, State Capitol, Room 225,

Helena, Montana 59601 no later than January 28, 1980.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 61,000 persons based on the 610,000 licensed drivers in Montana.

7. The authority of the agency to make the proposed amendment is based on section 44-1-103 MCA and the rule implements sections 61-5-101 et seq. MCA.


MIKE GREELY
ATTORNEY GENERAL

CERTIFIED TO THE SECRETARY OF STATE DECEMBER 18,
1979.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amend-	)	NOTICE OF PROPOSED
ment of Rule 23-2.6AI(6)-	)	AMENDMENT OF Rule 23-
S6180, concerning the driver	)	2.6AI(6)-S6180
rehabilitation/habitual	)	(Driver Improvement/
offender point system	)	Habitual Offender Point
	)	Systems and Driver
	)	Improvement Program)
)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons:

1. On February 5, 1980, the Department of Justice proposes to amend rule 23-2.6AI(6)-S6180, concerning the driver rehabilitation/ habitual offender point system.

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

23-2.6AI(6)-S6180 DRIVER ~~IMPROVEMENT~~ REHABILITATION/
HABITUAL OFFENDER POINT SYSTEMS AND DRIVER ~~IMPROVEMENT~~
PROGRAM (1) The following point values are established for
Driver ~~improvement~~ Rehabilitation Program/Habitual Offender
Act purposes, and resultant discretionary actions are
specified for the Driver Improvement Program:

	H0	BI	
VIOLATION	OFFENDER BI	WITH	
CODE	POINTS	POINTS	ACCIDENT DESCRIPTION OF OFFENSE
0020-H	12		Negligent homicide
1170	10 6		Driving while privilege to do
9014	10		so is suspended or revoked
1140	10 2		Operating with foreign ByB driver's <u>license</u> when privi- lege suspended or revoked by this state
5110-H	10		Driving while under the influence of intoxicating liquor (<u>being in actual</u> <u>physical control</u>)

5111-H	10	Driving while under the influence of any drug (narcotic or other)
4000-H	8	<u>Failure</u> to stop immediately at <u>accident</u> scene where person injured
4001	8	<u>Failure</u> to remain at accident scene where person injured
4002-H	8	<u>Failure</u> to stop immediately at <u>scene</u> where person killed
4003	8	<u>Failure</u> to remain at scene of accident where person killed
4020	8	Fail to identify self and vehicle when involved in accident (injuries)
4021	8	Fail to display D/B when requested by other participants (injuries)
4022	8	<u>Failure</u> to render reasonable assistance to injured
1000	6 2	Driving without a valid D/B driver's <u>license</u> (more than 180 days)
1003	6 2	Chauffeuring without a valid chauffeur's license if expired more than 180 days
5130-H	6 5 5 6	Holding a race or speed contest on highway without written permission of proper authority (state, county, <u>or</u> city)
5131-H	6 5 5 6	Engaging in race or speed contest on public highway without written permission of proper authority

5133-H	6	5	5	6	Holding (engaging in, aiding, or abetting) a speed contest, the roadway of which is not fully and efficiently patrolled
<u>5134-H</u>	<u>2</u>				<u>Careless driving</u>
5120-H	5	4		5	Reckless driving
<u>5121-H</u>	<u>5</u>				<u>Eluding police officers</u>
4010-H	4			6	Failure to stop immediately at property damage accident scene
4011	4			6	Failure to remain at property damage accident scene
4020	4			6	Fail to identify self and vehicle when involved in accident (property damage)
4021	4				Fail to display D/L when requested by other participants (property damage)
4030	4			6	Fail to stop and identify self after striking unattended vehicle
4031	4				Fail to leave identity in struck vehicle
4040	4				Fail to notify owner of identity and of damage to property and fixtures along highway
4050	4				Fail to give notice of accident by quickest means
4060	4				Fail to submit written report of accident within 10 days
4061	4				Fail to submit supplemental information of accident when requested

5141-H	3	4	5	Speeding: restricted speed zone	
5142-H	<u>3</u>			Speeding: 25 MPH miles per hour, urban district	
	3	4	5	1-24 MPH over limit	
		5	6	25 or more MPH over limit	
5140-H	3	2	3	4	Speed restrictions (Basic Rule): Failure to drive in careful and prudent manner (driving at speed that is greater than is reasonable and proper under existing conditions at point of operating; driving at speed that would unduly or unreasonably endanger life, limb, property or other rights of persons using highways; driving at speeds and that fail to take into account amount and character of traffic, conditions of brakes, weight of vehicle, etc.)
5143-H	<u>3</u>			Speeding: 35 MPH miles per hour, construction zone	
	3	4	5	1-24 MPH over limit	
		5	6	25 or more MPH over limit	
5144-H	<u>3</u>			Speeding: Exceeding 55 MPH miles per hour night limit	
	3	2		(1-19 MPH over -limit)	
		4		(20-29- MPH over limit)	
		6		(30 or more MPH over limit)	
5145-H	<u>3</u>			Speeding: Exceeding 65 MPH miles per hour night limit on interstate	
	3	2		(1-19 MPH over -limit)	
		4		(20-29- MPH over limit)	
		6		(30 or more MPH over limit)	
5146-H	3	2	3	Failure to reduce speed when approaching intersection, RR railroad crossing, etc.	

5147-HT	<u>3</u>			Speeding: Exceeding 55 MPH miles per hour night limit (trucks)
	3	2		{1-19 MPH over -limit}
		4		{20-29- MPH over limit}
		6		{30 or more MPH over limit}
5150-H	<u>3</u>			Speeding: Exceeding speed limit established by board Motor Vehicles Division
	3	2		{1-19 MPH over -limit}
		4		{20-29- MPH over limit}
		6		{30 or more MPH over limit}
5160-H	<u>3</u>	4	5	Speeding: Exceeding restrict- ed speed limit established by local authorities
5171-H	<u>3</u>	2	3	Failure to pull over when operating slow moving vehicle obstructing traffic
5180-H	<u>3</u>			Speeding: Exceeding 60 MPH miles per hour truck limit
	3	2		{1-19 MPH over -limit}
		4		{20-29- MPH over limit}
		6		{30 or more MPH over limit}
5181-H	<u>3</u>			Speeding: motor-driven cycle night speed
	3	2		{1-19 MPH over -limit}
		4		{20-29- MPH over limit}
		6		{30 or more MPH over limit}
5182-H	<u>3</u>			Speeding: Exceeding 50 MPH miles per hour speed when towing trailer house
	3	2		{1-19 MPH over -limit}
		4		{20-29- MPH over limit}
		6		{30 or more MPH over limit}
5183-H	<u>3</u>			Speeding: Exceeding 65 MPH miles per hour truck speed on interstate
	3	2		{1-19 MPH over -limit}
		4		{20-29- MPH over limit}
		6		{30 or more MPH over limit}

5190-H	<u>3</u>		Speeding: Exceeding posted speed over elevated structure (1-19 MPH over limit) (20-29- MPH over limit) (30 or more MPH over limit)
	3	2 4 6	
1000	2		Driving without a valid D/L driver's <u>license</u> (less than 180 days)
1003	2		Chauffeur without a valid chauffeur's license if expired (less than 180 days)
1006	2		Operating with foreign D/L driver's <u>license</u> beyond 90 day grace period
1010	2		Violation of privilege granted drivers of government vehicles
1011	2		Violation of privilege granted drivers of road machinery, farm implements and tractors
1020	2		Violation of restrictions on chauffeur's license
1030	2		Violation of restrictions on instruction permit
1031	2		Violation in use of temporary driver's permit
1032	2		Failure to have temporary driving <u>driver's</u> permit in possession
1070-H	2		Operating in violation of restrictions imposed on D/L driver's <u>license</u>
1110	2		Violation of restrictions imposed on probationary D/L driver's <u>license</u>
1250	2	3	Failure of person to subject self to traffic control at roadblock

-1601-

1300	2	Driving school bus without certificate of age
1301	2	Driving school bus without certificate of moral-character
1302	2	Driving school bus without chauffeur's license
1303	2	Driving school bus without furnishing board of trustees evidence of physical examination
2070-H	2	Exceeding the 102 ¹ - <u>inch</u> width limit
2071-H	2	Exceeding the 102 ¹ - <u>inch</u> width limit on buses
2072-H	2	Operating overwidth implement of husbandry during hours of darkness
2073	2	Operating overwidth implement of husbandry in excess of 100 miles from base of operations
2074-H	2	Operating implement of husbandry exceeding 12 ¹ - <u>foot</u> width without flagman escorts
2075-H	2	Exceeding 13 ¹ - <u>foot</u> 6 ¹ - <u>inch</u> height limit
2076-H	2	Exceeding 35 ¹ 40 ¹ - <u>foot</u> maximum truck length (40¹ effective-7/1/75)
2077-H	2	Exceeding 40 ¹ - <u>foot</u> maximum bus length
2078-H	2	Exceeding 60 ¹ - <u>foot</u> maximum length for combination of vehicles
2079	2	Towing more than one vehicle in combination

24-12/27/79

MAR Notice No. 23-2-47

2080	2			Drawing more than two motor vehicles by saddle mount method
2081	2			Towing more than one trailer with vehicle rated less than 2000 pounds (more manufacturer's rated capacity)
2111	2			Failure to follow directions and requirements of special permit
2116	2			Operating vehicle in excess of seasonal weight restrictions because of climatic conditions (state or local)
2119	2			Exceeding maximum size (haystack movers)
2120	2			Exceeding 75 100-mile limit (haystack movers) (100 mile limit effective 7/1/75)
2362-H	2			Operating motorcycle without helmet under age 18
4199-H	2	2	3	Sidewalk (driving on)
5010-H	2	4	5	Reckless or unsafe operation of authorized emergency vehicle
5020	2			Violation in operation of animal drawn vehicle
5030	2			Fail to obey regulations set by owners of real property
5040	2			Defacing or damaging highway sign, signal or marker
5050-H	2	2	3	Failure to obey instructions of traffic control devices
5222-H	2	2	3	Increasing speed when being overtaken

5230-H	2	4	5	Passing on right when prohibited
5240-H	2	4	5	Improper passing - highway ahead obstructed
5250-H	2	4	5	Improper passing - approaching crest of grade (hill) or curve
5251-H	2	4	5	Improper passing - approaching intersection
5252-H	2	4	5	Improper passing - approaching within 100 feet of bridge, tunnel or viaduct when view obstructed
5260-H	2	4	5	Improper passing - in no passing zone
5270-H	2	2	3	Pass to left of rotary traffic island
5271-H	2	2	3	Travel wrong direction on one-way street or highway
5280-H	2	2	3	Change lane when unsafe to do so
5281-H	2	2	3	Improper use of center lane of three lane roadway
5282-H	2	2	3	Failure to use designated lane when operating slow-moving vehicles
5290-H	2	3	4	Following too closely - reasonable and prudent
5291-H	2	3	4	Following too closely - insufficient space between vehicles or combinations
5300-H	2	4	5	Driving on other than right-hand roadway of divided highway

-1604-

5301-H	2	2	3	Driving over, across, or within dividing space or barrier of divided highways
5310-H	2	2	3	Illegal entrance or exit to restricted access highway
5320-H	2	2	3	Violations of limitations put on restricted access highway
5330-H	2	3	4	Making right turn from improper lane
5331-H	2	3	4	Improper approach to intersections when making right turn
5332-H	2	3	4	Making left turn from improper lane
5333-H	2	3	4	Improper approach to intersection when making left turn
5334-H	2	2	3	Disobedience to signs and markers indicating direction to turn
5340-H	2	3	4	Improper turn - crest of grade or on curve
5350-H	2	2	3	Improper starting - <u>failure</u> to start vehicle in safety
5360-H	2	3	4	Improper turn - not in required position
5361-H	2	3	4	Turning when unsafe to do so
5362-H	2	3	4	Turning without giving proper signal
5363-H	2	3	4	Stopping or slowing without giving appropriate signal
5370	2			<u>Failure</u> to have vehicle equipped with signal lamps when required

5380-H	2	3	4	R-Ø-W- <u>Right of way</u> violation - failure to yield to vehicle on right at intersection
5390-H	2	3	4	R-Ø-W- <u>Right of way</u> violation - failure to yield to hazard- ous traffic when making left turn
5391-H	2	3	4	R-Ø-W- <u>Right of way</u> violation - failure of approaching drivers to yield to vehicle making left turn
5400-H	2	3	4	R-Ø-W- <u>Right of way</u> violation - failure to yield to vehicle on through highway
5401-H	2	3	4	R-Ø-W- <u>Right of way</u> violation - failure to yield to vehicle entering or crossing highway
5410-H	2	3	4	R-Ø-W- <u>Right of way</u> violation - failure to yield when entering highway from private road or drive
5411-H	2	3	4	R-Ø-W- <u>Right of way</u> violation - failure to yield when entering highway from public approach ramp
5420-H	2	3	4	R-Ø-W- <u>Right of way</u> violation - failure to obey requirements of yield sign
5060-H	2	3	4	Failure to yield R-Ø-W- <u>right of way</u> to vehicle when obeying green {go} traffic signal
5061-H	2	3	4	Failure to yield R-Ø-W- <u>right of way</u> to pedestrians when obeying green {go} traffic signal
5062-H	2	2	3	Failure to reduce speed when approaching yellow (caution) traffic signal

5063-H	2	3	4	Failure to obey red (stop) traffic signal
5064-H	2	3	4	Failure to yield <u>R-O-W-</u> right of way to pedestrians or other traffic in intersections when obeying green arrow traffic signal
5080-H	2	3	4	Flashing signal violation (red)
	2	2	3	Flashing signal violation (yellow)
5170-H	2	2	3	Obstructing traffic, under minimum reasonable speed, after being warned
5200-H	2	4	5	Failure to drive to right of roadway except when passing
5210-H	2	4	5	Failure to give approaching vehicle half of roadway
5220-H	2	4	5	Improper passing - crowding overtaken vehicle
5221-H	2	2	3	Failure to yield to overtaking vehicle
5430-H	2	3	4	<u>R-O-W-</u> Right of way violation - failure to yield to authorized emergency vehicle
5431-H	2	3	4	Operator of authorized emergency vehicle - failure to drive with due regard to safety of others
5450-H	2	3	4	<u>R-O-W-</u> Right of way violation - failure to yield to pedestrian
5452-H	2	2	3	Overtaking vehicle stopped at crosswalk
5453-H	2	3	4	<u>R-O-W-</u> Right of way violation - failure to yield to school children or school safety patrol

5470-H	2	2	3	Driver fails <u>Failure</u> to exercise due care when observing pedestrian
5510-H		2		Failure of bicyclist to obey traffic regulations as required
5520-H	2			Riding on other than permanent and regular attached seat of bicycle
5530-H	2			Clinging to vehicle while riding bicycles, sleds, etc.
5540-H	2			<u>Failure</u> to ride to right of roadway with bicycles
5541-H		2		Riding more than two bicycles abreast on roadway <u>Failure to ride bicycles single file</u> effective 7/1/75
5542-H	2			Riding bicycles on roadways when paths available
5550-H	2			<u>Failure</u> to have at least one hand on handlebars of bicycle
5570-H	2	3	4	Disobedience to signals indicating approach of <u>RR railroad</u> train
5580-H	2	3	4	<u>Failure</u> to stop at <u>RR railroad</u> crossing when stop sign erected
5590-H	2	2	3	<u>Failure</u> to stop at <u>RR railroad</u> crossing when carrying passengers for hire
5591-H	2	2	3	<u>Failure</u> to stop at <u>RR railroad</u> crossing when driving school bus
5592-H	2	2	3	<u>Failure</u> to stop at <u>RR railroad</u> crossing when carrying explosives

5593-H	2	2	3	Failure to stop at RR railroad crossing when carrying flammable liquids
5610-H	2	3	4	Stop sign violation
5620-H	2	2	3	Stop violation - emerging from alley, garage or driveway
5630-H	2	2	3	Failure to stop for school bus stopped (loading or unloading school children)
5631-H	2	2	3	Failure to slow for school bus preparing to stop (flashing amber lights for school children)
5633-H	2	2	3	School bus failing to activate flashing amber lights before stopping to receive or discharge school children
5640-H	2	2	3	Unlawful use of flashing lights on bus (amber or red)
5690-H	2	2	3	Interfering with traffic while backing
5700-HM	2	2	3	More than one on one-seated motorcycle
5702-HM	2	2	3	Carrying passenger on motorcycle which interferes <u>interferes</u> with driver's operation
5703-HM	2	2	3	Carrying package, etc., which interferes with operation of motorcycle
5704-HM	2	2	3	Riding motorcycle (side-saddle)
5705-HM	2	2	3	Operating motorcycle on public highway or street without lights

5706-HM	2	2	3	Operating more than two motor-cycles abreast in traffic lane
5707-HM	2	2	3	Failure to comply with duties applicable to motorcycle operators
5708-HM	2	2	3	Operating motorcycle without helmet
5709-M	2			Operating without noise suppression device on motorcycle
5720-H	2	3	4	Failure to keep vehicle under control on mountain highways
5721-H	2	2	3	Failure to drive to extreme right side of road in canyons (defiles, mountains)
5730-H	2	2	3	Allowing vehicle to coast downgrade
5740	2	2	3	Following fire apparatus
5750	2	2	3	Crossing fire hose
5770-H	2			Riding on fender, etc.
	2	2	3	Allowing person to ride on fender
5780-H	2			Riding in trailer house being towed
	2	2	3	Allowing person to ride in trailer house being towed
5852-H	2	2	3	Failure of driver to take required precautions upon approaching the blind
7000-H	2	2	3	Operating a motor vehicle in unsafe condition without proper lights and equipment
7010-H	2	2	3	Failure to have lamps lighted when required

7020	2	3	Failure to have <u>2</u> <u>two</u> head-lamps properly operating on motor vehicle
7021	2	3	Failure to have proper head-lamps on motorcycle
7030	2	3	Failure to have vehicle equipped with <u>1</u> <u>one</u> or <u>2</u> <u>two</u> tail lamps as required
7051	2	3	Operating motor vehicle not equipped with stop lamp
7063	2	3	Failure to have bus or truck properly equipped with stop lamps
7068	2	3	Failure to have safety chain when required on trailer
7110-H	2	3	Failure to display lamp or flag on projecting load
7130	2	3	Failure to have farm tractor or implement equipped with headlight
7131	2	3	Failure to have farm tractor or implement equipped with tail lamp
7132	2	3	Failure to have farm tractor or implement equipped with reflector (<u>2</u> <u>two</u> red)
7133	2	3	Failure to have towed implement of husbandry equipped with tail lamps
7134	2	3	Failure to have towed implement of husbandry equipped with reflectors
7141	2	3	Failure to have proper emblem on slow-moving vehicle when required

7143	2	2	3	Failure of driver of slow-moving vehicle to pull off roadway as required
7160	2			Emergency vehicle - no audible signal
7200-H	2	3	4	Failure to dim within 1000 feet of oncoming traffic
7201-H	2	3	4	Failure to dim within 300 feet when approaching vehicle from rear
7210	2		3	Defective lights - motor-driven cycle
7231	2		3	Displaying unauthorized red light
7240	2		3	Violation in use of red blinker light authorization for fireman's private car
7261-H	2	2	3	Inadequate or defective service brakes
7262-H	2	2	3	Inadequate or defective parking brake
7270-H	2	2	3	Failure to keep brakes properly maintained
7280-H	2	2	3	Defective brakes - motor-driven cycle
7291-H	2	2	3	Failure to sound horn to ensure safe operation
7293	2		3	Unauthorized vehicle using or equipped with siren, bell, etc.
7294	2		3	Improper use of siren, whistle or bell

7390	2			Mufflers defective or improper
7310	2			Failure to have rear view mirror
7320-H	2	2	3	Obstructed windshield
7321-H	2	2	3	Defective windshield wipers
7330	2			Operating with defective solid rubber tires
7331	2			Operating vehicle on highway with metal tires
7332	2			Operating vehicle with tires having illegal studs (flanges, cleats, spikes)
7502	2			Moving defective vehicle beyond specified limits
0012-H	2	2	3	Transporting passengers in vehicle carrying explosives
5650-H		2	3	Parking on roadway when practical to park off roadway
5651-H		2	3	Stop, stand or park vehicle where 500 feet visibility to other drivers not present
5660-H		2	3	Parking in prohibited place
5661-H		2	3	Fail to park within 18" of curb
5680-H		2	3	Permitting vehicle to stand unattended without stopping engine
5681-H		2	3	Permitting vehicle to stand unattended without effectively setting hand brake
5682-H-		2	3	Parking unattended vehicle on grade without properly turning wheels to curb

7260	3	Fail to have vehicle equipped with brakes
7263	3	Fail to have automatic breakaway brakes on trailer which exceeds 3000 pounds G-V-W.
7264	3	Fail to have supply air reservoirs safeguarded against backflow air
7265	3	Towing vehicle with air brakes not equipped with two means of applying emergency brakes
7266	3	Towing vehicle with vacuum brakes not equipped with 2nd control device
7267	3	Vehicle not equipped with single control to operate all brakes
7268	3	Insufficient or inadequate reservoir for air or vacuum brakes
7269	3	Vehicle not equipped with air brake warning device

(2) The following actions resulting from the accumulation of the above enumerated Driver Improvement these points may be taken:

(a) A warning letter will result from the accumulation of ten (10) seven points within a 24 36 month period, and a probation letter will result from the accumulation of fifteen (15) points within a 24 month period.

The following actions may result from violations which occur either during or after the aforementioned probation:

Violation while on probation, to hearing agent (Driver Improvement Analyst) for recommendation to Driver Improvement Committee.

Violation, if within 24 months of most recent violation, to hearing agent (Driver Improvement Analyst) for recommendation to Driver Improvement Committee, and

Violation more than 24 months after previous violation, re-assess points, or from the accumulation of any three pointed violations within a 12 month period.

(b) An advisory letter results from the accumulation of 12 or more points within a 36 month period.

(c) A 6 month suspension results from the accumulation of 15 or more points in a 36 month period.

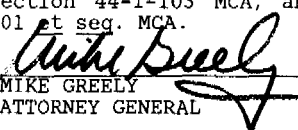
3. The rule is proposed to be amended to conform to habitual traffic offender point system as established in section 61-11-203(2) MCA and amended by the 1979 Legislature. 1979 Mont. Laws, ch. 519, § 1. In addition, the rule is being amended to increase the likelihood that potential habitual traffic offenders participate in driver counseling sessions before being subjected to license revocation.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Assistant Attorney General Dennis J. Dunphy, State Capitol, Room 225, Helena, Montana 59601 no later than January 28, 1980.

5. If a person who is directly affected by the proposed amendment wishes to express data, views and arguments orally or in writing at a public hearing, he or she must make written request for a hearing and submit this request along with any written comments to Assistant Attorney General Dennis J. Dunphy, State Capitol, Room 225, Helena, Montana 59601 no later than January 28, 1980.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 61,000 persons based on the 610,000 licensed drivers in Montana.

7. The authority of the agency to make the proposed amendment is based on section 44-1-103 MCA, and the rule implements section 61-5-201 et seq. MCA.


MIKE GREELY
ATTORNEY GENERAL

CERTIFIED TO THE SECRETARY OF STATE DECEMBER 18, 1979.

BEFORE THE BOARD OF LIVESTOCK
STATE OF MONTANA

In the matter of the pro-	)	NOTICE OF PROPOSED REPEAL OF
posed repeal of ARM 32-2.6A	)	ARM 32-2.6A(26)-S6055, 32-2.6A
(26)-S6055, 32-2.6A(42)-	)	(42)-S6200, 32-2.6A(42)-S6210,
S6200, 32-2.6A(42)-S6210,	)	32-2.6A(46)-S6240, 32-2.6A(50)
32-2.6A(46)-S6240, 32-2.6A	)	-S6250, 32-2.6A(54)-S6270, 32-2.
(50)-S6250, 32-2.6A(54)-	)	6A(58)-S6280. 32-2.6A(66)-S6300,
S6270, 32-2.6A(58)-S6280,	)	32-2.6A(70)-S6310, 32-2.6A(86)
32-2.6A(66)-S6300, 32-2.6A	)	-S6350.
(70)-S6300, 32-2.6A(86)-)	
S6350 relating to animal	)	(Animal Disease Control)
disease control.	)	NO PUBLIC HEARING CONTEMPLATED

TO: To All Interested Persons

1. On or after January 28, 1980 the Board of Livestock proposes to repeal rules 32-2.6A(26)-S6055 TREATMENT OF INDIVIDUAL ANIMALS NOT A PART OF A HERD, 32-2.6A(42)-S6200 DISPOSAL OF ANTHRAX CARCASSES, 32-2.6A(42)-S6210 DISPOSAL OF HOG CHOLERA CARCASSES, 32-2.6A(46)-S6240 DUTIES OF DEPUTY STATE VETERINARIANS, 32-2.6A(50)-S6250 DOURINE, 32-2.6A(54)-S6270 PAYMENT OF INDEMNITY, 32-2.6A(58)-S6280 FOOT ROT IN SHEEP DESCRIPTION; QUARANTINE, 32-2.6A(66)-S6300 GLANDERS, 32-2.6A(70)-S6310 HOG CHOLERA, 32-2.6A(86)-S6350 LICE IN SHEEP QUARANTINE, DIPPING OR TREATING, AND QUARANTINE RELEASE.

2. The rules proposed to be repealed are found on pages 32-60.7, 32-68, 32-69, 32-71, 32-73, 32-76, 32-77, and 32-86 respectively.

3. These rules are proposed for repeal because under the recodification process other general language is replacing the need for specific rules on these subjects.

4. Interested parties may submit their data, views, or arguments concerning the proposed repeals in writing to James W. Glosser, D.V.M., Administrator & State Veterinarian, Animal Health Division, Department of Livestock, Capitol Station, Helena, Montana, 59601 no later than January 28, 1980.

5. If any person who is directly affected by the proposed repeal of these rules wishes to express his data, views, or arguments orally or in writing at a public hearing must make written request for a hearing and submit this he request along with any written comments he has to Dr. Glosser, at the address given in paragraph 4 of this notice, no later than January 28, 1980.

6. The department having determined that more than 250 persons are directly affected by these proposals, if requests are received from 25 or more persons who are directly affected by the proposed repeal; from the Administrative Code Committee of the legislature; from a governmental sub-division or agency; or from an association having not less

than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

7. The authority of the department to make these proposed rules is based on section 81-2-102 MCA, and the rule implements that same section.


ROBERT G. BARTHELMESS
Chairman, Board of Livestock

By: 
JAMES W. GLOSSER, D.V.M.
Administrator & State Veterinarian

Certified to the Secretary of State December 18, 1979.

BEFORE THE BOARD OF LIVESTOCK
STATE OF MONTANA

In the matter of the adop-) NOTICE OF PROPOSED ADOPTION
tion of rules relating to) OF RULES
brucellosis control.)
) (Brucellosis Control)
) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On or after January 28, 1980 the Board of Livestock proposes to adopt the following new rules on brucellosis control.

2. The proposed rules provide as follows:

RULE I. HANDLING OF PROGENY OF REACTOR DAMS

(1) Female progeny under six months of age, of dams determined to be brucellosis reactors, which are not immediately slaughtered pursuant to rule 32-2.6A(26)-S6050 must be spayed not later than 6 months of age and preferably within 30 days following the test determining the dam to be a reactor.

(2) Male progeny under six months of age, of dams determined to be brucellosis reactors, which are not immediately slaughtered pursuant to rule 32-2.6A(26)-S6050 must be castrated not later than 6 months of age and preferably within 30 days following a test determining the dam to be a reactor.

(3) Spaying or castrating must be done on progeny over six months of age within 30 days following the test which determines its dam is a reactor.

(4) Progeny of reactor dams may not move to any destination except slaughter in accordance with rule 32-2.6A(26)-S6050 until they have complied with either the provisions of paragraphs (1), (2), or (3) of this rule.

RULE II. REPORTING OF DEATH LOSS

(1) Within seven days after discovery of the death of an animal belonging to a herd quarantined for brucellosis the owner or his agents shall notify the district veterinarian supervising the quarantine of the fact of the death and supply him with the quarantined eartag numbers of the dead animal or animals.

3. These rules are proposed to assist in brucellosis control and the movement towards eradication of brucellosis from Montana. Transmission of brucellosis from mother to progeny has been documented. Herds in Montana, supposedly cleaned up for brucellosis, have been reinfected in the

past. The infecting agent in a number of these cases has been established as animals that were calves to reactor dams. By requiring the spaying and castration of calves to reactor dams their breeding value will be destroyed and they will move in slaughter channels only thus eliminating the possibility that they will be further sources of infection. Rule II is proposed because in order to adequately handle quarantined herds an accurate census of the herd must be maintained. By requiring the owner or his agent to report death loss and identify the animal or animals that have died, quarantined animal census can be more accurately provided.

4. Interested persons may submit their data, views, or arguments concerning the proposed adoption in writing to James W. Glosser, D.V.M., Administrator & State Veterinarian, Animal Health Division, Department of Livestock, Helena, Montana, 59601 no later than January 28, 1980.

5. If any person who is directly affected by the proposed adoption of these rules wishes to express his data, views, or arguments orally or in writing at a public hearing must make written request for a hearing and submit this request along with any written comments he has to Dr. Glosser, at the address given in paragraph 4 of this notice, no later than January 28, 1980.

6. The department having determined that more than 250 persons are directly affected by this rule, if requests are received from 25 or more persons who are directly affected by the proposed adoption; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

7. The authority of the department to make these proposed rules is based on section 81-2-102 MCA, and the rule implements that same section.


ROBERT G. BARTHELMESS
Chairman, Board of Livestock

By: 
JAMES W. GLOSSER, D.V.M.
Administrator & State Veterinarian

Certified to the Secretary of State December 18, 1979.

BEFORE THE BOARD OF LIVESTOCK
STATE OF MONTANA

In the matter of the repeal)	NOTICE OF PROPOSED REPEAL OF
of Rules 32-2.6A(26)-S6100)	RULES 32-2.6A(26)-S6100 AND
and 32-2.6A(26)-S6110 and)	32-2.6A(26)-S6110 AND THE ADOPT-
the adoption of new rules)	TION OF NEW RULES
relating to certified brucel-)
losis-free bovine herds)	(Brucellosis-Free Herds)
and validated brucellosis)	NO PUBLIC HEARING CONTEMPLATED
free porcine herds.))

TO: All Interested Persons

1. On or after January 28, 1980 the Board of Livestock proposes to repeal rules 32-2.6A(26)-S6100 CERTIFIED BRUCELLOSIS-FREE BOVINE HERDS and 32-2.6A(26)-S6110 VALIDATED BRUCELLOSIS-FREE PORCINE HERDS and adopt new rules on the subject of certified brucellosis-free bovine herds and validated brucellosis-free porcine herds.

2. The rules to be repealed are found on pages 32-61 and 32-63 respectively.

3. The rules proposed for adoption will read as follows:

RULE I. CERTIFIED BRUCELLOSIS-FREE BOVINE HERDS

(1) The Montana department of livestock, animal health division will certify and recertify a herd as certified brucellosis-free upon determination of compliance with provisions of the current "Uniform Methods & Rules for Brucellosis Eradication" recommended by the United States animal health association and approved by the United States department of agriculture.

(2) Copies of "Uniform Methods & Rules for Brucellosis Eradication" are available from the department upon request.

RULE II. VALIDATED BRUCELLOSIS-FREE PORCINE HERDS

(1) The Montana department of livestock, animal health division will certify and recertify a porcine herd as validated brucellosis-free upon determination of compliance with the provisions of the current "Uniform Methods & Rules for Brucellosis Eradication" recommended by the United States animal health association and approved by the United States department of agriculture.

(2) Copies of the "Uniform Methods & Rules for Brucellosis Eradication" are available from the department upon request.

4. These rules are proposed for repeal and new rules proposed for adoption because of significant changes in the "Uniform Methods & Rules for Brucellosis Eradication" since the department's rules were adopted. As these patterns may also continue to change in the future the department has

determined that it is most efficient to provide by reference to the circumstances under which porcine or bovine herds will be designated as brucellosis-free.

5. Interested persons may submit their data, views, or arguments concerning the proposed repeal and adoption in writing to James W. Glosser, D.V.M., Administrator & State Veterinarian, Animal Health Division, Capitol Station, Helena, Montana, 59601 no later than January 28, 1980.

6. If any person who is directly affected by the proposed repeal and adoption of these rules wishes to express his data, views, or arguments orally or in writing at a public hearing he must make written request for a hearing and submit this request along with any written comments he has to Dr. Glosser, at the address given in paragraph 4 of this notice, no later than January 28, 1980.

7. The department having determined that more than 250 persons are directly affected by this rule, if requests are received from 25 or more persons who are directly affected by the proposed repeal and adoption; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

8. The authority of the department to make these proposed rule changes is based on section 81-2-102 MCA, and the rule implements that same section.


ROBERT G. BARTHELMESS
Chairman, Board of Livestock

By: 
JAMES W. GLOSSER, D.V.M.
Administrator & State Veterinarian

Certified to the Secretary of State December 18, 1979.

BEFORE THE BOARD OF LIVESTOCK
STATE OF MONTANA

In the matter of the amend-) NOTICE OF PROPOSED AMENDMENT OF
ment of rule 32-2.6A(106)-) RULE 32-2.6A(106)-S6520
S6520 relating to vaccina-)
tion of rams for ram) (Ram Epididymitis Vaccine)
epididymitis.) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On or after January 28, 1980 the Board of Livestock proposed to amend rule 32-2.6A(106)-S6520 TERMS USED to change the definition of official vaccination for ram epididymitis.

2. The rule as proposed to be amended will read:

32-2.6A(106)-S6520 TERMS USED (1) The words and phrases used in this Sub-Chapter shall have the following meanings:

(a) Ram epididymitis is an infectious disease of sheep caused by a bacteria variously called *Brucella ovis*, *Brucella melitensis ovis* or ram epididymitis organism (R.E.O.).

(b) Official vaccination for ram epididymitis is the inoculation of the male sheep at weaning age or older, with a ram epididymitis organism vaccine licensed by the United States Department of Agriculture administered as recommended approved by the Montana Department of Livestock, Animal Health Division, by a Deputy State Veterinarian. Official vaccination shall include includes permanent identification of the animal at the time of vaccination and the issuance of the completed Form SV-4 vaccination form prescribed by the department.

3. This rule is proposed because the United States Department of Agriculture no longer licenses a vaccine for ram epididymitis. However, such vaccines are available and are allowed for use by the department under certain circumstances, so this rule must be changed to allow the use of such vaccines.

4. Interested persons may submit their data, views, or arguments concerning the proposed amendment in writing to James W. Glosser, D.V.M., Administrator & State Veterinarian, Animal Health Division, Department of Livestock, Capitol Station, Helena, Montana, 59601 no later than January 28, 1980.

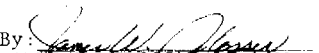
5. If any person who is directly affected by the proposed amendment of this rule wishes to express his data, views, or arguments orally or in writing at a public hearing must make written request for a hearing and submit this request along with any written comments he has to Dr. Glosser, at the address given in paragraph 4 of this notice, no later

than January 28, 1980.

6. The department having determined that more than 250 persons are directly affected by this rule, if requests are received from 25 or more persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

7. The authority of the department to make these proposed rule changes is based on section 81-2-102 MCA, and the rule implements that same section.


ROBERT G. BARTHELMESS
Chairman, Board of Livestock

By: 
JAMES W. GLOSSER, D.V.M.
Administrator & State Veterinarian

Certified to the Secretary of State December 18, 1979.

BEFORE THE BOARD OF LIVESTOCK
STATE OF MONTANA

In the matter of the repeal)	NOTICE OF PROPOSED REPEAL OF
of rule 32-2.6A(24)-S6015)	RULE 32-2.6A(24)-S6015 AND
and the adoption of new rule)	ADOPTION OF NEW RULE
relating to swine identifi-)	
cation codes.)	(Swine Identification Code)
)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On or after January 28, 1980 the Board of Livestock proposes to repeal rule 32-2.6A(24)-S6015 SWINE IDENTIFICATION CODE: ASSIGNMENT OF CODES and adopt a new rule in place thereof. The rule to be repealed begins on page 32-57 of the Administrative Rules of Montana.

2. The new rule proposed for adoption reads as follows:

RULE 1 SWINE IDENTIFICATION CODE: ASSIGNMENT OF CODES

(1) Swine owners, dealers, or others required by federal law to identify their swine as a condition to move them interstate may be assigned federally designated code numbers by the department of livestock. Such numbers will be assigned upon request made to the animal health division, department of livestock, state capitol, Helena, Montana, 59601.

(2) A list of code numbers already assigned may be obtained by contacting the animal health division of the department of livestock.

3. These changes are proposed as part of the recodification process. The department has determined that it is not necessary to list the assigned code numbers in the rule as is presently the case because the fact that the assignments change and that every change would thus be subject to the notice procedures of the Montana Administrative Procedures Act. The new rule provides for the assignment of the numbers and the availability of information as to what numbers have already been assigned.

4. Interested persons may submit their data, views, or arguments concerning the proposed repeal and adoption in writing to James W. Glosser, D.V.M., Administrator & State Veterinarian, Animal Health Division, Department of Livestock, Capitol Station, Helena, Montana, 59601 no later than January 28, 1980.

5. If any person who is directly affected by the proposed repeal and adoption of these rules wishes to express his data, views, or arguments orally or in writing at a public hearing he must make written request for a hearing and submit this request along with any written comments he has to Dr. Glosser, at the address given in paragraph 4 of

this notice, no later than January 28, 1980.

6. The department having determined that more than 250 persons directly affected by this rule, if requests are received from 25 or more persons who are directly affected by the proposed repeal and adoption; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

7. The authority of the department to make these proposed rule changes is based on section 81-2-102 MCA, and the rule implements that same section.


ROBERT G. BARTHELMESS
Chairman, Board of Livestock

By: 
JAMES W. GLOSSER, D.V.M.
Administrator & State Veterinarian

Certified to the Secretary of State December 18, 1979.

BEFORE THE BOARD OF LIVESTOCK
STATE OF MONTANA

In the matter of the amend-) NOTICE OF PROPOSED AMENDMENT OF
ment of rules 32-2.6A(102)-) RULES 32-2.6A(102)-S6460, 32-2.
S6460, 32-2.6A(102)-S6470,) 6A(102)-S6470, 32-2.6A(102)-
32-2.6A(102)-S6480, and) S6480, AND 32-2.6A(102)-S6490
32-2.6A(102)-S6490 relating)
to rabies control.) (Rabies Control)
) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On or after January 28, 1980 the Board of Livestock proposes to amend rules 32-2.6A(102)-S6460 RABIES QUARANTINE, 32-2.6A(102)-S6470 ISOLATION OF RABID OR SUSPECTED RABID ANIMALS, 32-2.6A(102)-S6480 ISOLATION OF BITING ANIMALS, 32-2.6A(102)-S6490 ANIMAL CONTACTS relating to rabies control.

2. The rule as proposed to be amended reads as follows: (new material underlined; deleted material interlined)

32-2.6A(102)-S6460 RABIES QUARANTINE (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} 14 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.

32-2.6A(102)-S6470 ISOLATION OF RABID OR SUSPECTED RABID ANIMALS (1) Any rabid or clinically suspected rabid animal shall be isolated in strict confinement under proper care and under observation of a Deputy State Veterinarian, in a pound, veterinary hospital, or other adequate facility in a manner approved by the State Veterinarian and shall not be

killed or released for at least ~~fourteen~~ {14} 10 days after onset of symptoms suggestive of rabies.

32-2.6A(102)-S6480 ISOLATION OF BITING ANIMALS (1) Upon the discretion and advice of the local health officer, any animal which bites or otherwise exposes a person shall be isolated in strict confinement in a place and manner as described in Section 32-2.6A(102)-S6470 and observed for at least ~~fourteen~~ {14} 10 days after the day of infliction of the bite.

(2) In officially quarantined rabies areas the isolation described in (1) shall be mandatory for any animal of a species subject to rabies that has bitten or otherwise exposed a person or other animal.

32-2.6A(102)-S6490 ANIMAL CONTACTS (1) Any animal subject to rabies which has been bitten by a known rabid or suspected rabid animal shall be quarantined in a place and manner approved by the State Veterinarian for a period of ~~six~~ {6} months and then if cats or dogs vaccinated as set forth in paragraphs (2) or (3) below, or destroyed. with the exception that the following alternative is permitted in the case of dogs and cats.

(a) (2) If a dog or cat has not been vaccinated against rabies within a period of two years with chick-embryo rabies vaccine, or within one year with nerve-tissue rabies vaccine, time limits prescribed by, and otherwise in accordance with, a current "Compendium on Rabies Vaccines" issued by the national association of states public health veterinarians, inc. the dog or cat may be administered anti-rabies hyperimmune serum and rabies vaccine in a manner prescribed by the State Veterinarian and quarantined in an approved manner and place for a period of ~~ninety~~ {90} 180 days, or The cat or dog must then be vaccinated in accordance with the above mentioned "Compendium on Rabies Vaccines", held in quarantine for an additional 14 days, and then released.

(b) (3) If the dog or cat has been vaccinated against rabies within two years but not less than 30 days with chick-embryo rabies vaccine or within one year but not less than 30 days with nerve-tissue rabies vaccine, the dog or cat may be revaccinated in a manner prescribed by the State Veterinarian and quarantined in an approved manner and place for a period of ~~thirty~~ {30} days, time limits prescribed by, and otherwise in accordance with, the "Compendium on Rabies Vaccines" described above, the dog or cat may be revaccinated and released.

3. The Board is proposing these amendments in order to update the rules to reflect current approved practices relating to the management of animals in rabies quarantined areas.

4. Interested persons may submit their data, views, or arguments concerning the proposed amendments in writing to James W. Glosser, D.V.M., Administrator & State Veterinarian, Animal Health Division, Department of Livestock, Capitol Station, Helena, Montana, 59601 no later than January 28, 1980.

5. If any person who is directly affected by the proposed amendment of these rules wishes to express his data, views, or arguments orally or in writing at a public hearing he must make written request for a hearing and submit this request along with any written comments he has to Dr. Glosser, at the address given in paragraph 4 of this notice, no later than January 28, 1980.

6. The department having determined that more than 250 persons directly affected by this rule, if requests are received from 25 or more persons who are directly affected by the proposed amendments; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

7. The authority of the department to make these proposed rule changes is based on section 81-2-102 MCA, and the rule implements that same section.


ROBERT G. BARTHELMLESS
Chairman, Board of Livestock

By: 
JAMES W. GLOSSER, D.V.M.
Administrator & State Veterinarian

Certified to the Secretary of State December 18, 1979.

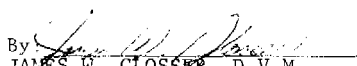
BEFORE THE BOARD OF LIVESTOCK
STATE OF MONTANA

In the matter of the adop-) NOTICE OF CANCELLATION OF
of rules relating to the) HEARING
dating of milk and liquid)
dairy products containers) (Milk Freshness Dating)
for freshness.)

TO: All Interested Persons

1. The hearing in the above captioned matter noticed in MAR Notice Number 32-2-62, appearing in 1979 MAR page 1507-1509, and set for January 8, 1980 at 9:00 a.m. is cancelled. The hearing will be rescheduled for sometime during the month of March and will be renoticed at a later time.


ROBERT G. BARTHELMESS
Chairman, Board of Livestock

By 
JAMES W. GLOSSER, D.V.M.
Administrator & State Veterinarian

Certified to the Secretary of State December 18, 1979.

STATE OF MONTANA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF PLUMBERS

IN THE MATTER of the Proposed)
Amendment of ARM 40-3.82(6)-)
S8260 concerning applications)

NOTICE OF PROPOSED AMENDMENT
OF ARM 40-3.82(6)-S8260
APPLICATIONS

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On January 26, 1980, the Board of Plumbers proposes to amend rule ARM 40-3.82(6)-S8260 concerning applications.

2. The proposed amendment amends subsection (1) and (2) and also places the qualifications required for approval of the applications in this sections. The proposed changes will read as follows: (new matter underlined, deleted matter interlined)

"40-3.82(6)-S8260 APPLICATIONS (1) Applications for master plumber's license or journeyman plumber's license may be made by anyone professing the qualifications set forth in sections 37-69-304 and 305 MCA. The application for examination shall be made to the board-department, and must be accompanied with a the proper fee required by-law.

(2) No application for examination will be considered unless it is accompanied by the proper duly documented supporting evidence and is received 30 days prior to the examination date.

(3) The board will accept the following qualifications for journeyman plumbers:

(a) A notarized statement from an active master plumber certifying time and dates of employment by him along with copies of the applicant's employment record.

(i) Copies of applicant's time sheets and/or shop records may be required.

(b) Copy of an apprenticeship completion certificate or certified statement issued by the United States department of labor, bureau of apprenticeship and training, or a recognized state apprenticeship agency/council.

(c) Attainment of a first degree or advance degree in an approved engineering curriculum or a baccalaureate degree in an approved engineering technology curriculum will be accepted as equivalent to 2 years of active practice.

(d) Furthermore appropriate credit may be given for the following:

(i) Graduation from an engineering technology curriculum not approved by the board.

(ii) Completion of portions of such curriculum.

(iii) Completion of a course of study in a technical institute or other recognized educational program.

(e) Practice in the fields of steam fitting,

hydronics, and industrial piping will not be considered as experience in the field of plumbing.

(f) Active practice in the field of plumbing, which includes actual working with the tools of the trade, while under the direct supervision of a licensed journeyman or master plumber, in connection with any public or private structure, building or project, when such requires the application of plumbing principals or data.

(g) Out-of-state applicants for a master or journeyman plumber's license may provide proof of prior licensing in their home state by submitting a true copy or copies of the license(s) held along with a copy of the state or local area requirements for licensure in lieu of the above documentation. A letter of verification from the state or local licensing agency will also be required.

(4) The board will accept the following qualifications for master plumbers:

(a) A notarized statement from an active master plumber certifying time and dates of employment by him along with copies of the applicant's employment record, which must include evidence of 3 years in the supervisory capacity.

(i) Copies of applicant's time sheets and/or shop records may be required.

(b) (e), (f) and (g) above also apply to applicant's for master plumber licensure.

(5) Upon receipt and approval of an application for the journeyman or master plumber's examination, the board department will send to the applicant an admittance card for the examination which will allow him to work as a journeyman plumber until the next examination for which he is scheduled. A master applicant shall not work as a master until such time as he successfully passes the master's examination and a master plumber's license has been issued to him."

3. The amendment as proposed takes into consideration comments of the Administrative Code Committee and the United Association of Journeyman and Apprentice Plumbers which were made in regard to MAR notice no. 40-82-23 published on August 30, 1979, issue number 16. The Code Committee felt at that time the board was exceeding its statutory authority in allowing credit towards master licensure for educational experience. This proposed amendment does not allow credit for education for master plumber applicants. The United Association had requested the word "may" in subsection (3)(a)(i) be changed to "shall". The board has not made this change in that it does not want to be overly restrictive and will only require the shop records in cases where there is a question on the verification.

The Association further requested that (3)(b) be changed. The board agreed with this change and it is noticed with the wording the Association requested. They further asked that all of (3)(d) be eliminated. The board felt this should remain in, but did change the word "shall" to "may be given". They felt this would allow the board discretion in granting credit for those items mentioned.

The proposed amendment defines qualifications required by sections 37-69-304 and 305 MCA. It also makes provision for a master applicant to work as a journeyman plumber until he can take the examination for a master plumber's license. The law previously required a master to carry a journeyman plumber's license to work with the tools and an individual, particularly an out-of-state applicant would apply for both licenses, be given an admittance card to the journeyman examination, which allowed him to work as a journeyman until he took the exam. The 1979 legislature removed the dual license requirement, so that a master need not carry the journeyman license. The present rule would not allow anyone applying for a master's license to work if he were not already licensed in this state as a journeyman. This would work a hardship on those individuals applying for master plumber's license who were from another state.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Plumbers, Lalonde Building, Helena, Montana 59601 no later than January 24, 1980.

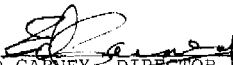
5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Board of Plumbers, Lalonde Building, Helena, Montana 59601 no later than January 24, 1979.

6. If the board receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 120 persons based on the approximately 1200 licensed plumbers in Montana.

7. The authority of the board to make the proposed amendment is based on section 37-69-202 MCA and implements sections 37-69-304 and 305 MCA.

BOARD OF PLUMBERS
DONALD KRISTENSEN, CHAIRMAN

-1632-

BY: 
ED CARNEY, DIRECTOR
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, December 18, 1979.

STATE OF MONTANA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF SANITARIANS

IN THE MATTER of the Proposed)
Amendment of ARM 40-3.100(6)-)
S10070 subsection (1)(a))
concerning applications.)

NOTICE OF PROPOSED AMENDMENT
OF ARM 40-3.100(6)-S10070
(1)(a) APPLICATIONS

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On January 26, 1980, the Board of Sanitarians proposes to amend ARM 40-3.100(6)-S10070 subsection (1)(a) concerning application fees.

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

"40-3.100(6)-S10070 APPLICATIONS (1).....

(a) Applications in the form prescribed, accompanied by the proper-fees \$75.00 fee for licensure by examination or the \$35.00 fee for licensure by reciprocity, shall be entered in the records of the Board.

....."

3. The board is proposing the amendment to set the application fee for those individuals who become licensed by examination. The \$35.00 reciprocity fee is set by statute. The board has determined that this cost is necessary to adequately cover the actual cost of the examination and the administrative costs connected therewith.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Sanitarians, Lalonde Building, Helena, Montana 59601 no later than January 24, 1980.


5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Board of Sanitarians, Lalonde Building, Helena, Montana 59601 no later than January 24, 1980.

6. If the board receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 12 persons based on the 125 licensed sanitarians in Montana.

7. The authority of the board to make the proposed amendment is based on section 37-40-203 MCA and implements section 37-40-304 (1) MCA.

-1634-

BOARD OF SANITARIANS
KENNETH B. READ, R.S.
CHAIRMAN

BY: 
ED CARNEY, DIRECTOR
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, December 18, 1979.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF PUBLIC HEARING
AMENDMENT OF RULES	)	ON THE AMENDMENT OF RULES
42-2.22(2)-S22000 Assessment	)	42-2.22(2)-S22000 Assess-
of Heavy Equipment and	)	ment of Heavy Equipment
42-2.22(2)-S22020 Assessment	)	and 42-2.22(2)-S22020
of Manufacturing and	)	Assessment of Manu-
Mining Equipment.	)	facturing and Mining
		Equipment

TO: All Interested Persons:

1. On June 14, 1979, the Department of Revenue published notice of a proposed amendment to rules 42-2.22(2)-S22000 and 42-2.22(2)-S22020 concerning the assessment of heavy equipment and mining machinery and equipment. On July 10, 1979, a public hearing was conducted by the Department. The matter has been under review by the Property Assessment Division. Because of the questions and comments raised by the participants at the public hearing, the Department believes the rule deserves further study. On March 4, 1980, at 9:00 a.m., a hearing will be held in the Fourth Floor Conference Room of the Mitchell Building, Helena, Montana 59601 to consider amendments to the rules.

2. The proposed amendments replace rules 42-2.22(2)-S22000 and 42-2.22(2)-S22020 found in the Administrative Rules of Montana. The amendments provide that the average retail price contained in the "Green Guide" published by the National Research and Appraisal Company shall be the market value for equipment listed in that guide. For mobile equipment not listed and stationary equipment, the rules provide tables valuing the property on replacement cost new, less depreciation. The tables utilize the concept of a trend factor.

3. The rules as proposed to be amended provide as follows:

42-2.22(2)-S22000 ASSESSMENT OF HEAVY EQUIPMENT (1) (a)
The ~~minimum assessed~~ market value of heavy equipment shall be
the ~~wholesale value~~ is the average resale value of such property
as shown in "Green Guides", Volumes I and II, or "Green Guides
Older Equipment Guide", "Green Guides Life Trucks", or "Green
Guides Off Highway Trucks and Trailers", The using the current
volumes of the year of assessment, Equipment Guide Book Company,
3980 Fabian Way, P. O. Box 10113, Palo Alto, California 94303.
This guide may be reviewed in the Department or purchased from
the publisher: Equipment Guide Book Company; 3980 Fabian Way; P.
O. Box 10113; Palo Alto, California 94303.

(b) If the above-named publications cannot be used to
value these properties then a trended depreciation schedule

established by the Department of Revenue shall be used to determine the average market value. The schedule is found in subsection (2).

(2)(a)(i) For the calendar year commencing January 1, 1979, the following schedule is used for heavy equipment:

TABLE 1A

AGE	R-3 PERCENTAGE DEPRECIATION	TREND FACTOR	PERCENTAGE TRENDED DEPRECIATION
1 Year Old	92%	1.000	92%
2 Years Old	84%	1.053	88%
3 Years Old	76%	1.119	85%
4 Years Old	67%	1.248	84%
5 Years Old	58%	1.446	84%
6 Years Old	49%	1.497	73%
7 Years Old	39%	1.547	60%
8 Years Old	30%	1.639	49%
9 Years Old	24%	1.744	42%
10 Years Old and Older	20%	1.820	36%

(ii) For 1979 models, a percentage trended depreciation figure of 95% is used.

(b)(i) For the calendar year commencing January 1, 1980, the following schedule is used for heavy equipment:

TABLE 1B

AGE	R-3 PERCENTAGE DEPRECIATION	TREND FACTOR	PERCENTAGE TRENDED DEPRECIATION
1 Year Old	92%	1.000	92%
2 Years Old	84%	1.058	89%
3 Years Old	76%	1.144	87%
4 Years Old	67%	1.223	82%
5 Years Old	58%	1.310	76%
6 Years Old	49%	1.370	67%
7 Years Old	39%	1.677	65%
8 Years Old	30%	1.758	53%
9 Years Old	24%	1.823	44%
10 Years Old and Older	20%	1.900	38%

(ii) For 1980 models, a percentage trended depreciation figure of 95% is used.

(3) The tables were compiled using R-3 depreciation

schedules with a residual value of 20%. The trend factors were compiled using comparative cost multipliers based on data published by the Marshall and Swift Publication Company. More detailed information concerning the table entries can be obtained from the department.

42-2.22(2)-S22020 ASSESSMENT OF MANUFACTURING- AND- MINING EQUIPMENT ASSESSMENT OF MINING MACHINERY AND EQUIPMENT. (1)(a) The minimum assessed value of manufacturing and mining machinery, equipment and supplies shall be forty percent (40%) of the original installed cost. (This is in lieu of an annual depreciation.) The average market value for the mobile equipment used in mining, including coal and ore haulers, shall be the average resale value of such property as shown in "Green Guides", Volumes I and II, Older Equipment, Off Highway Trucks, and Trailers and Lift Trucks, using the current volumes of the year of assessment. This guide may be reviewed in the Department or purchased from the publisher: Equipment Guide Book Company; 3980 Fabian Way; P. O. Box 10113; Palo Alto, California 94303.

(b) If the above-named guides cannot be used to value these properties, then trended depreciation tables established by the Department of Revenue shall be used to determine the average market value. The tables are found in subsection (2).

(2)(a)(i) For the calendar year commencing January 1, 1979, the following table is used for mobile mining equipment:

TABLE 1A

<u>AGE</u>	<u>R-3 PERCENTAGE DEPRECIATION</u>	<u>TREND FACTOR</u>	<u>PERCENTAGE TRENDED DEPRECIATION</u>
1 Year Old	92%	1.000	92%
2 Years Old	84%	1.053	88%
3 Years Old	76%	1.119	85%
4 Years Old	67%	1.248	84%
5 Years Old	58%	1.446	84%
6 Years Old	49%	1.497	73%
7 Years Old	39%	1.547	60%
8 Years Old	30%	1.639	49%
9 Years Old	24%	1.744	42%
10 Years Old	20%	1.820	36%
<u>and Older</u>			

(ii) For 1979 models, a percentage trended depreciation figure of 95% is used.

(b)(i) For the calendar year commencing January 1, 1980, the following table is used for mobile mining equipment:

TABLE 1B

AGE	R-3 PERCENTAGE DEPRECIATION	TREND FACTOR	PERCENTAGE TRENDED DEPRECIATION
1 Year Old	92%	1.000	92%
2 Years Old	84%	1.058	89%
3 Years Old	76%	1.144	87%
4 Years Old	67%	1.223	82%
5 Years Old	58%	1.310	76%
6 Years Old	49%	1.370	67%
7 Years Old	39%	1.677	65%
8 Years Old	30%	1.758	53%
9 Years Old	24%	1.823	44%
10 Years Old and Older	20%	1.900	38%

(ii) For 1980 models, a percentage trended depreciation figure of 95% is used.

(3) The average market value for stationary machinery and equipment used in mining shall be determined using trended depreciation tables established by the Department of Revenue. These are 10-year tables and reflect the average life of these properties. The tables are found in subsection (4).

(4)(a) For the calendar year commencing January 1, 1979, the following table is used for stationary mining machinery and equipment:

TABLE 2A

AGE	R-3 PERCENTAGE DEPRECIATION	TREND FACTOR	PERCENTAGE TRENDED DEPRECIATION
1 Year Old	92%	1.000	92%
2 Years Old	84%	1.078	91%
3 Years Old	76%	1.140	87%
4 Years Old	67%	1.216	81%
5 Years Old	58%	1.392	81%
6 Years Old	49%	1.610	79%
7 Years Old	39%	1.667	65%
8 Years Old	30%	1.725	52%
9 Years Old	24%	1.829	44%
10 Years Old and Older	20%	1.949	39%

(b) For the calendar year commencing January 1, 1980, the following table is used for stationary mining machinery and equipment:

TABLE 2B

<u>AGE</u>	<u>R-3 PERCENTAGE DEPRECIATION</u>	<u>TREND FACTOR</u>	<u>PERCENTAGE TRENDED DEPRECIATION</u>
1 Year Old	92%	1.000	92%
2 Years Old	84%	1.053	88%
3 Years Old	76%	1.145	87%
4 Years Old	67%	1.232	83%
5 Years Old	58%	1.324	77%
6 Years Old	49%	1.416	69%
7 Years Old	39%	1.746	68%
8 Years Old	30%	1.821	55%
9 Years Old	24%	1.885	45%
10 Years Old and Older	20%	1.966	39%

(5) The tables were compiled using R-3 depreciation schedules with a residual value of 20%. The trend factors were compiled using comparative cost multipliers based on data published by the Marshall and Swift Publication Company. More detailed information concerning the table entries can be obtained from the department.

4. The original amendments were noticed and a hearing held in October, 1978. The matter was reviewed by the Property Assessment Division with another hearing being held on July 10, 1979. The comments received at those hearings and sent to the Department reflect serious concerns by the public about the Department's valuation of this type of property. Therefore, the Department is noticing these rules for another public hearing to allow comment on the amendments. Further, the Director of Revenue, pursuant to Section 2-4-304, MCA, will appoint an advisory committee to assist the Department in formulating this rule. The committee will consist of five members, two from the industry affected, two from the Department, and one disinterested member. The committee shall meet upon appointment and take the proposed amendments under consideration. The committee shall by February 13, 1980, make a preliminary report to the Director. The report will be distributed to all interested parties for comment at the public hearing. The committee shall prepare its final report after the public hearing and the time for receiving comment.

The amendments to the rule provide that retail values in the Green Guides will be used for mobile equipment listed. This amendment is based on the legislative enactment that all property is to be valued on its market value. For other equipment and mobile equipment not contained in the Green Guides, replacement costs new, less depreciation will be used. Replacement cost will be determined by trending original cost to current levels. Depreciation factors will be based upon tables published by the


Marshall and Swift Valuation Service. This amendment is also based on the legislative mandate of valuing property on its market value.

5. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted no later than March 4, 1980, to:

Laurence Weinberg
Staff Attorney
Department of Revenue
Mitchell Building
Helena, Montana 59601

6. Mr. Ross Cannon has been designated to preside over and conduct the hearing.

7. The authority of the agency to make the proposed amendments is based on Section 15-1-201, MCA, and the rules implement Sections 15-6-135, 15-6-138, and 15-6-140, MCA.


MARY L. CRAIG, Director
Department of Revenue

Certified to the Secretary of State 12-18-79

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF PUBLIC HEARING
AMENDMENT OF RULES RELATING	)	FOR THE AMENDMENT OF RULES
TO THE ASSESSMENT AND	)	RELATING TO THE ASSESSMENT
TAXATION OF INTERSTATE AND	)	AND TAXATION OF INTERSTATE
INTERCOUNTY PROPERTY.	)	AND INTERCOUNTY PROPERTY

TO: All Interested Persons:

1. On January 30, 1980, at 9:00 A.M., a public hearing will be held in Room 104, Capitol Building, Helena, Montana, to consider the amendment of rules 42-2.22(46)-S22890, 42-2.22(46)-S22900, 42-2.22(46)-S22910, 42-2.22(46)-S22930, and 42-2.22(46)-S22940, relating to the assessment and taxation of interstate and intercounty property.

2. The proposed amendments replace rules 42-2.22(46)-S22890, 42-2.22(46)-S22900, 42-2.22(46)-S22910, 42-2.22(46)-S22930, and 42-2.22(46)-S22940 found in the Administrative Rules of Montana. The amendments utilize the concepts of installed cost in addition to mileage as the basis for apportioning property value of centrally assessed companies to local taxing units.

3. The rules as proposed to be amended provide as follows:

42-2.22(46)-S22890 INTER-STATE AND INTER-COUNTY CONTINUOUS PROPERTY (1) The Department of Revenue shall centrally assess the inter-state and inter-county continuous properties of the following types of companies: railroad, microwave, telephone, telegraph, gas, electric, ditch, canal, flume, natural gas pipeline, oil pipeline and airline. ~~The responsibility for valuation of these companies' property is divided between the department's Inter-County Property Bureau and the department's local agents and they shall be referred to as centrally assessed companies.~~

(2) The property of a centrally assessed company is separated into two categories; operating and non-operating. The department's agents are responsible for the valuation of all the non-operating properties and ~~certain operating properties. The operating properties which the agents must value include but are not limited to: buildings, dams, powerhouses, depots, stations, shops, furnitures, fixtures, automobiles, tools, substations, materials, supplies, machinery, meters, transformers and operating lands not included in the right-of-way. All other operating property shall be valued by the Inter-County Property Bureau and apportioned to taxing jurisdictions. All operating property will be valued by the inter-county property bureau and apportioned to the taxing units as provided in rules 42-2.22(46)-S22930 and 42-2.22(46)-S22940.~~

42-2.22(46)-S22900 DEFINITIONS (1) No changes.

(2) No changes.

(3) No changes.

(4) No changes.

(5) No changes.

(6) Unit method of valuation is a method for determining the market value of a centrally assessed company. This involves appraising, as a going concern and a single entity, the entire operating property, wherever located, and then ascertaining the part thereof in this state. The resulting value is referred to as the unit value.

(7) No changes.

(8) No changes.

(9) No changes.

(10) No changes.

(11) No changes.

(12) No changes.

(13) Installed cost is the original cost of operating property adjusted for any additions, changes, transfers, retirements, etc., excluding depreciation.

(14) Situs property is all operating property used by a centrally assessed company that is not part of a roadway or a transmission or distribution system, that is not rolling stock or airplanes, or that by nature is immovable. Situs property includes but is not limited to: buildings, dams, powerhouses, depots, stations, shops, furniture, fixtures, tools, substations, machinery, meters, transformers, and operating lands not in the right-of-way. Situs property does not include automobiles, trucks, and special mobile equipment (as defined in 61-1-104, MCA) upon which property taxes have been assessed and paid.

(15) Taxing units are counties, municipalities, school districts, and other special districts.

42-2.22(46)-S22910 REPORT (1) Each year all centrally assessed companies shall submit to the Department of Revenue a report of operations for the preceding year. Railroads shall submit the report by April first, ~~Airlines by May first and all other by the first Monday in March, 15 and all others by March 31,~~ on forms supplied by the department.

(2) No changes.

(3) No changes.

42-2.22(46)-S22930 ALLOCATION (1) The department shall allot that portion of a unit valuation to Montana which represents the state's proper share of the market value of a centrally assessed company's operating property. The procedures used to assign Montana's portion of the unit value will vary depending upon the availability of information and the type of company. Title ~~84, R.C.M.-1947,~~ 15, MCA, does not provide procedures for the allocation of unit value; therefore, the department will use ratios that are readily available, accurate, and arrived at by

exercise of sound judgment which reflect the relationship between the unit value and the value of Montana property.

(2) No changes.

(3) No changes.

42-2.22(46)-S22940 EQUALIZATION AND APPORTIONMENT (1) (a) Once the market value of a centrally assessed company's Montana property has been determined, the value will be equalized at a level which will be considered assessed value. To determine the amount of value available for distribution to the taxing units, the department shall deduct from the assessed value all assessments of the company's operating properties made by the department's local agents. The remaining assessed value shall be apportioned to the appropriate taxing units, the Montana situs property value from the Montana unit value. The difference is apportioned to the taxing units as provided in subsection (2).

(b) The Montana situs property value is apportioned to the taxing units as provided in subsection (3).

(c) The Montana situs property value (MSPV) is determined from the following equation:

$$\text{MSPV} = \left(\frac{\text{Installed cost of Montana Situs property}}{\text{Total unit value}} \right) \times \left(\frac{\text{Total installed cost of all operating property for the unit.}}{\text{Total installed cost of all operating property for the unit.}} \right)$$

(2)(a) Apportionment under subsection (1)(a) may be made by the following methods.

(i) Airlines - arrivals and departures

(ii) Electric - pole line and wire mileage by capacity

(iii) Gas - pipe mileage by size

(iv) Microwave - situs of equipment

(v) Pipelines - pipe mileage by size

(vi) Railroads - track mileage by type and branch

(vii) Telegraph - wire mileage and situs of equipment

(viii) Telephone - wire mileage and situs of equipment

(b) In addition to these methods the department may use other methods which properly partition value among the taxing units.

(3) The Montana situs property value is apportioned to the taxing units in which the property is situated by use of a factor based on installed cost. The factor is the ratio of the installed cost within the taxing unit to the total installed cost of situs property in Montana. Recognizing the difficulty in generating installed cost data, the department will, upon written request, grant an extension until December 31, 1980, to any centrally assessed company in order to enable the company to provide the necessary cost information. If an extension is granted, the company is required to assist the department in developing an acceptable method of apportioning the 1980 valuation.

4. The amendments are proposed to implement House Bill 643 from the 1979 Legislature. Prior to the passage of House Bill 643, the Montana unit value was apportioned to the various taxing units in the state by the inter-county bureau and the local assessors. Pursuant to the changes made by H. B. 643, this apportionment is now to be done by the inter-county bureau alone. House Bill 643 also provides for the use of the concept of "installed cost" in apportioning the property values among the taxing units. The department has developed an apportionment formula based on the use of installed cost and a measure of the "mileage" associated with the centrally assessed company. Realizing that the data needed to implement the installed cost approach may be difficult to obtain, the department has provided for an extension of time to enable the companies to collect the necessary cost information.

5. Interested persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted no later than January 30, 1980, to Laurence Weinberg at the following address:

Legal Division
Department of Revenue
Mitchell Building
Helena, Mt. 59601

6. Ross Cannon has been designated to preside over and conduct the hearing.

7. The authority of the department to make the proposed amendments is given by 15-1-201 and 15-23-108, MCA. The amendments implement H. B. 643 (Chapter 686, Laws of 1979).

Mary L. Craig
by John H. Clark

MARY L. CRAIG, Director
Department of Revenue

Certified to the Secretary of State 12-18-79

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF PROPOSED ADOPTION OF
ADOPTION OF RULES Esta-	)	RULES Establishing Fees for
blishing Fees for Child	)	Child Support Enforcement
Support Enforcement Services	)	Services.
for Persons Who are Not)	
Recipients of Public	)	NO PUBLIC HEARING CONTEMPLATED
Assistance.)	

TO: All Interested Persons:

1. On February 1, 1980, the Department of Revenue proposes to adopt rules establishing the fees to be charged for child support enforcement services that are provided to persons who are not recipients of public assistance.

2. The proposed rules provide as follows:

RULE I DEFINITIONS As used in rules I through III, the following definitions apply:

- (1) "Department" means the Department of Revenue.
- (2) "Living Standard" means the living standard deduction for one person established by 42-2.5(1)-S140.
- (3) "Service" means child support enforcement service.

RULE II APPLICATION FEE (1) Except as provided in subsection (2), each time a person who is not receiving public assistance applies for services, an initiation fee of \$20.00 is charged.

(2) No application fee is charged if application for service is made within three months of the applicant being terminated from public assistance.

RULE III COLLECTION FEES (1) Except as provided in subsection (2), the department charges a fee of 10% of the amount of support collected through its services to persons who are not recipients of public assistance.

(2)(a) If the applicant demonstrates a gross monthly income lower than the applicable living standard, the department charges a fee of 5% of support collected through its services.

(b) The computation of gross monthly income excludes child support payments received.

(3) After the applicant requests termination of service the department will discontinue service and no collection fee will be charged for collections made after the date the termination request is processed by the department.

3. The rules are proposed to enable the Department to limit the number of and to recover the cost of providing child support

enforcement services to individuals who are not recipients of public assistance. This approach is permitted by and implements 40-5-203, MCA. The living standard for one person is presently set at \$426.00. Rule 42-2.5(1)-S140 can be found in the rules section of the 1979 MAR, issue no. 24.

4. Interested parties may submit their data, views, or arguments concerning the proposed rules in writing no later than January 28, 1980, to:

Susan Stratman
Legal Division
Department of Revenue
Mitchell Building
Helena, Mt. 59601

5. If a person who is directly affected by the proposed rules wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to Susan Stratman at the address given in paragraph 4 above no later than January 28, 1980.

6. If the Department receives requests for a public hearing from either 10% or 25, whichever is less of the persons directly affected; from the Revenue Oversight Committee of the Legislature; from a governmental subdivision; or from an association having not less than 25 members who are directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been estimated to be greater than 25 based on the number of potential non-AFDC applicants for child support enforcement services.

7. The authority of the Department to make the proposed rules is based on 40-5-203, MCA. The rules implement 40-5-203, MCA.

Mary L. Craig
by John M. Clark

MARY L. CRAIG, Director
Department of Revenue

Certified to the Secretary of State 12-18-79.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF PROPOSED
of Rule 46-2.14(114)-S141110	)	AMENDMENT OF RULE 46-2.14
pertaining to kidney dialysis,	)	(114)-S141110 pertaining
transplant program.	)	to kidney dialysis, trans-
	)	plant program. NO
	)	PUBLIC HEARING
	)	CONTEMPLATED.

TO: All Interested Persons

1. On January 30, 1980, the Department of Social and Rehabilitation Services proposes to amend rule 46-2.14(114)-S141110 (46.6.1401) which pertains to kidney dialysis, transplant program.

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

46-2.14(114)-S141110 (46.6.1401) PROGRAM FOR NON-
VOCATIONAL REHABILITATION CLIENTS SUFFERING FROM CHRONIC
END STAGE RENAL DISEASE

(1) The department shall extend financial assistance to eligible persons suffering from chronic renal diseases in obtaining the medical, nursing, pharmaceutical, and technical services necessary to care for such diseases; other services include but are not limited to kidney transplantation, surgery, hospitalization, psychological treatment, transportation for applicant, donor, or attendant, attendant training and attendant salary.

(a) Services shall not exclude the rental or purchase of home dialysis equipment supplies, plumbing, wells, rewiring and other adaptive equipment and supplies.

(2) Eligibility requirements:

(a) Applicants who are not financially able to obtain care and treatment on a continuing basis without causing severe economic imbalance to their family economic unit are eligible.

(i) Maximum or minimum income levels of the applicant or his or her family shall not be considered.

(b) Vocational rehabilitation clients are not eligible unless:

(i) A reasonable period of time has elapsed (generally six months) during which evaluative services were provided; and,

(ii) a medical determination of nonfeasibility can be shown at the close of the six month evaluation period.

(c) Applicants must be medically described as suffering from "chronic" end stage renal disease, which does not include

those persons with conditions which could potentially lead to the "chronic" state, and does not include those persons with conditions medically defined as acute renal failure.

(d) Applicants eligible for medicare may be eligible if they meet the standards of this program, providing Medicare benefits are fully utilized.

(e) Applicants eligible for the economic assistance division's Medicaid or Medically Needy Programs are not eligible for this program until the Medicaid and Medically Needy Program benefits are exhausted.

(f) Eligibility as to financial need shall be determined by the economic need test as set forth in Sub-Chapter 90 of this Chapter. Such standards shall be established without reference to maximum and minimum income levels.

(3) Priorities of service:

(a) Only the following services will be provided:

(i) training for dialysis (including transportation, room and board);

(ii) transplant costs;

(iii) center dialysis (when justified);

(iv) medications, for treatment of end stage renal medical conditions;

(v) surgery (fistula, etc.);

(vi) dialysis machine rent, supplies and repairs;

(vii) costs to install dialysis machine at home, such as necessary;

(viii) plumbing, wiring, etc.;

(ix) attendant.


3. The appropriation for the program to provide services for people with end-stage renal disease was not enough to fully provide all services so the vocational rehabilitation staff and consumers met and developed the priorities proposed in this rule.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to the Office of Legal Affairs of the Department of Social and Rehabilitation Services, P. O. Box 4210, Helena, MT 59601 no later than January 28, 1980.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601 no later than January 28, 1980.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 9 persons based on a total of 90 persons receiving services under the kidney dialysis, transplant program.

7. The authority of the agency to make the proposed amendment is based on section 53-7-102 MCA, and the rule implements section 53-7-202 MCA.



Director, Social and Rehabilitation Services

Certified to the Secretary of State December 18, 1979.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption) NOTICE OF PROPOSED
of a rule pertaining to the) ADOPTION OF A RULE
extended employment program,) pertaining to the
financial need requirement.) extended employment
program. NO PUBLIC
HEARING CONTEMPLATED

TO: All Interested Persons

1. On January 30, 1980, the Department of Social and Rehabilitation Services proposes to adopt a rule pertaining to the extended employment program, financial need requirement.

2. The proposed rule provides as follows:

RULE 1 (46.6.1311) FINANCIAL NEED REQUIREMENT

(1) Eligibility as to financial need shall be determined by the economic need test as set forth in sub-chapter 90 (sub-chapter 4) of this chapter.

3. The rule is proposed because funding is not available to all foreseeable needs under the extended employment program.

4. Interested parties may submit their data, views or arguments concerning the proposed adoption in writing to the Office of Legal Affairs of the Department of Social and Rehabilitation Services, P. O. Box 4210, Helena, MT 59601 no later than January 28, 1980.

5. If a person who is directly affected by the proposed adoption wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601 no later than January 28, 1980.

6. If the agency receives requests for a public hearing on the proposed adoption from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed adoption; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly

affected has been determined to be 60 persons based on an approximate total of 600 persons receiving vocational rehabilitation services in sheltered workshops.

7. The authority of the agency to make the proposed adoption is based on section 53-7-102 MCA, and the rule implements section 53-7-203 MCA.

Kent L. White
Director, Social and Rehabilitation Services

Certified to the Secretary of State December 18, 1979.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the ADOPTION	)	NOTICE OF PROPOSED
OF RULES pertaining to rehabili-	)	ADOPTION OF RULES
tative services, nature and scope	)	pertaining to rehabili-
of services.	)	tative services.
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On January 30, 1980, the Department of Social and Rehabilitation Services proposes to adopt rules pertaining to rehabilitative services, nature and scope of services.

2. The proposed rules provide as follows:

RULE I (46.6.514) PRIOR AUTHORIZATION (1) All services provided by the division will be authorized in writing by the local counsellor prior to the delivery of the service.

RULE II (46.6.515) OUT-OF-STATE SERVICES (1) Transportation and per diem will not be authorized for out-of-state services if the needed services are reasonably available in the state.

3. Rule I is proposed to meet the mandates of 45 CFR 1361.42 which requires prior authorization for services provided by vocational rehabilitation programs. Rule II is proposed to standardize programs within SRS and to help conserve restricted case-service funds.

4. Interested parties may submit their data, views or arguments concerning the proposed adoption in writing to the Office of Legal Affairs of the Department of Social and Rehabilitation Services, P. O. Box 4210, Helena, MT 59601 no later than January 28, 1980.

5. If a person who is directly affected by the proposed adoption wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601 no later than January 28, 1980.

6. If the agency receives requests for a public hearing on the proposed adoption from either 10% or 25, whichever is

less, of the persons who are directly affected by the proposed adoptions; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 856 persons based on a total of 8560 persons served between October 1, 1978, and September 30, 1979.

7. The authority of the agency to make the proposed adoptions is based on section 53-7-102 MCA, and the rule implements sections 53-7-102 and 53-7-103 MCA.

Kath J. Galt
Director, Social and Rehabilitation Services

Certified to the Secretary of State December 18, 1979.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment	) NOTICE OF PROPOSED
of Rule 46-2.14(91)-S14875	) AMENDMENT OF RULE 46-2.14
pertaining to determination of	) (91)-S14875 pertaining to
rehabilitation, potential and	) determination of rehabi-
eligibility, general provisions.	) litatjcn. NO PUBLIC
	) HEARING CONTEMPLATED

TO: All Interested Persons

1. On January 30, 1980, the Department of Social and Rehabilitation Services proposes to amend rule 46-2.14(91)-S14875 which pertains to determination of rehabilitation, potential and eligibility, general provisions.

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

46-2.14(91)-S14875 (46.6.101) GENERAL PROVISIONS

(1) Definitions:

(a) "Employability" means that providing vocational rehabilitation services is likely to enable an individual to begin or continue in employment consistent with his abilities. The employment may be in the competitive labor market, self-employment, homemaking, farm or family work (including work for which payment is in kind rather than in cash), sheltered or homebound employment, or other gainful work.

(b) "Physical or mental disability" means an impairment which significantly limits, or, if not corrected, may significantly limit an individual's activities or functioning.

(c) "Substantial handicap to employment" means a physical or mental disability which severely limits an individual's preparing for obtaining or retaining appropriate employment.

~~41~~ (2) The division will assume responsibility for determination of the eligibility of individuals for vocational rehabilitation, and of the nature and scope of services to be provided such individuals. Such responsibility will not be delegated to any other agency or individual not of the division staff.

~~42~~ (3) The provision of vocational rehabilitation services under an extended evaluation is based only on the following:

(a) The presence of a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment.

(b) The inability, unless there is extended evaluation, to determine whether vocational rehabilitation services might benefit the individual in terms of employability.

~~43~~ (4) Eligibility is based only on the following:

(a) The presence of a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment.

(b) A reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability.

~~(4)~~ (5) Factors irrelevant to eligibility for vocational rehabilitation services:

(a) Eligibility requirements will be applied without regard to sex, race, age, creed, color, or national origin. No group of individuals will be excluded or found ineligible solely on the basis of type of disability. No upper or lower age limit will be established which will, of itself, result in a finding of ineligibility for any individual who otherwise meets the basic eligibility requirements.

(b) No residence requirement, durational or other, is imposed which excludes from services under the plan any individual who is in the state.

~~(5)~~ (6) Vocational rehabilitation services will be provided during extended evaluation for no longer than 18 months.

3. The definitions in the proposed rule clarify existing rules and are consistent with definitions found in 45 CFR 1361.1.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to the Office of Legal Affairs of the Department of Social and Rehabilitation Services, P. O. Box 4210, Helena, MT 59601 no later than January 28, 1980.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601 no later than January 28, 1980.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be

directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 856 persons based on a total of approximately 8560 recipients of vocational rehabilitation services.

7. The authority of the agency to make the proposed amendment is based on section 53-7-102 MCA, and the rule implements section 53-7-105 MCA.

Kurt J. Hall
Director, Social and Rehabilitation Services

Certified to the Secretary of State December 18, 1979.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF PROPOSED
of Rule 46-2.14(76)-S14755	)	AMENDMENT OF RULE 46-2.14
pertaining to selection for	)	(76)-S14755 pertaining to
services, order of selection.	)	selection for services.
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On January 30, 1980, the Department of Social and Rehabilitation Services proposes to amend rule 46-2.14(76)-S14755 (46.6.201) which pertains to selection for services, order of selection.

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

46-2.14(76)-S14755 (46.6.201) ORDER OF SELECTION

(1) Definitions:

(a) "Severely handicapped individual" means an individual whose physical or mental disability seriously limits his employability skills which include mobility, communication, self-care, self-direction, work tolerance, or work skills; and

(b) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time.

~~41+~~ (2) The agency department can furnish furnishes and is furnishing vocational rehabilitation services to all individuals who apply and have been determined to be eligible or to be in need of an extended evaluation of rehabilitation potential to determine eligibility.

~~42+~~ (3) When no longer able to provide service to all, the following order of selection will be maintained:

(a) The severely handicapped; then,

(b) ~~The the~~ industrially injured.

3. The definitions proposed in this rule are consistent with definitions found in federal regulations and are offered to clarify existing regulations in this section.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to the Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601 no later than January 28, 1980.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601 no later than January 28, 1980.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25 whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 856 persons based on a total of 8560 eligible persons receiving vocational rehabilitation services in Montana.

7. The authority of the agency to make the proposed amendment is based on section 53-7-102 MCA, and the rule implements section 53-7-102 MCA.

Kenneth F. Allen
Director, Social and Rehabilitation Services

Certified to the Secretary of State December 18, 1979.

In the matter of the amendment of) NOTICE OF PUBLIC
Rule 46-2.10(14)-S11121 pertaining to) HEARING ON PROPOSED
the AFDC payment for unborn child.) AMENDMENT OF RULE
) 46-2.10(14)-S11121
) pertaining to AFDC
) assistance standards

1. On January 18, 1980, at 9:00 a.m. a public hearing will be held in the auditorium of the Department of Social and Rehabilitation Services at 111 Sanders, Helena, Montana, to consider the amendment of Rule 46-2.10(14)-S11121.

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

4. The Department is proposing this amendment to institute dollar savings in the AFDC program. Currently, the AFDC program pays \$39-\$66 depending upon household size for an unborn child. Based on current AFDC payment projections, the Department will not have enough appropriations to fund the AFDC program through the biennium unless reductions in expenditures are implemented. Nutritional needs of qualified pregnant women are met through the WIC program. Furthermore, special medically prescribed prenatal vitamins are paid by the Montana Medicaid program. When vitamins are not prescribed, the \$4 per month will pay for these vitamins.

5. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601, no later than January 25, 1980.

6. The Office of Legal Affairs has been designated to preside over and conduct the hearing.

7. The authority of the agency to make the proposed amendment is based on section 53-4-212 MCA, and the rule implements section 53-4-291 MCA.

Kenn F. Bell
Director, Social and Rehabilitation Services

Certified to the Secretary of State December 18, 1979.

BEFORE THE DEPARTMENT OF ADMINISTRATION
BUILDING CODES DIVISION
OF THE STATE OF MONTANA

In the matter of the adoption)
of a rule concerning temporary) NOTICE OF THE ADOPTION
connections to electrical power) OF RULE 2-2.11(2)-S11170
by power suppliers before inspec-)
tion by the State.)

TO: All Interested Persons:

1. On September 13, 1979, the Department of Administration, Building Codes Division, published notice of the proposed adoption of a rule concerning temporary connections to electrical power suppliers before inspection by the State at page 1036 of the 1979 Montana Administrative Register, issue number 17.

2. The Department has adopted RULE 1 (2-2.11(2)-S11170 TEMPORARY ELECTRICAL CONNECTIONS) with the following changes:

2-2.11(2)-S11170 TEMPORARY ELECTRICAL CONNECTIONS

(1) Except as provided in subsection (2) of this rule, power suppliers are may not to energize electrical installations without an inspection and approval of the installation by an electrical inspector employed or approved by the division.

(2) An exception to this requirement is that power suppliers may make temporary electrical connections, prior to the Department's inspection and approval, for a period not exceeding 14 days, in cases of an emergency where it is necessary to have immediate electrical power, i.e., following a fire, flood, tornado, and other extreme cases. Upon receipt of a properly completed request for electrical inspection permit (i.e., a permit that contains all requested information, including but not limited to the name of the applicant and the address or other sufficient location of the premises where the electrical inspection is to be made), a power supplier may make a temporary electrical connection prior to the inspection and approval of the electrical installation by an electrical inspector employed or approved by the division; provided, however, that such temporary electrical connection may not exceed 14 days. If the 14-day time period elapses without an inspection and approval of the electrical installation, the power supplier shall, upon written notification by the division or division employed or approved electrical inspector, immediately disconnect any temporary electrical connection made under this subsection.

3. At the public hearing, a representative of the Montana Power Company testified that the rule, as proposed, was too restrictive and not in line with legislative intent. He submitted a proposed amendment of the rule.

Members of the Legislature's Administrative Code Committee, at the November 2, 1979, meeting of the Code Committee, also felt that the proposed rule was too restrictive and not in line with legislative intent. The Administrative Code Committee

suggested that the proposed rule be amended.

The Department agrees that the proposed rule was too restrictive and not in line with legislative intent and has amended it accordingly.

In the matter of amendment)	
of Rules ARM 2-2.11(6)-S11400	)	NOTICE OF THE AMENDMENT
and 2-2.11(6)-S11410, concerning	)	OF RULES ARM 2-2.11(6)-
adoption of the Uniform Plumbing	)	S11400 AND 2-2.11(6)-S11410
Code by reference.)	

TO: All Interested Persons:

1. On September 13, 1979, the Department of Administration, Building Codes Division, published notice of the proposed amendment of rules ARM 2-2.11(6)-S11400 and 2-2.11(6)-S11410, concerning the adoption of the Uniform Plumbing Code by reference, at page 1040 of the 1979 Montana Administrative Register, issue number 17.

2. The department has amended the rules as proposed.

3. At the public hearing, a representative from the City of Billings opposed the adoption of the International Association of Plumbing and Mechanical Officials' (IAPMO) version of the plumbing code. He testified that the Department should adopt the International Conference of Building Officials' (ICBO) version instead. His reasons in support of the ICBO version were as follows:

a) Adoption of the ICBO version would unify decision-making into one organization. Under the proposed adoption of the IAPMO version, a city would be forced to belong to two organizations.

b) A city could have its building codes interpretation problems resolved with one phone call instead of two.

c) A city would need to pay only one membership fee instead of two.

The department overrules the argument of the City of Billings opposing adoption of the IAPMO version. The IAPMO version has been used in Montana for years and plumbers licensed in Montana are familiar with it and tested under it. To a great extent, the Department relies on licensed plumbers to know the plumbing code and to perform their trade in compliance with it. In addition, a representative from the Montana Technical Council testified that he opposed adoption of the ICBO version, stating that the Montana Technical Council favored adoption of the IAPMO version. The Department further points out that cities are not required to join either the IAPMO or ICBO organizations, and that the Building Codes Division provides code interpretation services at no charge.

At the public hearing, a representative of the City of Great Falls opposed adoption of sections 401(a) and 503(a) of the Uniform Plumbing Code in that the Uniform Plumbing Code did not define the term "story." The department overrules this objection and points out that the term "story" is defined in the Uniform Building Code.

In the matter of the amendment)
of Rule ARM 2-2.11(6)-S11440) NOTICE OF THE AMENDMENT OF
concerning the enforcement of) RULE ARM 2-2.11(6)-S11440
the elevator code.)

TO: All Interested Persons:

1. On September 13, 1979, the Department of Administration, Building Codes Division, published notice of the proposed amendment of rule ARM 2-2.11(6)-S11440, concerning the enforcement of the elevator code, at page 1038 of the 1979 Montana Administrative Register, issue number 17.

2. The department has amended the rule with the following changes:

(7) Certification of Maintenance and Insurance Companies.
(a) same as proposed amendment.
(b) In addition each elevator inspector must have passed an examination given by:

(i) Elevator Educators
4126 Westview Road
Baltimore, Maryland 21218
(301) 467-1309

(ii) National Association of Elevator Safety Authorities
P.O. Box 15643
Phoenix, Arizona 85060
(602) 255-5795; or

(iii) any other **nationally** recognized organization certifying elevator inspectors that has been approved by the Division.

(c) - (c) same as proposed amendment.

(8) Inspections by Certified Maintenance or Insurance Companies.

(a) same as proposed amendment.

(b) A detailed report of each unit inspected shall be filed with the Division within 14 days after inspection on a printed form **furnished** approved by the Division. Such report shall show all respects in which the installation fails to comply with the code requirements of UBC, chapter 51 and Appendix Chapter 51 as well as the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, ANSI A17.1.

(c) same as proposed amendment.

(d) The insurance or maintenance company shall ~~use all reasonable-diligence~~ attempt to secure compliance with the Division's rules. If unsuccessful, it shall so report to the Division. If it then becomes necessary for the Division to make an inspection, the fee for each unit inspected will be charged as per other inspections made by the Division, as listed in Rule 2-2.11(1)-S1100, of the Administrative Rules of Montana.

(e) The Division may inspect any installation which is also inspected by a certified inspector employed by an insurance or maintenance company. Whenever the Division inspection confirms that the insurance or maintenance company inspection report is substantially and materially incomplete, invalid, or unacceptable ~~for any reason~~, the Division will assess the insurance or maintenance company the fee for inspection by the Division, as listed in Rule 2-2.11(1)-S1100, of the Administrative Rules of Montana.

(f) same as proposed amendment.

(g) same as proposed amendment.

3. At the public hearing, a representative of the Montana Hospital Association testified in opposition to subsection (7) (f) of the proposed amendments. The representative argued that the reduced fee to be charged per elevator inspection done by an insurance or maintenance company inspector was unreasonably high, and that those items listed in subsection (7) (f) in justification of the fee were excessive and an attempt by the Department to justify an unreasonably high fee.

The Department overrules the Hospital Association's objections to those items listed in subsection (7) (f) in justification of the fee to be charged for inspections by insurance and maintenance company inspectors. The Department believes that all items listed in subsection (7) (f) may properly be considered by it in determining the reduced inspection fee. The Department believes that the reduced inspection fee need not be confined to the exact expense of issuing certificates or filing reports but may also include any reasonable probable cost, whether direct or incidental.

A representative of the code committee for the National Elevators Industries appeared at the public hearing and opposed that portion of the rule that would certify elevator maintenance companies and their employees as inspectors. The reasoning was that elevator maintenance companies and their employees are subject to the elevator code, must follow the code, and believe that a conflict of interest is present for them to inspect for the code enforcing authority. It was also argued that elevator maintenance contracts do not cover code items. Elevator maintenance contracts cover only the wear and tear, lubrication, and replacement of worn parts. Elevator maintenance contracts specifically exclude replacement of parts that code authorities say must be replaced. Elevator maintenancemen are not trained as code inspectors. They are trained as maintenancemen.

The Department overrules the objections raised by the code

committee for the National Elevators Industries. Section 50-60-702, MCA, requires the Department to adopt rules for the certification of both insurance and maintenance company employees as code inspectors.

The proposed amendments were also reviewed by the Legislature's Administrative Code Committee at the Committee's November 2, 1979, meeting. The Committee suggested the following changes to the proposed amendments, all of which were agreed to and done by the Department:

- a) In subsection (7)(b)(iii), delete the word "nationally."
- b) In (8)(b), change language so that an inspection form used by an insurance or maintenance company could, once approved by the Department, be also used for purposes of elevator code inspection reports to the Building Codes Division.
- c) In (8)(d), redraft so that a maintenance or insurance company need not use "all reasonable diligence" to secure elevator code inspection.
- d) In (8)(e), redraft so that an insurance or maintenance company inspection must be substantially and materially incomplete before the company would have to pay a reinspection fee.

In the matter of amendment of)	
Rules ARM 2-2.11(2)-S11110,	)	NOTICE OF THE AMENDMENT OF
2-2.11(2)-S11130, 2-2.11(2)-	)	RULES ARM 2-2.11(2)-S11110,
S11140, 2-2.11(2)-S11160	)	2-2.11(2)-S11130, 2-2.11(2)-
concerning the state electrical	)	S11140, AND 2-2.11(2)-S11160
code.)	

TO: All Interested Persons:

1. On September 13, 1979, the Department of Administration, Building Codes Division, published notice of the proposed amendment of ARM rules 2-2.11(2)-S11110, 2-2.11(2)-S11130, 2-2.11(2)-S11140, and 2-2.11(2)-S11160, concerning the state elevator code, at page 1044 of the 1979 Montana Administrative Register, issue number 17.

2. The Department has amended rules ARM 2-2.11(2)-S11130, 2-2.11(2)-S11140, and 2-2.11(2)-S11160 as proposed. The Department has amended rule ARM 2-2.11(2)-S11110 with the following changes:

2-2.11(2)-S11110 ELECTRICAL PERMIT (1) An Except as provided by 50-60-602, MCA, an electrical permit is required for any installation in any new construction or remodeling or repair.
~~EXCEPTION--Maintenance-of-electrical-wiring,-circuits,-apparatus or equipment-by-any-corporation,-partnership,-or-association,-as a-part-of-its-plant-or-operations-~~

(2)-(5) same as proposed amendments.

3. In regard to ARM 2-2.11(2)-S11110, Conoco, Incorporated, submitted written comment and appeared at the public hearing by

representative (Written comment to the same effect was also submitted by EXXON Company.). Conoco urged the Department to broaden the exception contained in the rule to more accurately reflect the language of the implemented statute, 50-60-602, MCA. The Department agrees with the contention urged by Conoco and has amended ARM 2-2.11(2)-S11110 accordingly.

No other comments or testimony was received.

In the matter of the amendment)	
of RULE ARM 2-2.11(1)-S1100)	NOTICE OF THE AMENDMENT OF
concerning the adoption of the)	RULE ARM 2-2.11(1)-S1100
Uniform Building Code by Refer-)	
ence.)	

TO: All Interested Persons:

1. On September 13, 1979, the Department of Administration, Building Codes Division, published notice of the proposed amendment of rule ARM 2-2.11(1)-S1100, concerning the adoption of the Uniform Building Code by reference, at page 1050 of the 1979 Montana Administrative Register, issue number 17.

2. The Department has amended the rule as proposed.

3. At the public hearing, a representative of the Montana Hospital Association opposed the \$25 fee charged for inspection of an elevator by an insurance or maintenance company inspector. The representative of the Association argued that, at most, a \$10 fee per location (as opposed to per elevator) was all that was justified. He also argued that the Department's costs of administering inspection reports submitted by insurance or maintenance company inspectors could not justify more than a \$10 per location fee.

One member of the Legislature's Administrative Code Committee, at the Committee's November 2, 1979, meeting also felt that the \$25 fee charged for inspection of elevators by insurance or maintenance company inspectors was too high. He suggested a sliding fee schedule based on the number of elevators inspected at any given location.

The Department overrules all objections to the \$25 fee charged for inspection of elevators by insurance or maintenance company inspectors. The Department believes that the \$25 fee is reasonable and is less than one-half of the regular \$58 inspection fee. Moreover, the Department believes that the elevator inspection fees will barely cover the costs of administering the elevator code program.

No other comments or testimony was received.

In the matter of the amendment of)
RULE ARM 2-2.11(6)-S11430 concern-) NOTICE OF THE AMENDMENT OF
ing the adoption of the Uniform) RULE ARM 2-2.11(6)-S11430
Mechanical Code by Reference.)

TO: All Interested Persons:

1. On September 13, 1979, the Department of Administration, Building Codes Division, published notice of the proposed amendment of Rule 2-2.11(6)-S11430, concerning the adoption of the Uniform Mechanical Code by reference, at page 1052 of the 1979 Montana Administrative Register, issue number 17.

2. The Department has amended the rule with the following changes:

2-2.11(6)-S11430 INCORPORATION BY REFERENCE OF UNIFORM MECHANICAL CODE (1)(a) - (1)(d) same as proposed amendment.

(e) Chapter 21, Appendix B, page 271-288 titled "Steam and Hot-Water Boilers, Steam and Hot-Water Piping (Hydronics)" shall be adopted as part of the Uniform Mechanical Code, except as follows:

(i) In section 2102 eliminate the word "operation."

(ii) Eliminate sections 2124, 2125, and 2126 entirely.

(2) same as proposed amendment.

3. At the public hearing a representative of Energy Conservation consultants (They also submitted written comment to the same effect) argued against the adoption of sections 2124, 2125, and 2126 of chapter 21, Appendix B, for the reason that the Department's authority to regulate boilers is limited to installation. Energy Conservation Consultants also argued that the word "operation" should be eliminated from section 2102 for the same reason that sections 2124, 2125, and 2126 should be eliminated. The Department agrees with the above argument and has amended ARM 2-2.11(6)-S11430 accordingly.

Energy Conservation Consultants also argued that the term "Building Official" used in sections 2106, 2113, 2123, and 2125 is ambiguous and appears to give local jurisdictions enforcing building codes rule-making authority not authorized by law. The Department overrules this objection and argument. The term "Building Official" is adequately defined in section 404 of the Uniform Mechanical Code. The Department also disagrees that use of the term "Building Official" gives local jurisdictions enforcing building codes unauthorized rule-making authority. The Department further points out that, under the provisions of 50-60-206, MCA, any person who feels aggrieved by any action of a local jurisdiction in enforcing or applying the State Building Code may appeal directly to the Department.

Energy Conservation Consultants finally argues that section 2106, subsection (d) does not allow operating dampers in the flue or vents even though there are energy-saving dampers on the market that are recommended at the national level. The Department overrules this objection and states simply that section 2106, subsection (d), adequately covers automatic dampers.

No other comments or testimony was received.

In the matter of the amendment)
of RULE ARM 2-2.11(1)-S1130) NOTICE OF THE AMENDMENT OF
concerning the adoption of NFPA) RULE ARM 2-2.11(1)-S1130
501C, Standard for Recreational)
Vehicles.)

TO: All Interested Persons:

1. On September 13, 1979, the Department of Administration, Building Codes Division, published notice of the proposed amendment of rule ARM 2-2.11(1)-S1130, concerning the adoption of NFPA 501C, Standard for Recreational Vehicles, at page 1049 of the 1979 Montana Administrative Register, issue number 17.
2. The Department has amended the rule as proposed.
3. No comments or testimony was received.

In the matter of the amendment)
of RULE ARM 2-2.11(1)-S1110 con-) NOTICE OF THE AMENDMENT OF
cerning the adoption of the) RULE ARM 2-2.11(1)-S1110
Uniform Housing Code by reference.)

TO: All Interested Persons:

1. On September 13, 1979, the Department of Administration, Building Codes Division, published notice of the proposed amendment of rule ARM 2-2.11(1)-S1110, concerning the adoption of the Uniform Housing Code by reference, at page 1055 of the 1979 Montana Administrative Register, issue number 17.
2. The Department has amended the rule as proposed.
3. No comments or testimony was received.

In the matter of the amendment)
of RULE ARM 2-2.11(1)-S1120 con-) NOTICE OF THE AMENDMENT OF
cerning the adoption of the) RULE ARM 2-2.11(1)-S1120
Uniform Code for the Abatement)
of Dangerous Buildings by)
reference.)

TO: All Interested Persons:

1. On September 13, 1979, the Department of Administration, Building Codes Division, published notice of the proposed amendment of rule ARM 2-2.11(1)-S1120, concerning the adoption of the Uniform Code for the Abatement of Dangerous Buildings by reference, at page 1056 of the 1979 Montana Administrative Register, issue number 17.
2. The Department has amended the rule as proposed.
3. No comments or testimony was received.

-1669-

David M Lewis

DAVID M. LEWIS, Director
Department of Administration

Certified to the Secretary of State December 17, 1979

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

In the matter of the adoption)	NOTICE OF THE ADOPTION
of rules establishing pro-)	OF RULES RELATING TO
cedure and criteria for)	CERTIFICATE OF NEED REVIEW
certificate of need review)	FOR HEALTH CARE
and reporting requirements)	FACILITIES
for health care facilities)	

TO: All Interested Persons:

1. On October 11, 1979, the Department of Health and Environmental Sciences published notice of a proposed adoption of rules establishing procedure and criteria for certificate of need review and reporting requirements for health care facilities at page 1149 of the Montana Administrative Register, issue number 19.

2. The Department of Health and Environmental Sciences has adopted the rules with the following changes:

16-2.22(7)-S2271 DEFINITIONS For the purposes of this these rules:

(1)-(2) same as proposed rule.

(3) "Health service" means major subdivisions, as determined by the department, within diagnostic, therapeutic or rehabilitative areas of care that may be provided by a health care facility. Specific treatments, tests, procedures or techniques in the provisions of care do not, by themselves, constitute a health service ~~for this definition~~.

(a) ~~included in the term~~ "health service" shall be includes radiological diagnostic health services offered in, at, through, by or on behalf of a health care facility including services offered in space leased or made available to any person by a health care facility which are provided by any computed tomographic scanning equipment, ~~except when-~~

~~(b)---Exception to (a) shall be the addition to or replacement of the same service when~~ the capital expenditure for ~~such~~ the addition to or replacement of the same service is less than \$150,000. For the purpose of this ~~subparagraph~~ subsection, a CT head scanner and a CT body scanner do not provide the same service and a CT fixed scanner and a CT mobile scanner do not provide the same service.

(c) "Deletion of a health service" means the elimination or reduction in scope of a health service offered in or through a health care facility.

(4) "Enforceable capital expenditure commitment" means an obligation incurred by or on behalf of a health care facility when:

(a) An ~~an~~ enforceable contract is entered into by such facility or its agent for the construction, acquisition, lease or financing of a capital asset; ~~or~~

(b) A ~~a~~ formal internal commitment of funds by such a

facility for a force account expenditure which constitutes a capital expenditure; or

(c) ~~in in~~ in the case of donated property, the date on which the gift vested.

(5) "Service area" ~~for the purpose of this rule~~ means one of the subareas designated in ~~figure-1~~ Table I. ~~{see following page}~~.

16-2.22(7)-S2272 SUBMISSION OF APPLICATION FOR CERTIFICATE-OF-NEED (1) Any person proposing an activity subject to review under section 50-5-301, MCA, shall submit to the department a letter of intent as a prerequisite to filing an application for a certificate of need, except a health maintenance organization is excluded from submitting a letter of intent or application for a certificate of need for feasibility surveys or planning ~~which are~~ funded under 42 U.S.C. §246.

(2) The letter of intent must contain the following information:

(a) ~~A~~ a brief, narrative summary of the proposal, including statements on whether the proposal will affect bed capacity of the facility, or changes in services;

(b) ~~An an~~ itemized estimate of proposed capital expenditures including a proposed equipment list with a description of each item which will be purchased to implement the proposal;

(c) ~~Methods~~ methods methods and terms of financing the proposal;

(d) ~~Effeets~~ effects effects of the proposal on the cost of patient care in the service area affected;

(e) Projected ~~projected~~ dates for commencement and completion of the proposal; and

(f) ~~The~~ the proposed geographic area to be served.

~~{2}~~ (3) Within ~~thirty~~ 30 calendar days after the receipt of the letter of intent, the department shall notify, in writing, the applicant whether or not the activity proposed in the letter is subject to review under section 50-5-301, MCA. If the department determines the activity is subject to review, it shall supply an application form to the applicant submitting the letter of intent. The application must be ~~mailed~~ returned to the department within ~~ninety~~ 90 days of receiving it. Failure to ~~file~~ return the application form within ~~ninety~~ 90 days requires the process to begin again with the filing of another letter of intent.

(a) In determining ~~when~~ whether or not a capital expenditure for equipment is over \$150,000, the department will review the list submitted by the applicant pursuant to ~~Rule 16-2.22(7)-S2272(4)(i)~~ ARM 16-2.22(7)-S2272(4)(i) and will aggregate the total cost for each item of equipment obligated for or purchased within a health care facility's fiscal year for a program, service or plan.

~~{b}~~ (4) The application shall contain, at a minimum, the following information in such form as specified by the department:

~~{i}~~ (a) Classification of applicant.

~~{ii}~~ (b) General information regarding present facility and the service geographical area documented as served by the applicant.

~~{iii}~~ (c) Description of proposed project.

~~{iv}~~ (d) Personnel requirements of proposed project.

~~{v}~~ (e) Construction aspects of the proposed project.

~~{vi}~~ (f) Justification of need of proposed project.

~~{vii}~~ (g) Financial and economic feasibility of proposed project.

~~{viii}~~ (h) Provision for cost containment of proposed project.

~~{ix}~~ (i) Equipment list including estimated cost of each item.

~~{e}~~ (5) The original and one copy of the application must be submitted to the department.

~~{3}~~ (6) Within ~~fifteen~~ 15 calendar days from the date that the department receives the application, the department shall determine whether or not the application is complete.

(a) If the application is determined to be complete, the department shall notify the applicant in writing that the application is accepted as complete.

(b) If the application is determined to be incomplete, the department shall notify the applicant in writing by mail of the incompleteness and of the specific information that is necessary to complete the application. Once the department receives the necessary information and determines the application is complete, the department shall notify the applicant in writing that the application is accepted as complete.

(c) An application may be changed any time prior to the department's declaration that the application is complete. Change in intent of the application or impact on the financial feasibility of the proposed project after the department's declaration requires the process to begin again with the filing of another letter of intent.

16-2.22(7)-S2273 REVIEW PROCEDURES (1) The department shall approve, approve with conditions, or deny the application, unless the applicant agrees to a longer period, in writing, within ~~ninety~~ 90 calendar days after a notice of acceptance of the completed application has been published in a newspaper of general circulation within the service area affected by the application. In the case of a review of a new institutional health service proposed by a health maintenance organization, the review cycle shall begin on

the date the application is received deemed complete by the department and shall not extend beyond 90 calendar days.

(2) A notice of acceptance shall be mailed to the applicant, an agency qualified as a health systems agency pursuant to 42 U.S.C. §300l Health Service Act, health care facilities and health maintenance organizations located in the service area and rate review agencies in the state. Contiguous health systems agencies qualified pursuant to 42 U.S.C. §300l will be notified if the service area borders one of the surrounding states. The notice of acceptance shall be published in a newspaper of general circulation in the service area affected.

(3) A notice of acceptance of an application shall include:

(a) the Review review period schedule;

(b) ~~The~~ the date by which a written request for an informational hearing must be mailed received by the department;

(c) ~~The~~ the manner in which notification will be provided of the time and place of an informational hearing so requested; and

(d) ~~The~~ the manner in which the informational hearing will be conducted.

(4) An affected person may during the 90 calendar days review period request ~~a public~~ an informational hearing pursuant to ARM 16-2.22(7)-S2274.

(5) An agency qualified as a health systems agency pursuant to 42 U.S.C. §300l shall be given the opportunity to provide the department with recommendations on the application within 60 calendar days ~~from the beginning of the review period~~ after the notice of acceptance of the completed application has been published as required by ARM 16-2.22(7)-S2273(2) unless another period of time has been agreed to, in writing, by the health systems agency and the department. ~~In case of an application by a health maintenance organization, health~~ Health systems agency reviews of an application by a health maintenance organization may not extend beyond 60 days.

~~(6)~~ (a) If the recommendations are not received within the prescribed period of time the department is not required to consider the recommendations.

~~(7)~~ (6) If the department fails to issue a decision within the ~~ninety~~ 90 calendar days, or the longer period of time agreed upon by the applicant, a certificate of need shall not be issued.

~~(8)~~ (7) If the certificate of need is issued with conditions, the conditions must be directly related to the project under review, and cannot increase the scope of the project.

~~(9)~~ (8) The decision of the department through written findings of fact and conclusions of law shall be mailed to the applicant and any agency qualified as a health systems agency pursuant to 42 U.S.C. §300l and shall be made available, upon request, to other ~~upon request~~ for cost. ~~In the~~

~~ease-of-reviewsof~~ When the department's decision involves new institutional health services proposed by a health maintenance organization, the department shall send copies of the department's written findings and decision to Region VIII office of the Department of Health, Education and Welfare at the time the applicant is notified of the department's decision.

~~(10)~~ (9) If the department's decision is not consistent with the plans Montana Health Systems Plan, the Montana Annual Implementation Plan, or the Montana State Health Plan or does not concur with the recommendations of an agency qualified as a health systems agency pursuant to 42 U.S.C. §300f the department shall submit a written detailed statement of the reasons for the ~~inconsistent~~ inconsistency to the agency qualifying as a health systems agency pursuant to 42 U.S.C. §300f.

~~(11) --If the decision of the department is to issue a certificate of need, a certificate of need will be issued within 30 calendar days after the distribution of the department's decision unless a request for a reconsideration hearing has been received by the department or a written notice of appeal has been filed with the board.~~

~~(12)~~ (10) The duration of the certificate of need shall be 12 months, unless the provision of section 50-5-305(1), MCA, has been met or unless the applicant has submitted to the department a request in writing for an extension of 6 months based on good cause at least 30 calendar days before the expiration date of the certificate of need. The request shall be accompanied by an affidavit signed by the requestor verifying all information is true and correct. The department will make its decision regarding the extension request and notify the applicant by certified mail within 15 calendar days after receiving the request. An extension of a certificate of need shall not exceed 6 months.

(a) "Good cause" for ~~this~~ subsection (10) shall include, but not be limited to, emergency situations which prevent the recipient of the Certificate of need from obtaining necessary financing, commencing construction, or implementing a new service.

~~(13)~~ (11) The ~~applicant~~ recipient of a certificate of need shall report to the department any increase in the cost of an approved project in excess of \$150,000 or 15 percent of the approved budget for the project, whichever is less. The department may require an additional certificate of need on the increased cost.

16-2.22(7)-S2274 INFORMATIONAL HEARING (1) During the course of the 90 day review period an affected person may request ~~a public~~ an informational hearing by writing to the department.

(2) This request must be received by the department within 15 calendar days after the date of notification of acceptance of the completed application in the newspaper.

(3) Notice of the ~~public~~ informational hearing shall be given at least ~~twenty~~ 20 calendar days prior to the ~~public~~ informational hearing by the following means:

(a) Written notice ~~will must~~ be sent by certified mail to the person requesting the hearing, the applicant, and an agency qualified as health systems agency pursuant to 42 U.S.C. §300~~7-the-health-care-facilities-and-health-maintenance organizations-in-the-service-area-to-be-served-by-the-pro--~~ posal, and agencies which establish rates. Health care facilities, the Department of Social and Rehabilitation Services, rate review agencies, health maintenance organizations in the service area, and contiguous agencies qualifying as health systems agencies pursuant to 42 U.S.C. §300 will be notified by ordinary mail.

(b) Notice to all other affected persons will be by newspaper advertisement.

(c) The notice shall indicate:

(i) ~~Date~~ date of the hearing;

(ii) ~~Time~~ time of the hearing;

(iii) ~~Location~~ location of the hearing; and

(iv) ~~The~~ the person to send written comments to prior to the hearing if unable to attend the hearing.

(d) Any person may comment during the hearing and all comments made at the hearing shall be recorded and retained by the department.

16-2.22(7)-S2275 CRITERIA AND FINDINGS

(1)(a)-(b) same as proposed rule.

(c) In the case of an application proposing a new institutional health service:

(i) The equal access the medically underserved population, as well as all other population within the ~~service area~~ geographical area documented as served by the applicant will have to the proposed new institutional health service; and

(ii) The effect the proposed new institutional health service will have on energy conservation.

(2) In the case of any proposed new inpatient health care facility or inpatient health care service, the department will make each of the following determinations in writing:

(a) through (f) same as proposed rule.

(3)(a) through (b)(iv) same as proposed rule.

(4)(a) and (b) same as proposed rule.

(c) When denial would be based solely upon the fact there is a health maintenance organization in the same area

or the services being reviewed are not discussed in health plans developed for the health service area.

(5)(a) and (b) same as proposed rule.

(6) In the case of a new institutional health service which is proposed to be provided by or through a health maintenance organization for which assistance may be provided under 42 U.S.C. §300e and which includes in the proposal the construction, development or establishment of a new inpatient health care facility, the department shall determine whether utilization of the facility by members of the applicant will account for at least 75 percent of the projected annual inpatient days, as determined in accordance with the recommended occupancy levels under the applicable health systems plan, and furthermore:

(a) ~~if~~ if the department determines that these members will account for less than 75 percent of these patient days, it shall review the proposal in accordance with the provision of section 50-5-304, MCA, and subsections (1), (2) and (3) of ~~the this~~ rule, or

(b) ~~if if~~ if the department determines that these members will account for 75 percent or more of the patient days, it shall review the proposal in accordance with subsections (3), (4) and (5) of this rule.

16-2.22(7)-S2276 APPEAL PROCEDURES (1) The applicant or an agency qualified as the health systems agency pursuant to 42 U.S.C. §300~~l~~ may request a reconsideration hearing before the department. Any other affected person may request a reconsideration hearing only for "good cause".

(a) For the purpose of this rule "good cause" exists if the requestor:

(i) ~~Presents presents~~ significant relevant information not previously considered by the department; ~~or~~

(ii) demonstrates that there have been significant changes in factors or circumstances relied upon by the department in reaching its decision; or

(iii) demonstrates the department has failed to follow procedural requirements in reaching its decision.

(b) through (e) same as proposed rule.

(2) and (3) same as proposed rule.

(4) The decision of the board shall be made in writing within 45 calendar days after the conclusion of the hearing, ~~These findings~~ and shall be sent to the applicant, the department and the agency qualified as the health systems agency pursuant to 42 U.S.C. §300~~l~~. Any other affected person upon request may receive a copy of this decision for cost. The board, in accordance with the reasons found in section 2-4-704, MCA, may affirm the department's decision, remand the application to the department for further proceed-

ings, reverse the department's decision or modify the department's decision. The decision of the board shall be considered final.

16-2.22(7)-S2277 ABBREVIATED REVIEW

(1) through (4) same as proposed rule

(5) If the department determines there is a need for the project, and after taking into consideration recommendations from the agency qualified as a health systems agency pursuant to 42 U.S.C. §300f, the department shall issue its decision with 25 calendar days from the beginning-of-the-review-period date the application is deemed complete by the department.

(6) The department's decision shall must be sent by certified mail to the applicant and the agency qualified as the health systems agency pursuant to 42 U.S.C. §300f. All other affected persons shall be notified by newspaper advertisement.

16-2.22(7)-S2278 REPORTS (1) All health care facilities shall provide to the department, upon its request, information necessary for health planning and resource development. Upon request, this information will be provided by the department to any person for cost.

~~(2) --This information will be provided upon request to the public at cost--~~

(2) Status reports describing the implementation of an approved project shall be submitted to the department every six 6 months after the date of the issuance of the certificate of need and upon completion of the project. These reports shall include:

(a) through (f) same as proposed rule.

~~(4)~~ (3) The department shall publish annually a public report of its activities which shall include:

(a) through (c) same as proposed rule.

3. At the public hearing several comments were received regarding the definition of service area and the distinction between service area and geographic area served by the facility. In ARM 16-2.22(7)-S2271, the department left the definition of service area as proposed since the amendment proposed by the Montana Health Systems Agency would restrict the population to receive notice; however, ARM 16-2.22(7)-S2272 (4)(b) and ARM 16-2.22(7)-S2275(1)(c)(i) were modified to reflect the comments of the Montana Hospital Association.

Regarding the comment of whether rent is synonymous with lease used in ARM 16-2.22(7)-S2271, it is not since lease is the agreement which gives rise to the landlord-tenant relationship, allowing one to possess and use property in exchange for consideration, which is usually called "rent".

Regarding the comment that "health service" in ARM

16-2.22(7)-S2271 should be defined, the department does not want to be limited to delineating those services by rule.

Regarding the comment that criteria for determining what constitutes a "new institutional health service" should be promulgated in these rules, the department refers the commentator to section 50-5-101(18), MCA, which defines "institutional health service."

The department did not modify ARM 16-2.22(7)-S2272(2)(a)-(f) in response to criticism that too much information was required in the letter of intent because the department believes this information is necessary in order to determine whether or not the activity is subject to review and, if so, the type of review necessary.

The written comments filed by the law offices of Memel, Jacobs, Pierno & Gersh were accepted by the department and the rules modified accordingly since most of the comments were directed to minor editorial changes and changes for clarification and uniformity in use of terminology throughout the rules; however, one Memel request was rejected which questioned whether ARM 16-2.22(7)-S2271(2)(f) should refer to "service area" or to the terminology stated in the proposed rule, "the proposed geographic area to be served." Also Montana Health Systems Agency proposed to amend the proposed language to read: "the proposed geographic area as defined by county boundaries to be served." The department, in response to the Memel comment, specifically intended to use the language stated in the proposed rule and not the term "service area." In response to the Montana Health Systems Agency amendment, the department does not wish to adopt the county boundary concept.

The amendment suggested to ARM 16-2.22(7)-S2272(5) that four copies of an application form be mailed to the Montana Health Systems Agency was rejected since the department has no statutory authority to impose such a requirement.

The proposed amendment to ARM 16-2.22(7)-S2272(6) requiring the department to consult with the Montana Health Systems Agency to determine whether or not an application is complete was rejected by the department since it is contrary to the statutory determination required in section 50-5-302(2), MCA.

The request that the certificate of need application form should be published as a rule conforms to statutory requirements; the department waited to publish the form until comments and changes were effectuated in these rules. The application form rule will be published at a later time.

The recommendation that the first 60-day period referred to in ARM 16-2.22(7)-S2273(5) should be 70 days to give health systems agencies additional review time was not

accepted since the proposed rule provides expressly for extension of the 60-day period. The recommendation to extend the second 60-day review period in the same rule to 70 days was not accepted because it conflicts with federal requirements in 42 C.F.R. 123.407(a)(2) [44 Fed.Reg. 19323, April 2, 1979].

The criticism by the Montana Hospital Association that the department should be required under ARM 16-2.22(7)-S2273(6) to render a decision within 90 days rather than be allowed to not make a decision and, in effect, deny an application, was considered against the federal requirement that a provision had to be in the rules that "if the state agency does not make a decision regarding a proposed new institutional health service within the period of time specified for state agency review, a certificate of need shall not be issued." (42 C.F.R. 123.407(a)(15) [44 Fed.Reg. 19325, April 2, 1979]) The department decided to satisfy the federal requirement.

The recommendation proposed by the Montana Hospital Association to limit the type of conditions that could be imposed in the certificate of need in ARM 16-2.22(7)-S2273(7) was incorporated into the rule.

Regarding the criticism that the percentage figure in ARM 16-2.22(7)-S2273(12) should be exclusive of an inflation factor, the department does not feel that it is realistic to tie increased costs to an inflationary index or construction cost index reflecting national trends. Due to the fact inflation is fluxuating so rapidly, to use any inflationary figure or percentage of increase would outdate the rules in a short time. The department left the rule as proposed with the understanding that the applicant will be encouraged to implement the project as soon as possible once a certificate of need is granted and must alert the department to cost overruns as specified by the law. The department will then have the opportunity to consider the inflation factor in making the decision whether or not to require another certificate of need application or approve the cost overrun as submitted.

Regarding the comment that the provisions of ARM 16-2.22(7)-S2273(11) allow the department to extend, in effect, the 90-day review period, the department has deleted this provision.

The comments from the Region VIII HEW office regarding adding "complete" to ARM 16-2.22(7)-S2273(1), modifying the use of certified mail in ARM 16-2.22(7)-S2274(3)(a), and adding the concept of making each finding in writing in ARM 16-2.22(7)-S2275(2) were accepted and incorporated into the rules by the department.

A. C. Knight

A. C. KNIGHT, Director

Certified to the Secretary of State

12/18/79

BEFORE THE DEPARTMENT OF HIGHWAYS
OF THE STATE OF MONTANA

In the matter of the repeal) NOTICE OF THE REPEAL
of Rule 18-2.6A(1)-S600,) OF RULE 18-2.6A(1)-S600
Rules Administered by Right) relating to Rules Administered
of Way Section.) by Right of Way Section.

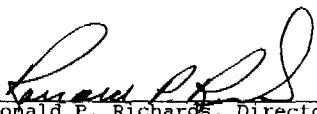
TO: All Interested Persons

1. On November 15, 1979, the Department of Highways published notice of the proposed to repeal 18-2.6A(1)-S600, concerning to Rules Administered by the Right of Way Section at page 1316 of the Montana Administrative Register, issue number 21.

2. The agency has repealed the rule as proposed.

3. No comments or testimony were received.

4. The effective date was changed from July 1, 1980 to December 28, 1979. The section cited for authority was corrected to read section 2-15-112.



Ronald P. Richards, Director,
Department of Highways

CERTIFIED TO THE SECRETARY OF STATE, DECEMBER 18, 1979.

BEFORE THE DEPARTMENT OF HIGHWAYS
OF THE STATE OF MONTANA

In the matter of the amend-) NOTICE OF THE AMENDMENT
ment of rule 18-2.6AI(2)-S6040) OF RULE 18-2.6AI(2)-S6040,
relating to Encroachments on) ENCROACHMENTS ON CONTROLLED
Controlled Access Right of Way) ACCESS RIGHT OF WAY.

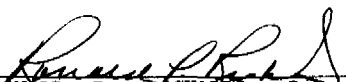
TO: All Interested Persons

1. On November 15, 1979, the Department of Highways published notice of the proposed amendment of rule 18-2.6AI(2)-S6040, concerning encroachments on Controlled Access Right of Way at page 1317 of the 1979 Montana Administrative Register, issue number 21.

2. The agency has amended the rule as proposed.

3. No comments or testimony were received.

4. The authority of the agency to make this rule is amended is based on Section 60-3-101, MCA.


RONALD P. RICHARDS, Director,
Department of Highways

CERTIFIED TO THE SECRETARY OF STATE, DECEMBER 18, 1979.

BEFORE THE DEPARTMENT OF HIGHWAYS
OF THE STATE OF MONTANA


IN THE MATTER OF THE AMEND-) NOTICE OF THE AMEND-
MENT of Rule 18-2.10(10)-S10080) MENT OF RULE 18-2.10(10)-
regarding licensing under Uniform) S10080.
Agreement.)

TO: All Interested Persons

1. On November 15, 1979, the Department of Highways published notice of a proposed amendment of Rule 18-2.10(10)-S10080 concerning interstate apportioned licensing at pages 1314 & 1315 of the 1979 Montana Administrative Register, issue number 21.

2. The agency has amended the rule as proposed.
3. No comments or testimony were received.

By:


Ronald P. Richards
Director of Highways

CERTIFIED TO THE SECRETARY OF STATE, December 18, 1979.

BEFORE THE DEPARTMENT OF HIGHWAYS
OF THE STATE OF MONTANA

IN THE MATTER OF THE REPEAL of Rule	)	NOTICE OF THE
18-2.10(10)-S10090 regarding lease	)	REPEAL OF RULE 18-2.10
policies and Rule 18-2.10(10)-S10100	)	(10)-S10090, POLICIES
regarding instructions and indent-	)	OF UNIFORM AGREEMENT
ification, these policies are now	)	RELATING TO LEASED
incorporated into Rule 18-2.10(10)	)	VEHICLES AND RULE 18-2
S10080.	)	.10(10)-S10100, INSTRUC-
	)	TIONS, FEES, AND IDENT-
	)	IFICATION.


TO: All Interested Persons

1. On November 15, 1979, the Department of Highways published notice of a proposed repeal of Rule 18-2.10(10)-S10090 regarding lease policies and Rule 18-2.10(10)-S10100 regarding instructions and identification concerning the Uniform Agreement method of licensing vehicles travelling interstate at page 1313 of the 1979 Montana Administrative Register, issue number 21.

2. The agency has repealed the rules as proposed.

3. No comments or testimony were received.

By:


Ronald P. Richards
Director of Highways

CERTIFIED TO THE SECRETARY OF STATE, December 18, 1979.

STATE OF MONTANA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF ATHLETICS

In the matter of the amendment)	NOTICE OF AMENDMENT OF ARM
of ARM 40-3.14(10)-S14030 sub-)	40-3.14(10)-S14030 WEIGHTS
section (1) concerning weights)	AND CLASSES
and classes.)	

TO: All Interested Persons:

1. On November 15, 1979, the Board of Athletics published a notice of proposed amendment of subsection (1) of ARM 40-3.14(10)-S14030 concerning weights and classes at pages 1319 and 1320, 1979 Montana Administrative Register, issue number 21.

2. The board has amended the rule exactly as proposed.

3. No comments or testimony were received, except for a call from the Administrative Code Committee noting that the implementation section was incorrectly listed in the notice. It should have read 23-3-201 MCA rather than 23-3-103 MCA. The board proposed the amendment to conform with international boxing regulations.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF HEARING AID DISPENSERS


In the matter of the repeal of)	NOTICE OF REPEAL OF ARM
ARM 40-3.42(6)-S4260 concerning)	40-3.42(6)-S4260 GRANDFATHER
a grandfather clause.)	CLAUSE

TO: All Interested Persons:

1. On November 15, 1979, the Board of Hearing Aid Dispensers published a notice of proposed repeal of ARM 40-3.42(6)-S4260 concerning a grandfather clause at page 1323, 1979 Montana Administrative Register, Issue number 21.

2. The board has repealed the rule exactly as proposed.

3. No comments or testimony were received.


ED CARNEY, DIRECTOR
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, December 18, 1979.

STATE OF MONTANA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF PLUMBERS

In the Matter of the Amendments	) NOTICE OF AMENDMENT OF ARM
of ARM 40-3.82(6)-S8230 sub-	) 40-3.82(6)-S8230 DEFINITIONS,
sections (4) and (5) concerning	) 40-3.82(6)-S8260 APPLICATIONS,
definitions, ARM 40-3.82(6)-S8260	) 40-3.82(6)-S8280 EXAMINATIONS,
concerning applications, ARM 40-	) 40-3.82(6)-S8290 RENEWALS,
3.82(6)-S8280 concerning examina-	) 40-3.82(6)-S82000 DUPLICATE
tions, ARM 40-3.82(6)-S8290 con-	) OR LOST LICENSES, and 40-
cerning renewals, ARM 40-3.82(6)-	) 3.82(6)-S82060 MASTER PLUMBERS;
S82000 concerning duplicate	) EMPLOYMENT OF JOURNEYMAN AND
licenses, and ARM 40-3.82(6)-	) RESPONSIBILITIES THEREFORE;
S82060 concerning employment of	) AND REPEAL OF ARM 40-3.82(6)-
journeyman plumbers and the	) S8270 GRANT AND ISSUE LICENSES
responsibilities therefore; and	) and 40-3.82(6)-S82010
the repeal of ARM 40-3.82(6)-	) PROVISIONS TO WHOM NOT
S8270 concerning the granting	) APPLICABLE
and issuing of licenses and ARM)
40-3.82(6)-S82010 concerning)
provisions to whom not applicable))

TO: All Interested Persons:

1. On August 30, 1979, the Board of Plumbers published a notice of proposed amendment of ARM 40-3.82(6)-S8230 subsections (4) and (5) concerning definitions; ARM 40-3.82(6)-S8260 concerning applications; ARM 40-3.82(6)-S8280 concerning examinations; ARM 40-3.82(6)-S8290 concerning renewals; ARM 40-3.82(6)-S82000 concerning duplicate licenses; and ARM 40-3.82(6)-S82060 concerning employment of journeyman and responsibilities therefore; and proposed repeal of ARM 40-3.82(6)-S8270 concerning the granting and issuing of licenses and ARM 40-3.82(6)-S82010 concerning provisions to whom not applicable at pages 960 through 965, 1979 Administrative Register, issue number 16. The notice offered opportunity for hearing. The board received the requisite number of requests for hearing and published an amended notice of hearing on September 27, 1979 at pages 1093 and 1094, 1979 Administrative Register, issue number 18.

2. A hearing was held on October 22, 1979 at 9:00 a.m. in the Old Highway Department Auditorium, Sixth and Roberts, Helena, Montana. No individuals appeared to offer testimony for or against the proposed changes.

A letter was received from the Administrative Code Committee of the legislature stating they objected to the proposed amendment of 40-3.82(6)-S8260 in that it offered credit for education in lieu of experience for master plumber applicants. The Code Committee felt this exceeded the board's statutory authority. The Code Committee also expressed concern over the statement in the same rule, under subsection (1) which said fees "as prescribed by the board". They felt the fees should be stated. The board had not listed the fee in this rule as it is stated in ARM 40-3.82(6)-S8280. The Board also received written

comments from the United Association of Journeyman and Apprentice Plumbers on the proposed changes to ARM 40-3.82(6)-S8260. Their comments and those of the Administrative Code Committee have been taken into consideration and the changes to this rule will be renoticed.

The United Association also questioned the proposed deletion under ARM 40-3.92(6)-S8280 (paragraph 7. of the original notice, 40-82-23). In their opinion they felt the language provided clarification. The board feels, as stated in the notice, that the language is redundant.

The other comment of the Association was in relation to the proposed amendment of ARM 40-3.82(6)-S82060 (paragraph 14. of MAR notice no. 40-82-23). They felt the rule should remain as it was with the additions. The board, as stated in the notice, feels the deletions are covered adequately by statute.

3. For the reasons stated above and in the notice the board is therefore amending and repealing the rules as proposed with the exception of the proposed changes of ARM 40-3.82(6)-S8260, which will be renoticed.

4. No other comments or testimony were received. The reasons for the proposed amendments and repeals are those stated in the notice.

BOARD OF PLUMBERS
DONALD KRISTENSEN, CHAIRMAN

BY: 

ED CARNEY, DIRECTOR
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, December 18, 1979.

STATE OF MONTANA

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

In the matter of the amendments to ARM 40-3.86(6)-S8630 concern-	)	NOTICE OF AMENDMENT OF ARM 40-3.86(6)-S8630
ing quorums; 40-3.86(6)-S8660	)	QUORUMS; 40-3.86(6)-S8660
concerning approval of schools;	)	APPROVAL OF SCHOOLS; 40-3.
40-3.86(6)-S8680 concerning	)	86(6)-S8680 AFFILIATION
affiliation with National	)	WITH NATIONAL ASSOCIATIONS;
Associations; 40-3.82(6)-S8690	)	40-3.86(6)-S8690 CODE OF
concerning a code of ethics;	)	ETHICS; 40-3.86(6)-S86010
40-3.86(6)-S86010 concerning	)	PREPARATION AND PUBLICATION
preparation and publication of	)	OF ROSTERS, NOTICES AND
rosters, notices and orders,	)	ORDERS; 40-3.86(6)-S86020
subsections (1) and (2); 40-	)	APPLICATIONS; 40-3.86(6)-
3.86(6)-S86020 subsections	)	S86030 GRANT AND ISSUE
(2) (b) and (7) concerning	)	LICENSES; 40-3.86(6)-S86040
applications; 40-3.86(6)-S86030	)	PREPARATION OF LICENSES;
subsections (3) (d), (e), and (j)	)	40-3.86(6)-S86050 EXAMINA-
concerning the granting and	)	TIONS; 40-3.86(6)-S86060
issuing of licenses; 40-3.86(6)-	)	EXPIRATION - RENEWALS - FEES;
S86040 concerning preparation	)	40-3.86(6)-S86070 RECIPROCITY
of licenses; 40-3.86(6)-S86050	)	FOR PROFESSIONAL ENGINEERS;
concerning examination; 40-	)	40-3.86(6)-S86080 DUPLICATE
3.86(6)-S86060 concerning re-	)	OR LOST CERTIFICATE; 40-
newals; 40-3.86(6)-S86070 sub-	)	3.86(6)-S86090 FEES SCHEDULE;
sections (3) (a) and (5) (e) con-	)	40-3.86(6)-S86100 SUSPENSIONS
cerning reciprocity for pro-	)	AND REVOCATIONS; 40-3.86(6)-
fessional engineers; 40-3.86(6)-	)	S86105 CORPORATE OR MULTI-
S86080 concerning duplicate or	)	PERSON FIRMS
lost licenses; 40-3.86(6)-)	
S86090 concerning a fee schedule;)	
40-3.86(6)-S86100 concerning)	
suspensions and revocations; and)	
40-3.86(6)-S86105 subsection (4))	
concerning corporate or multi-)	
person firms.)	

TO: All Interested Persons:

1. On November 15, 1979, the Board of Professional Engineers and Land Surveyors published a notice of proposed amendments in the above entitled matter at pages 1324 through 1332, 1979 Montana Administrative Register, issue number 21.

2. The board has amended the rules as proposed with the exceptions of subsection (3) of 40-3.86(6)-S86060 Expiration - Renewals - Verification of Competency; the proposed amendment to 40-3.86(6)-S86080 Duplicate or Lost Certificate; and subsections (g) and (i) of (4) 40-3.86090 Fees Schedule. No action is being taken on these proposed amendments at this time in response to a request from the Administrative Code Committee to delay until the Committee meets in January.

3. No other comments or testimony were received. The

-1688-

board is amending the
stated in the notice.

remaining rules for the reasons

BOARD OF PROFESSIONAL ENGINEERS
AND LAND SURVEYORS
MAURICE E. GUAY, CHAIRMAN

BY:

A handwritten signature in dark ink, appearing to read 'Ed Carney', is written over a horizontal line.

ED CARNEY, DIRECTOR
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, December 18, 1979.

24-12/27/79

Montana Administrative Register

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF ADOPTION)
OF RULES IMPLEMENTING SB 221,)
relating to the enforcement)
of child support obligations.)

NOTICE OF THE ADOPTION OF
RULES IMPLEMENTING SB 221,
relating to the enforce-
ment of child support
obligations.

TO: All Interested Persons:

1. On November 15, 1979, the Department of Revenue published notice of the proposed adoption of rules implementing SB 221, relating to the enforcement of child support obligations, at pages 1333 through 1338 of the 1979 Montana Administrative Register, issue no. 21.

2. The department has adopted Rule I (42-2.5(1)-S100), Rule II (42-2.5(1)-S110), Rule III (42-2.5(1)-S120), Rule IV (42-2.5(1)-S130), Rule V (42-2.5(1)-S140), Rule VI (42-2.5(1)-S150), Rule VII (42-2.5(1)-S160), and Rule VIII (42-2.5(1)-S170) with the following changes (deletions interlined and additions underlined and capitalized):

42-2.5(1)-S100 DEFINITIONS As used in rules I through VIII, the following definitions apply:

(1) "Assets" means the dollar value of the equity (based on market value) of all assets owned by a responsible parent, including real and personal property and tangible and intangible property, with the exception of that property listed in Rule II.

(2) "LEGAL DEPENDENT" MEANS AN INDIVIDUAL'S SPOUSE AND ADULT CHILDREN AND AN ADULT INDIVIDUAL'S PARENTS.

~~(2)~~(3) "Income" means total yearly income received by the responsible parent from all sources with the exception of those sources listed in Rule III.

~~(3)~~(4) "Monthly income" means 1/12 of income.

~~(4)~~(5) "Monthly gross available resources" means the sum of monthly income and 1/2% of assets.

~~(5)~~(6) "Monthly net available resources" means monthly gross available resources less the adjustments provided by Rules IV through VI.

42-2.5(1)-S140 ADJUSTMENT FOR LIVING STANDARDS (1) In computing monthly net available resources, an allowance for adult living standards is subtracted from the monthly gross available resources according to the following table (based on the number of ~~adults~~ LEGAL DEPENDENTS in the household FINANCIALLY dependent upon the responsible parent WITH THE

RESPONSIBLE PARENT CONSIDERED A LEGAL AND FINANCIAL DEPENDENT FOR PURPOSES OF THIS RULE):

<u>1 ADULT PERSON</u>	<u>2 ADULTS PERSONS EACH ADDITIONAL ADULT PERSON</u>
\$426	\$558
	\$230

(2) A LEGAL DEPENDENT IN THE HOUSEHOLD OF THE RESPONSIBLE PARENT IS CONSIDERED TO BE FINANCIALLY DEPENDENT IF HIS GROSS MONTHLY INCOME IS EQUAL TO OR LESS THAN \$426.

42-2.5(1)-S160 CHILD SUPPORT COMPUTATION (1)(A) The minimum monthly child support contribution is obtained from the table in Rule VIII by identifying the responsible parent's monthly net available resources and the total number of children dependent upon the responsible parent.

(B) A CHILD IS CONSIDERED A SELF-SUFFICIENT MINOR AND IS NOT CONSIDERED AS A DEPENDENT FOR CHILD SUPPORT COMPUTATION IF THE CHILD HAS A GROSS INCOME EQUAL TO OR GREATER THAN THE ADULT DEPENDENT STANDARD FOR ONE PERSON AS PROVIDED IN RULE V.

(2) The table referred to in subsection (1) is published in the Montana Administrative Register and is updated each year by means of a rule-making proceeding. Copies of the table are available at the Child Support Enforcement Bureau; Department of Revenue; Mitchell Building; Helena, Montana 59601, or may be viewed at the office of the Clerk of the District Court.

3. No comments or testimony were received. However, during the period following notice of the proposed rules, the Child Support Enforcement Bureau, in the preparation of a manual for field workers to implement the rule, determined that some of the terms employed were not sufficiently clear. For that reason, the changes noted above were suggested by the Bureau. These changes specify those persons for whom a living allowance is permitted and those children not considered financially dependent on the responsible parent.

IN THE MATTER OF THE)
AMENDMENT OF RULE 42-2.2(1))
-P200, Model Procedural Rules)

NOTICE OF THE AMENDMENT OF
RULE 42-2.2(1)-P200, Model
Procedural Rules.

TO: All Interested Persons:

1. On November 15, 1979, the Department of Revenue published notice of a proposed amendment to rule 42-2.2(1)-P200, concerning the model procedural rules, at pages 1339 and 1340 of the 1979 Montana Administrative Register, issue no. 21.

2. This Department has amended the rule as proposed.

3. No comments or testimony were received.

24-12/27/79

Montana Administrative Register

IN THE MATTER OF THE)
AMENDMENT OF RULES relating)
to allocation and apportion-)
ment of income.)


NOTICE OF AMENDMENT OF
CERTAIN RULES relating to
allocation and apportion-
ment of income under the
Multistate Tax Compact and
Title 15, Chapter 31, Part
3, MCA.

TO: All Interested Persons:

1. On November 15, 1979, the Department of Revenue published notice of proposed amendments to certain rules relating to allocation and apportionment of income under the Multistate Tax Compact and Title 15, chapter 31, part 3, MCA, at pages 1341 and 1342 of the 1979 Montana Administrative Register, issue no. 21.

2. The Department has amended the rules as proposed.

3. No comments or testimony were received. The specific rules amended are 42-2.6(4)-S61760, 42-2.6(4)-S61770, 42-2.6(4)-S61840, 42-2.6(4)-S61850, 42-2.6(4)-S61880, 42-2.6(4)-S61910, 42-2.6(4)-S61920, 42-2.6(4)-S61930, 42-2.6(4)-S61940, 42-2.6(4)-S61980, 42-2.6(4)-S61990, 42-2.6(4)-S62000, and 42-2.6(4)-S62020.


MARY L. CRAIG, Director
Department of Revenue

Certified to the Secretary of State December 17, 1979

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption)	NOTICE OF PROPOSED ADOPTION
of a rule relating to the)	OF A RULE FOR NUMBER OF
number of signatures required)	SIGNATURES FOR PETITIONS FOR
for Petitions for Nomination)	NOMINATION
in certain instances)	

TO: All Interested Persons:

1. On November 15, 1979, the Secretary of State published notice of the proposed adoption of a rule pertaining to the number of signatures required for Petitions for Nomination in certain instances at page 1343 of the 1979 Montana Administrative Register, issue number 21.

2. The Secretary of State has adopted the rule as proposed.

3. Comments in writing from three county election administrators were received. The opposition was to the method of calculating the number of signatures:

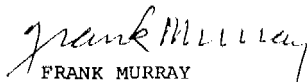
(1) The Cascade county official felt the number of required signatures is excessive in certain instances;

(2) The Yellowstone county official felt that the number of required signatures is far too lenient; and

(3) The Big Horn county official felt that a straight 5% of the number of qualified electors in a jurisdiction should be used in order to maintain uniformity with percentages required under various sections of the Montana Code Annotated.

Response: It has been determined that upon application of this rule, the above comments may have merit. However, until such time the methodology proves to be unreasonable, this rule is adopted as proposed.

Dated this 18th day of December, 1979


FRANK MURRAY
Secretary of State

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption) NOTICE OF PROPOSED ADOPTION
of rules for the submission of) OF RULES ON EXAMINATION OF
voting machines and devices for) VOTING MACHINES AND DEVICES
examination)

TO: All Interested Persons:

1. On November 15, 1979, the Secretary of State published notice of the proposed adoption of rules pertaining to the submission of the voting machines and devices for examination at page 1344 of the 1979 Montana Administrative Register, issue number 21.

2. The secretary of state has adopted the rules as proposed except for minor editorial changes and with the following revisions. ARM rule numbers will be assigned upon codification of the Election Chapter.

RULE II CONDUCT OF EXAMINATION (Implementing Section 13-17-101, MCA); RULE V COSTS OF EXAMINATION (Implementing Section 13-17-102, MCA); RULE VI NOTIFICATION TO APPLICANT (Implementing Section 13-17-101, MCA); RULE VII APPEAL FROM DISAPPROVAL (Implementing Section 13-17-107, MCA); RULE VIII WAIVER OF CONDITIONS (Implementing Section 13-17-101, MCA); and RULE IX EXPERIMENTAL USE OF VOTING MACHINES OR DEVICES (Implementing Section 13-17-105, MCA) are adopted as proposed.

Revisions were made to the following rules:

RULE I EXAMINATION OF VOTING MACHINES AND DEVICES

(1)-(5) same as proposed rule.

(6)(a)-(e) same as proposed rule.

(f) A statement that the applicant will pay a reasonable fee for the services of not more than two qualified electors of the state of Montana, if called to assist the secretary of state or his deputy or deputies under RULE I(3) of these rules, at a rate not to exceed \$10.00 per day or fraction thereof, plus per diem as set by Section 2-18-501, MCA, for the time actually spent in such assistance.

(6)(g)-(8) same as proposed rule.

(Implementing Section is 13-17-107, MCA)

RULE III CRITERIA OF CONSTRUCTION

(1)-(6)(a) same as proposed rule.

(6)(b) if a ballot or part thereof has been rejected because the voter has voted for a number of persons for an office in excess of the number he is entitled to vote for, the machine shall signal rejection of the ballot. If a ballot or part thereof has been overvoted because the elector has recorded vote intentions for a number of persons for an office in excess of the number he is entitled to vote for, the ballot tabulation program and hardware shall have the

ability to so record and display a summary of the ballot over-vote conditions.

(7) same as proposed rule.

(Implementing Section is 13-17-103, MCA)

RULE IV CRITERIA OF EXAMINATION

(1)(a)-(k) same as proposed rule.

(1) If the system includes its own voting booth or compartment, ~~such compartment shall be of a sufficient size to accommodate a voter who requires assistance in casting his ballot,~~ provision shall be made for a larger voting area which will accommodate a wheelchair and/or persons named to assist a handicapped elector.

(1)(m)-(2) same as proposed rule.

(Implementing Section 13-17-101, MCA)

RULE XIX EXTENSION OF PREVIOUS APPROVAL OF VOTING MACHINES OR DEVICES (1) Any system having been approved under rules previously promulgated by the Board of Election Devices or approved by the Secretary of State under prior citations of law shall continue to have approval under the application of these rules without re-examination. However, any contracts for purchase drawn after December 28, 1979, must contain the guarantees as provided in RULE III(3).

(Implementing Section 13-17-101, MCA)

3. Comments were received from Computer Election Systems as follows:

(1) RULE III(3) CES felt that since most electronic voting systems operate on the basis of a one-year equipment guarantee, the two year requirement of the rule was not consistent with existing product price structures. However, they will comply with the rule.

Response: Secretary of State deems a two year guarantee is necessary to allow the use of machines or devices under guarantee through a complete two year cycle of elections (municipal, special, primary and general).

(2) RULE III(6)(b) CES suggested that since electronic voting system ballots are not "rejected" the rule should be re-phrased.

Response: Secretary of State agrees with this comment and has re-phrased the rule as suggested.

(3) RULE IV(1)(1) CES stated the reference to compartment size of the booth was inconsistent with the design of electronic voting devices.

Response: Secretary of State agrees the reference is inconsistent with the design of electronic voting devices and has amended the proposed rule.

(4) RULE IV(2)(c) CES suggested re-phrasing to provide that the person or persons appointed to prepare test ballot cards for the examination be a qualified and controlled individual or team selected and approved by the Secretary of State.

Response: Secretary of State does not feel a "controlled individual or team" should be used for the purpose of producing ballots for use in the examination. He feels the person or persons appointed should not have prior knowledge as to what will cause rejection or approval of the equipment being examined.

Comments were received from the Election Administrator of Big Horn County as follows:

(1) RULE II(2) She stated that the number of qualified electors appointed to assist the secretary of state as provided in the rule should be increased to include an active election administrator appointed by the president of the Montana Association of Clerks and Recorders. She also stated that the fee of \$10.00 per day or fraction thereof for the time actually spent would limit the selection to qualified electors from Helena or the immediate vicinity.


Response: Secretary of State has the responsibility to approve voting machines and devices. He has the authority to appoint the two qualified electors and would tend to choose someone with knowledge and expertise in the area of voting machines or devices which may include an election administrator. He would not wish to be bound to certain categories of electors from which the appointments would be made. Secretary of State agrees that the \$10.00 fee is not sufficient to allow appointment of someone from outside the Helena area and has therefore amended Rule I(6)(f) to include the addition of per diem.

Comments were received from Randy McDonald, Staff Attorney, reviewing rules for the Administrative Code Committee. He suggested that RULE X be amended to include a statement that future contracts should meet the guarantees required by statute and the other rules. Mr. McDonald also stated, the implementing section was incomplete.

Response: Secretary of State agrees that reference should be made to future contracts under RULE X, and has amended the proposed rule.

Secretary of State also agrees that the implementing section referred to in the notice was incomplete and has therefore added the implementing sections to these adopted rules.

Dated this 18th day of December, 1979


FRANK MURRAY
Secretary of State

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of Rule) NOTICE OF
46-2.6(2)-S6181 (46.5.744) pertaining) AMENDMENT OF RULE
to child care agencies, payments.) 46-2.6(2)-S6181
) PERTAINING TO CHILD
) CARE AGENICES,
) PAYMENTS

TO: All Interested Persons

1. On November 15, 1979, the Department of Social and Rehabilitation Services published notice of a proposed amendment of Rule 46-2.6(2)-S6181 pertaining to child care agencies, payments at page 1369 of the 1979 Montana Administrative Register, issue number 21.

2. The Department has amended the rule with the following changes:

46-2.6(2)-S6181 (46.5.744) CHILD CARE AGENICES, PAYMENTS
The department shall make payments to child care agencies for care of children for whom the department is responsible AT A LEVEL OF CARE AND SERVICE AS DETERMINED BY THE DEPARTMENT. The amount of the payment shall be based upon a rate system of reasonable costs developed by the department ~~and~~ which will include the following requirements:

(1) Child care agencies must be licensed by the department to receive payments for care from the department. The child care agency has the responsibility to apply for financial participation by the department. The department will establish annual deadlines for information from the child care agencies in order to establish monthly rates. The financial information to be provided by the child care agencies must be reported according to guidelines set by the department and shall include:

(a) a report of all expenditures for the operation of the child care agency including items which may be unallowable for reimbursement from the department;

(b) a budget narrative explaining in detail the report of expenditures;

(c) a report of all income to the child care agency by amount, source, and purpose, excluding names of private donors;

(d) a statistical report including the child care agency's average length of stay over the previous year, average daily population, the breakdown of financial responsibility by agency by number of youth per day, and any anticipated changes of these statistics above for the next 12-month period; and

(e) a detailed description of the treatment program including functional job descriptions of all child care agency

staff which contribute to the treatment program.

(2) The rate system shall include levels of care to be provided by the child care agencies and categories descriptions of care needed by the children with varying problems in residence. Services required by the various levels have the following definitions:

(a) "Child/staff ratio" means the number of children in residence (including staff's own children) per staff. This includes treatment staff or staff responsible for supervision of the residents. Administrative, clerical, maintenance, and food preparation staff are to be excluded.

(b) "Program management consultation" means consultation to the program staff regarding direction and management of the total treatment and care program, and does not include staffings and consultation on specific youth. This service is to be provided a masters level professional with academic background in the behavioral sciences. Staff with bachelor degrees and substantial experience may also be considered, but must be approved by the bureau.

(c) "Professional staffing/consultation" means consultation with program staff on individual youth in relation to the individual treatment/service plan or the total program environment. These services are to be provided by a professional with the minimum of a masters degree in behavioral sciences. Any exception must be approved by the bureau.

(d) "Educational/employment" means activities with residents and community resources regarding the educational and/or employment portion of the residents' plan for services.

(e) "Community intervention" means advocacy for the youth in the local community and contacts with the referring agencies on residents' progress and reaction to treatment. Staff must have skills necessary to carry out responsibilities and promote the residents and program with professionalism.

(f) "Professional counseling" means individual and group therapy and must be provided by professionals with a minimum of a masters level in psychology, social work, counseling or by a licensed psychiatrist. ANY EXCEPTION MUST BE APPROVED BY THE BUREAU.

(3) The Department shall establish supplemental licensing standards which relate to each level of care within the rate system. Each child care agency shall be responsible to apply for the appropriate level of care and to provide the Department with the necessary information to establish and monitor compliance with the licensing standards.

(3) The levels of care are as follows:

(a) Level I-Minimal:

(i) Goal: To provide socialization and character building for those without appropriate homes; a place to live until emancipation; independence preparation.

(ii) Definition of services: Minimal care and maintenance and shelter, child/staff ratio of 12 to 1, and use of all

community resources.

(b) Level II - Basic:

(i) Goal: settle youth down, stabilize and modify inappropriate behavior; prepare youth for more permanent living situation.

(ii) Definition of services: supervision; child/staff ratio of 8 to 1; individualized, formal treatment planning with the placing agency; monitoring of the youth's progress through agency contact; program management consultation (1 hour per month per youth); recreational program; community intervention (1 hour per month per youth); and use of community resources to fulfill the treatment plan.

(c) Level III - Structured:

(i) Goal: development of internal controls, prevention of more serious negative behavior, interpret and normalize corrective emotional experiences.

(ii) Definition of services: intensive supervision; child/staff ratio of 8 to 1; individualized treatment planning by child care agency; structured behavior program, professional group life staff; community intervention (2 hours per month per youth); professional staffing/consultation (1 hour per month per youth); professional counseling (4 hours per month per youth); educational/employment (6 hours per month per youth); tutorial program; planned recreation program as part of the treatment program; utilization of community resources to fulfill the treatment plans.

(d) Level IV - Intermediate:

(i) Goal: provide 24-hour awake supervision, correct negative behavior, build appropriate social and behavior skills in order to enable youth to return to less restrictive environment, establish emotional stability, and provide a community-based alternative to secure institutionalization of youth who have substantially disrupted other community-based group facilities.

(ii) Definition of service: secure supervision; child/staff ratio of 4 to 1; individualized treatment and behavioral program; alternative program to public school; program management consultation (1.5 hours per month per youth); professional staffing/consultation (3 hours per month per youth); professional counseling (6 hours per month per youth); educational/employment (6 hours per month per youth); community intervention (6 hours per month per youth); 24-hour awake supervision; tutorial program; planned recreation program as part of treatment; utilization of community resources.

(e) Level V - Intensive:

(i) Goal: provide residential treatment services designed to treat the individual needs with the ultimate purpose of returning the youth to society; rehabilitate medically, psychologically, behaviorally, and educationally handicapped youth and their families.

(ii) Definition of services: 24-hour awake supervision;

child/staff ratio of 4 to 1; available security; individualized assessment, treatment and behavioral program, availability of self-contained classroom school within child care agency; program management consultation (115 hours per month per youth); professional staffing/consultation (4 hours per month per youth); professional counseling and therapy (8 hours per month per youth); psychologist for testing, evaluation, assessment (1 hour per month per youth); medical supervision by psychiatrist or psychiatric nurse (1 hour per month per youth); tutorial services; wide range of treatment, recreation therapy; milieu therapy; utilization of appropriate community resources.

(f) Level VI - Secure Intensive: This level would have the same goals and definitions of service as level V - Intensive with the addition of a secure facility.

(g) Child care agencies which provide short-term, temporary care in general will not be required to adhere to the above six levels. These facilities will be reimbursed for only those services which are contracted for by the bureau and at a rate established by the bureau.

(4) The rate system will include payment for the provision of board, room, supervision, school expenses, and miscellaneous care items for the children in residence, following categories:

(a) Basic child care costs: This category includes food and food related costs, children's allowances, school supplies and tuition charges, personal hygiene costs, recreational expenditures (including equipment), miscellaneous household supplies, and transportation costs for children and program operation.

(i) Food costs include groceries, food preparation, food purchasing and processing and kitchen maintenance for children and supervision staff.

(ii) Allowance includes youth's personal allowance.

(iii) Clothing includes youth's personal wardrobe, initial purchase, replacement, and maintenance such as dry cleaning, shoe repair, etc.

(iv) --Educational should range from \$3 to \$7 per month per child, this cost seems to be so infrequent that this category can also cover the charge. EDUCATION COSTS INCLUDE SCHOOL SUPPLIES, LESSONS, SCHOOL RELATED FEES, ETC.

(v) Personal hygiene items include soaps, shampoos, toilet articles, haircuts, curlers, deodorants, and medicine chest supplies.

(vi) Recreational expenditures include equipment purchase and maintenance, activity charges such as admissions, lessons, memberships, and costs of activities for groups.

(vii) Miscellaneous household supplies include items for operation of the program and household not covered under Facility Maintenance or Food Preparation.

(viii) Transportation costs include transporting of children to schools, to appointments for social and medical services, to and from home if agreed to by provider and agency, and program operation.

(b) Shelter Costs: This category includes costs for space, maintenance, insurance, telephone, and utilities for child maintenance, recreation, dining, counseling, treatment, program supervision, and administration of the facility. Attention homes are included with group homes because most Montana attention homes are housed in group home facilities.

(i) Space costs must not exceed \$90 per month per youth and includes all areas for child maintenance, supervision, treatment and administration. Space costs do not include portions of the facility which are used for production of products sold or used in the facility.

(ii) Maintenance costs include expenditures related to replacement and maintenance of the building and grounds. Salaries of maintenance staff are also to be included in this category.

(iii) Insurance includes liability and fire insurance for the facility. Auto insurance may be included if the liability policies are all inclusive (otherwise, auto insurance is to be included under Transportation, CHILD CARE COSTS).

(iv) Telephone includes local service as well as long-distance service for the residents and program operation.

(v) Utilities include gas and electricity for heating and lighting, water, sewage, cable T.V., and garbage service (if not included in rent).

(vi) Supplemental Shelter Costs might include extra space to provide private rooms for treatment needs, play therapy quarters, specially equipped isolation rooms, et cetera. Coverage of supplemental shelter costs shall be contracted for by SRS. and the provider. The maximum limit is \$50.00 in addition to basic shelter costs.

(c) Supervision of children: This category covers costs of providing supervision of the youth in the facility. Salaries and benefits are to be included. If room and board is provided to child supervision staff, those costs can be included in Food, Child Care Costs, and Shelter, but must be specified.

(i) Supervision includes 24 hour presence of group life staff over the age of 21 who are qualified by experience, emotional maturity, the ability to present quality role-models and decision-making ability. Staff must be able to manage day-to-day activities of the residents and the operation of the facility. Contact with the agency worker supervising the placement of the residents is the responsibility of the group life staff. These staff must also be responsible to carry out the service plan of the placing agency including home visits, appointments with medical, psychological, and social service

appointments for the residents. School attendance and employment activities should also be monitored by the group life staff.

(ii) Basic Houseparent Model includes child supervision by group life staff who live in. The most common arrangement is that of married couples with or without children of their own. Group life staff under this model must provide awake supervision of residents for 16 hours per day (usually 7 a.m. to 11 p.m.). Night staff must be in residence, but may be sleeping. The minimum child/staff must be 8 to 1 and must include children of staff who live in residence.

(iii) Basic Shift Model includes group life staff who provide supervision of residents on an 8-hour shift basis. Night staff is provided by live-in staff who are usually sleeping at night, but available to the residence. Room and board is usually provided in exchange for such night supervision. The awake shifts usually cover the period from 7 a.m. to 11 p.m. The minimum child/staff ratio is 8 to 1. Children of staff should not be in residence in this model.

(iv) 24-Hour Awake Supervision with Child/Staff Ratio of 8 to 1 includes group life staff providing awake supervision of residents 24 hours per day. The reimbursement cost listed includes group life staff working 8 hour shifts. If live-in staff is utilized, reimbursement will be 40% less due to the provision of room and board. The minimum child/staff ratio is 8 to 1. Live-in staff's children must be counted when calculating the child/staff ratio.

(v) 24-Hour Awake Supervision with Child/Staff Ratio of 4 to 1 includes group life staff providing awake supervision of residents 24 hours per day. The minimum coverage for 8 children under this model for periods during school weeks and/or when there is 4 or fewer residents in the facility is:

<u>7 a.m. to 9 a.m.</u>	<u>2</u>	<u>group</u>	<u>life</u>	<u>staff</u>
<u>9 a.m. to 3 p.m.</u>	<u>1</u>	<u>group</u>	<u>life</u>	<u>staff</u>
<u>3 p.m. to 11 p.m.</u>	<u>2</u>	<u>group</u>	<u>life</u>	<u>staff</u>
<u>11 p.m. to 7 a.m.</u>	<u>1</u>	<u>group</u>	<u>life</u>	<u>staff</u>

When all residents are in the facility, such as weekends, holidays, and during the summer, the minimum group life staff required is:

<u>8 a.m. to 4 p.m.</u>	<u>2</u>	<u>group</u>	<u>life</u>	<u>staff</u>
<u>4 p.m. to 12 midnight</u>	<u>2</u>	<u>group</u>	<u>life</u>	<u>staff</u>
<u>12 midnight to 8 a.m.</u>	<u>1</u>	<u>group</u>	<u>life</u>	<u>staff</u>

(d) Treatment; This category includes activities associated with a formal treatment program operated by the child care agency as well as coordination of community resources in relation to a treatment/service plan for each youth. The requirements are explained in detail in 46.5.744(2) and

46.5.744(3).

(e) Program management includes supervision of treatment and child supervision staff, development and maintenance of the treatment program, staff training, advocacy for youth and program, management and coordination of program with agencies and community.

(5) The payment structure for child care agencies will include a base rate and specific supplemental rates for each level of care as required by the licensing standards. Cost items which cannot be directly identified with the care and maintenance of children receiving payment from the Department are unallowable to be included in the Department rate. The following is a list of common unallowable items and is not all-inclusive:

(a) interest on corporate loans, bad debts, capital expenditures

(b) fund raising; public relations; administrative salaries, clerical costs related to general administration

(c) expenses associated with buildings, equipment, and grounds not identified with the care of individual children

(d) attorney fees or retainers paid for corporate agency business, audit costs

(e) donations made by the institution as voluntary gifts or paybacks to parent organizations membership dues in local and national organizations

(6) The rate system will include incentives for child care agencies to obtain private funds for maintenance and development of the program. All income from public sources and the provision of "in-kind" goods or services through public sources shall be considered as a resource to the child care agency for the determination of the rate to be paid by the Department.

(6) The Bureau will develop guidelines for reasonable costs to be reimbursed according to categories described in 46.5.744(4). The Bureau will reimburse the child care agency costs for care up to the maximums set in the guidelines. Funds GOVERNMENTAL FUNDS received by the child care agency for operation of the program will be considered a first resource to the child care agency and will therefore be deducted from the care costs before establishment of a monthly rate. A portion of the governmental funds may be set aside for administrative or other designated purpose. Such a portion shall be set by the Bureau. Private donations received for the operation of the program will also be deducted from the costs prior to establishment of a monthly rate. If the private donations are designated for purposes other than operations, such as building funds, special projects, administration or other unallowable costs, that income will not be used in the calculation of a monthly rate. An 80% of licensed capacity figure will be used for child care agencies which provide long-term care. A 75% of licensed capacity figure will be

used for child care agencies which provide short-term care. (average length of stay of less than 30 days per youth).

(7) The rate system for child care agencies providing short-term care as defined by the Department may vary from the rate system for providers of long-term care for children. Any child care agencies which receives payment for care of children from the Department must provide a copy of the annual audit to the Bureau annually. The Bureau has the right to inspect all of the child care agency's financial records at any time and may conduct an audit of all such records within 10 days of a notice of such intent. Denial of access to the Department or Bureau will result in immediate discontinuation of financial payments for care.

3. The department responds to the following comments received at the hearing:

COMMENT: The levels of care proposed in the rule do not apply to short-term homes such as receiving homes and attention homes and providers ask the department to promulgate rules which do so.

RESPONSE: Paragraph 4(g) states that the department will contract and establish a rate for short-term care services. Provider input will be sought during this process and rules promulgated where necessary.

COMMENT: Since specific costs are not established along with this rule, providers request the right to review the "reasonable cost" the department will recommend.

RESPONSE: Cost guidelines have been sent to all providers together with rate applications. After review of these materials and provider input, the department may adjust the rates.

COMMENT: Providers requested that paragraph 2(f) be amended so that staff with bachelor degrees and substantial experience may be considered as providing professional counseling.

RESPONSE: The rule has been amended to permit social services bureau-approved exceptions to the education requirement stated in 2(f).

COMMENT: Providers objected to the statement in paragraph 6 that "Private donations received for the operation of the program will be deducted from the costs prior to establishment of a monthly rate". Providers stated that they will have to find alternative sources of funding for excluded costs or program costs higher than the reimbursement schedule will allow. Providers felt that donated monies should be available to meet whatever cost needs they encounter after reimbursement.

RESPONSE: The department included the language in the proposed rule because where private funds are solicited for program costs reimbursed by the department, either the public

or private money would possibly be used for purposes other than those for which they are intended and given. After the rates have been established, if reimbursement is to be made at a percentage of cost rather than at cost, the department will propose to amend the rule. At this time any amendment is premature.

COMMENT: A provider stated that it is not clear in paragraph (6) whether the funds discussed in the third sentence include private donations or government-provided funds.

RESPONSE: The rule has been amended to describe those funds as "governmental funds".

COMMENT: Providers commented that the program cost review duplicates some of the program review done for licensing purposes.

RESPONSE: Because the current license standards do not recognize levels of care, some duplication in review is avoidable at this point in time. The department will propose amending rules where appropriate to eliminate duplication when it becomes clear whether and where duplication exists.

COMMENT: Providers asked why the department proposed to add the phrase "at a level of care and service as determined by the department" at the end of the first sentence in the rule.

RESPONSE: The added language makes clear the fact that the Department determines the level of care it will purchase for children who are the responsibility of the department.

COMMENT: All facilities could experience salary cost increases in meeting the educational requirements of paragraph (2).

RESPONSE: The rule provides for exceptions for each of the educational requirements. Facilities who have staff qualified by exceptional work experience will not experience increased salary costs. Facilities whose staff does not meet the educational requirements will either be authorized to provide an appropriately lesser level of care or will experience higher salary costs in hiring more qualified staff. Where special, professional staff is necessary to provide quality care to children with special needs, the cost increase will reflect that fact.

Kath P. Allen
Director, Social and Rehabilitation Services

Certified to the Secretary of State December 18, 1979.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption of a	)	NOTICE OF ADOPTION
rule pertaining to eligibility for	)	OF A RULE PERTAINING
adult protective services and the	)	TO ELIGIBILITY FOR
amendment of Rule 46-2.6(6)-S6517C	)	ADULT PROTECTIVE
pertaining to procedures to obtain	)	SERVICES AND THE
adult protective services	)	AMENDMENT OF RULE
	)	46-2.6(6)-S6517C
	)	PERTAINING TO
	)	PROCEDURES TO OBTAIN
	)	ADULT PROTECTIVE
	)	SERVICES

TO: All Interested Persons

1. On November 15, 1979, the Department of Social and Rehabilitation Services proposed adoption of a rule pertaining to eligibility for adult protective services and the amendment of a rule pertaining to procedures to obtain adult protective services at page 1377 of the Montana Administrative Register, issue number 21.

2. The department has adopted the rule with the following changes:

46-2.6(6)-S6517D (46.5.104) ELIGIBILITY FOR ADULT PROTECTIVE SERVICES
ADULT PROTECTIVE SERVICES, ELIGIBILITY
(1) Adult protective services will be provided when necessary without regard to income to any person who is aged or disabled as defined in section 46-2.6(6)-S6517A.

(1)--Any person who:
(a)--is aged or disabled as defined in rule 46-2.6(6)-S6517A, and
(b)--matches the Title XX eligibility requirements as identified by the bureau; and
(c)--makes application in a manner and on a form prescribed by the bureau; and
(d)--is determined eligible by county social services according to criteria established by the bureau and set forth in the bureau manual is able to receive protective services as defined in rule 46-2.6(6)-S6517B.

3. The department has amended the rule with the following changes:

46-2.6(6)-S6517C PROCEDURES TO OBTAIN ADULT PROTECTIVE SERVICES
PROTECTIVE SERVICES FOR AGED PERSONS AND DIS-
ABLED ADULTS, PROCEDURE TO OBTAIN SERVICES
(1) The county department of public welfare shall receive and investigate requests for voluntary services

from:

(a) aged persons or disabled adults;
(b) relatives or friends of such persons; or
(c) community agencies, resources or individuals such as doctors, lawyers, clergymen, health departments, alcohol treatment centers, hospitals, homemakers or any other persons interested in the individual's welfare.

(2) The county department of social services shall make eligibility determinations using the criteria set out in the definitions of "aged person" or "disabled adult" in rule 46-2-6(6)-86517A above.

(3) Upon request for non-voluntary services, the county social worker shall:

(a) investigate the situation to determine whether or not a petition for guardianship is necessary for the protection of the individual in question; and

(b) upon determination that guardianship proceedings are necessary, initiate through the county attorney a petition under Section 91A-5-311, R.C.M.-1947. Guardianship proceedings are contained in Title 91A, Chapter 5, Part 3, "Guardians of Incapacitated Persons."

(1) The WELFARE DEPARTMENT OF THE county social services in which the applicant resides OR IS FOUND receives and investigates requests for protective services.

(2) Request for service is accepted from aged or disabled persons on their own behalf or from any relative or persons interested in the individual's welfare.

(3) A Request request FOR SERVICE may be written or oral, however, A written request is preferred and on a form and in a manner prescribed by the bureau and available from the county social service. WELFARE DEPARTMENT IS PREFERRED.

(4) County social services determines eligibility using criteria established by the bureau.

(5) The social service worker determines eligibility in writing on a form and in a manner prescribed by the bureau prior to provision of service.

4. No comments or testimony were received.

Keith P. Colby

Director, Social and Rehabilitation Services

Certified to the Secretary of State December 18, 1979.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

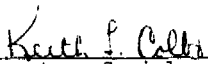
In the matter of the adoption of) NOTICE OF THE ADOPTION
Rule 46-2.10(18)-S11391 pertaining) OF RULE 46-2.10(18)-
to the contracting for claims) S11391
processing and payment)

TO: All Interested Persons

1. On October 25, 1979, the Department of Social and Rehabilitation Services published notice of a proposed adoption of Rule 46-2.10(18)-S11391 pertaining to the contracting for claims processing and payment at page 1300 of the 1979 Montana Administrative Register, issue number 20.

2. The agency has adopted the rule as proposed.

3. No comments or testimony were received.



Director, Social and Rehabilitation Services

Certified to the Secretary of State December 18, 1979.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption of	)	NOTICE OF THE ADOPTION
Rules 46-2.22(1)-S2201, 46-2.22(1)-	)	OF RULES 46-2.22(1)-
S2211, 46-2.22(1)-S2251, 46-2.22(1)-	)	S2201, 46-2.22(1)-S2211,
-S2252, 46-2.22(1)-S2221, 46-2.22	)	46-2.22(1)-S2251, 46-2.22
(1)-S2222, 46-2.22(1)-S2231, 46-	)	(1)-S2252, 46-2.22(1)-
2.22(1)-S2224, and 46-2.22(1)-	)	S2221, 46-2.22(1)-S2222,
S2225 establishing guidelines	)	46-2.22(1)-S2231, 46-2.22
and requirements pertinent for the	)	(1)-S2224, and 46-2.22(1)-
administration of the develop-	)	S2225 and THE REPEAL OF
mental disabilities comprehensive	)	RULES 46-2.22(1)-S2200
service program and the repeal of	)	S2210, S2220, S2230,
Rules 46-2.22(1)-S2200, 46-2.22(1)-	)	S2250, S2260, S2270, and
S2210, 46-2.22(1)-S2220, 46-2.22	)	S2280
(1)-S2230, 46-2.22(1)-S2250, 46-)	
2.22(1)-S2260, 46-2.22(1)-S2270)	
and 46-2.22(1)-S2280)	

TO: All Interested Persons

1. On November 15, 1979, the Department of Social and Rehabilitation Services published notice of a proposed adoption of Rules 46-2.22(1)-S2201, S2211, S2251, S2252, S2221, S2222, S2231, S2224, and S2225 and the repeal of 46-2.22(1)-S2200, S2210, S2220, S2230, S2250, S2260, S2270, and S2280 establishing guidelines and requirements pertinent for the administration of the developmental disabilities comprehensive service program at page 1355 of the 1979 Montana Administrative Register, issue number 21.

2. The agency has repealed the rules as proposed.

3. The agency has adopted the rules with the following changes:

46-2.22(1)-S2201 (46.8.101) RULE I PURPOSE OF THE DEVELOPMENTAL DISABILITIES DIVISION The purpose of the developmental disabilities division is to assure the provision of provide quality comprehensive community-based services to developmentally disabled citizens in the least restrictive environment which promotes the principle of normalization for citizens who are developmentally disabled.

4. The authority of the agency to make the proposed adoption is based on section 53-20-204 MCA, and the rule implements section 53-20-305 MCA.

46-2.22(1)-S2211 (46.8.102) RULE II DEFINITIONS
For purposes of this chapter, the following definitions apply:

(1) "Division" means the developmental disabilities division of the department of social and rehabilitation services.

(2) "Client" means a person with a developmental disability who is enrolled in a provider service program.

(3) "Provider" means any person or entity furnishing services to persons with developmental disabilities under a contractual agreement with the department through the developmental disabilities division.

(4) "Interdisciplinary team" means a group of persons that is drawn from or represents those professions, disciplines, or service areas that are relevant to identifying an individual's needs and designing a program to meet them, and that is responsible for evaluating the individual's needs, developing an individual habilitation plan to meet them, periodically reviewing the individual's response to the plan, and revising the plan accordingly.

(5) "Applicant" means a person who applies for services, but is not yet accepted into a service program.

5. The authority of the agency to make the proposed adoption is based on section 53-20-204 MCA, and the rule implements section 53-20-204 MCA.

46-2.22(1)-S2251 (46.8.103) RULE III ELIGIBILITY REQUIREMENTS

(1) Eligibility for diagnostic and evaluation services, family training and support services, and other services for developmentally disabled persons shall be determined as follows:

(a) Any person suspected of having a developmental disability is eligible for diagnostic and evaluation services. Eligibility will be determined by the diagnostic and evaluation service agency upon application for services to the agency.

(b) Family members are eligible for family training and support services if a child residing in the family unit is developmentally disabled under the terms of Section 53-20-202(3) MCA, or is five (5) years of age or younger and is at risk for developmental delays. Eligibility for family training and support services will be determined by the provider upon application for services to the provider.

(c) Any person who is developmentally disabled under the terms of Section 53-20-202(3) MCA is eligible for such other services as may be provided by or funded through the division. Eligibility will be determined according to procedures established by the social service bureau, community services division of the department.

(2) An adverse decision regarding eligibility for services under this part may be appealed under the provisions of ARM 46-2.2(2)-P221, et seq.

(2) (3) Persons may contact the administrator, developmental disabilities division, P. O. Box 4210, 111 Sanders, Helena, MT 59601 for information about available services and location of services.

6. The authority of the agency to make the proposed adoption is based on sections 53-20-204 and 53-20-305 MCA, and the rule implements sections 53-20-205 and 53-20-209 MCA.

46-2.22(1)-S2252 (46.8.104) RULE IV EVALUATION SERVICES (1) The division shall provide for the evaluation of any person eligible for diagnostic and evaluation services either through services funded by the department or by referral to another agency.

(2) Within thirty (30) days of enrollment in a provider service program, with the exception of respite and transportation services, the provider shall perform a comprehensive skill assessment for each person enrolled in the program. Each assessment shall be reviewed semi-annually by the provider. Results of the assessment shall be provided to the client's Individual Habilitation Planning Team.

7. The authority of the agency to make the proposed adoption is based on section 53-20-203 MCA, and the rule implements section 53-20-203 MCA.

46-2.22(1)-S2221 (46.8.106) RULE V CONFIDENTIALITY OF INFORMATION (1) Confidential information, for purposes of this chapter, includes the following information about any applicant or client:

- (a) name and address;
- (b) the amount or type of services provided;
- (c) information related to the social and economic conditions or circumstances;
- (d) agency evaluation of information;
- (e) medical data, including diagnosis, treatment, and past history of disease or disability;
- (f) educational, training, habilitation or any similar data;
- (g) any of the above information pertaining to the immediate family members.

(2) The department and the provider shall not disclose confidential information concerning any applicant or client except under the following circumstances:

- (a) Information about an applicant or client may be released to department staff and providers who assist in or participate in the provision of services to the applicant or client.

(b) Information, as specified, may be disclosed upon the written consent of:

(i) the applicant or client if he is a legally competent adult; or

(ii) the client's parents, if legally responsible for the applicant or client, or the legal guardian of the applicant or client.

(c) Information may be disclosed if it is in summary, statistical, or any other form which does not identify and cannot be used to identify any applicant or client.

(d) Information may be disclosed pursuant to a court order issued by a court of competent jurisdiction, to the extent required by the court order.

(e) Information may be disclosed to the extent required to take immediate life-saving measures.

8. The authority of the agency to make the proposed adoption is based on section 53-20-204 MCA, and the rule implements section 53-20-204 MCA.

46-2.22(1)-S2222 (46.8.107) RULE VI CLIENT

GRIEVANCE PROCEDURE (1) A provider shall maintain a written grievance procedure by which a client may file a complaint. A current copy of such procedure must be ~~maintained~~ on file with approved by the department.

(2) Upon entry into a program and at least every six months thereafter, a client must be advised by the provider of the right to present grievances. The provider shall assist clients, as may be necessary, in utilizing the grievance procedure.

(3) If the outcome of the grievance procedure is adverse to a client, the provider shall notify the person of his or her right to appeal to the department under the department's fair hearing procedure.

9. The authority of the agency to make the proposed adoption is based on section 53-20-204 MCA, and the rule implements section 53-20-205 MCA.

46-2.22(1)-S2231 (46.8.108) RULE VII SERVICE PROGRAM
FUNDING

(1) All developmental disabilities service contracts funded through the division which exceed \$10,000 in amount shall be formally advertised by the division. Any person or entity who intends to request funds for the provision of services may respond to the formal advertisement or may at any time write a letter of intent to the division, 111 Sanders, P. O. Box 4210, Helena, MT 59601. The letter of intent shall include:

- (a) type of service to be provided;
 - (b) population to be served;
 - (c) geographical area to be served; and
 - (d) service initiation date.
- (2) Within thirty (30) days of receipt of a letter of intent the division will place the applicant's name on a "Request for Service Funding List" and so notify the applicant. Persons or entities on the list will be notified when funds are available for service funding in the geographical area and service type designated.
- (3) Completion of an application form or application form update and a project proposal will be required prior to the selection of projects. The selection process may include a regional review.
- (4) No project funds will be awarded without a formal agreement between provider and department.

10. The authority of the agency to make the proposed adoption is based on section 53-20-204 MCA, and the rule implements section 53-20-205 MCA.

46-2.22(1)-S2224 (46.8.501) RULE VIII DIVISION QUARTERLY REPORT (1) The department shall provide to the developmental disabilities planning and advisory council a written quarterly report within 45 days following the last day of each fiscal quarter. This report shall contain:

- (a) total developmental disabilities division budget;
 - (b) administrative operating budget;
 - (c) training budget;
 - (d) service contract and grant budget;
 - (e) total number of individuals receiving services;
 - (f) types and number of services;
 - (g) number of clients in each type of service;
 - (h) budget per service;
 - (i) source of funding per type of service;
 - (j) service goals and objectives; and
 - (k) service priorities.
- (2) Copies of quarterly reports can be obtained upon request to the developmental disabilities division, P. O. Box 4210, 111 Sanders, Helena, MT 59601.

11. The authority of the agency to make the proposed adoption is based on section 53-20-204 MCA, and the rule implements section 53-20-203 MCA.

46-2.22(1)-S2225 (46.8.502) RULE IX PREPARATION OF MONTANA DEVELOPMENTAL DISABILITIES STATE PLAN (1) The department and the developmental disabilities planning and advisory council shall jointly prepare an annual

comprehensive state plan for the initiation and maintenance of developmental disabilities services in the state.

(2) No later than March 30 preceding the federal fiscal year to which the state plan applies, the planning and advisory council will provide to the department information gathered from advisory organizations and other public and private agencies relative to the following matters:

(a) state goals and objectives for developmental disabilities services;

(b) service needs and service gaps;

(c) service priorities; and

(d) interagency responsibilities for service delivery.

(3) The state plan must be approved by the council and by the director of the department.

12. The authority of the agency to make the proposed adoption is based on section 53-20-204 MCA, and the rule implements section 53-20-203 MCA.

13. The Department has thoroughly considered all verbal and written commentary received.

Comment: To prevent conflicting interpretations of the proposed purpose, a synthesis of the proposed rule and the existing rule which states goals for the division should be included.

Response: The purpose section is a general informational section in which specific goals are prepared in connection with the regular planning function of the division and are contained in service contracts.

Comment: Adopt the new federal definition of P.L. 95-602 into the rules in order to reflect the federal mandates to serve all developmentally disabled persons.

Response: The Department cannot, by rule, adopt a definition of "developmentally disabled" which is different from that provided in state law. For funds accepted under a specific federal law the provisions of that law, as well as of state law, will have to be adhered to.

Comment: In the interest of consistency in determining eligibility, one agency should assume the responsibility of clarifying and determining procedures. These procedures should specify the process more exactly.

Response: The provider and social services will determine eligibility for clients as stated in the rules. The provider follows stated criteria within the contractual agreement with

the department; social services' criteria is identified within their administrative rules.

Comments: Specify the grievance procedure available to a person not eligible for services.

Response: Any person who receives an adverse eligibility determination may appeal for a fair hearing as stated in the rules.

Comment: Clarify how referred evaluations will be financed.

Response: The division will be financially responsible for evaluations with the exception of those referred to other agencies.

Comment: Client grievance procedures adopted by the provider should be approved by the Department.

Response: The rule now states that the Department will approve of the client grievance procedure prepared by the provider.

Comment: Combine the proposed and existing rule on service program funding. The funding procedure should include the involvement of the local communities.

Response: Regional councils advise the Department on programs for services, submit a regional plan and an annual review and evaluation of needs and services. Internal procedures allow the advisory councils to advise the Department on newly developed services in their respective regions.

Keith F. Callz
Director, Social and Rehabilitation Services

Certified to the Secretary of State December 18, 1979.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption of	)	NOTICE OF THE ADOPTION
Rule 46-2.22(1)-S2223 pertaining	)	OF A RULE, 46-2.22(1)-
to individual habilitation plans	)	S2223
for persons with developmental)	
disabilities.)	

TO: All Interested Persons

1. On November 15, 1979, the Department of Social and Rehabilitation Services published notice of a proposed adoption of a rule, 46-2.22(1)-S2223, pertaining to individual habilitation plans for persons with developmental disabilities at page 1364 of the 1979 Montana Administrative Register, issue number 21.

2. The agency has adopted the rule with the following changes:

46-2.22(1)-S2223 (46.8.105) INDIVIDUAL HABILITATION PLANS (1) An Individual Habilitation Plan is a written plan of intervention and action developed by ~~a~~ an interdisciplinary team of persons on the basis of a skill assessment and determination of the status and needs of a client. The Individual Habilitation Plan ensures that the provision of services will be systematic and that interventions are designed to enhance the development of the client.

(2) Each client is entitled to an Individual Habilitation Plan. Unless otherwise specified by provider agreement, the Individual Habilitation Plan shall be developed within 30 calendar days of the client's entry into a service program and be formally reviewed and revised at intervals not to exceed six months from the initial or previously reviewed Individual Habilitation Plan.

(3) Each Individual Habilitation Plan shall be developed by an Individual Habilitation Planning Team. The Individual Habilitation Planning Team members are:

(a) ~~the client or and the client's advocate, if one exists; or both of them; the client has an advocate, unless such the participation of either is unobtainable and is so documented in writing.~~ An advocate is a person who represents the interests and rights of a client as if they were the person's own, is not an employee of any agency directly providing services to the client and who is acknowledged by the client as his or her advocate at the time of the Individual Habilitation Plan meeting. If both a client and an advocate participate on an Individual Habilitation Planning Team, the advocate's position must be consistent with the client's expressed interests;

(b) the client's parents, if legally responsible for the client, or the client's legal guardian, unless this participation is unobtainable and is so documented in writing;

(c) the client's case manager;

(d) one person who works directly with the client from each service program provided to the client;

(e) the professional person from the institution of origin if the client has not yet been formally discharged from that institution; and

(f) staff member of the division whenever possible.

~~(4)~~ Any family member or relation may attend an Individual Habilitation Plan meeting.

~~(5)~~ Psychologists, medical personnel and other consultants may attend the Individual Habilitation Plan meeting upon any team member's request.

(4) Advisory members of the Individual Habilitation Planning Team may include:

(a) any family member or relative; and

(b) psychologists, medical personnel and other consultants.

~~(6)~~ (5) Each Individual Habilitation Plan shall include at least the following:

(a) the goals toward which the interventions outlined in the Individual Habilitation Plan will be directed;

(b) the pertinent results of assessments, both formal and informal, which outline the client's strengths and behavior/skill deficits;

(c) specific objectives, stated separately and in behavioral terms, which specify single behavioral outcomes, and reflect the client's needs as identified by assessment data and the goals established for the client. Components of objectives are:

(i) a statement of the conditions or setting in which the behavior is to occur;

(ii) an objective, measurable description of the behavior; and

(iii) a statement of the acceptable level of performance.

(d) names of persons, and the agencies, programs or services they represent, who have been assigned responsibility for implementation of the objective;

(e) the date by which each person is to begin implementing programs for each objective assigned by the Individual Habilitation Planning Team;

(f) projected date by which the client is expected to have met each objective;

(g) documentation of the barriers or conditions responsible for each client need which will not be addressed or attempted to be met before the next Individual Habilitation Plan Planning meeting;

(h) a summary of the client's medical and dental status, including the physicians' names, dates and results of the

client's most recent health examinations, a list of and rationale for any prescribed medications, current method of administration, and any medical goals and objectives relating to the client's medical status;

(i) administrative goals and objectives, including initiation and completion dates;

(j) names, program affiliations and signatures of each person accepting responsibility for a role, task or objective assigned to him or her by the Individual Habilitation Planning Team; and

(k) names and signatures of all persons who have participated in developing the Individual Habilitation Plan (including the client, unless the client's unwillingness to participate is documented) which will verify participation, agreement with the Individual Habilitation Plan, and acknowledgement of the confidential nature of the information presented and discussed.

†7† (6) The Individual Habilitation Planning Team shall designate a member or members to review the Individual Habilitation Plan and resulting Individual Program Plans (written strategy for meeting an objective) on at least a monthly basis for implementation and continued appropriateness. This review shall document:

(a) progress data recorded in behavioral terms at least as often as the intervals designated by the Individual Habilitation Planning Team; and

(b) problems and changes in a client's status warranting review of the Individual Habilitation Plan by the Individual Habilitation Planning Team. The review information will be sent to the case manager and other interested Individual Habilitation Planning Team members every month or as designated by the Individual Habilitation ~~Plan~~ Planning Team.

†8† (7) The Individual Habilitation ~~Plan~~ Planning Team shall meet at least every six months to formally review the goals and objectives established at the previous Individual Habilitation ~~Plan~~ Planning meeting. In reviewing the previous Individual Habilitation Plan, the Individual Habilitation Planning Team shall:

(a) review progress data which has been collected on the client's response to each objective and Individual Program Plan assigned at the last Individual Habilitation Plan;

(b) modify the goals and objectives as necessary and suggest changes in ongoing Individual Program Plans;

(c) determine further services and programs that are needed as a result of current assessments or assessment updates completed prior to the meeting; and

(d) consider the advisability of continued current service provision and alternative placements or services.

†9† (8) The case manager, or other person, assigned by the Individual Habilitation Planning Team shall provide the

Individual Habilitation Plan to the client; to the client's family, when appropriate; and to each member of the Individual Habilitation Planning Team. The case manager or other designated person shall interpret the Individual Habilitation Plan to the client.

~~(i)~~ (9) The duties of the case manager in the Individual Habilitation ~~Plan~~ Planning process are:

(a) to schedule Individual Habilitation ~~Plan~~ Planning meetings whenever Individual Habilitation Plan revision is deemed necessary by any Individual Habilitation Planning Team member but at least every six months;

(b) to notify in writing (except for meetings called in emergency situations) all Individual Habilitation Planning Team members, parents, and any other appropriate persons of the date, time and place of the Individual Habilitation ~~Plan~~ Planning meetings at least two weeks prior to the scheduled Individual Habilitation ~~Plan~~ Planning meeting;

(c) to explain the purpose of, obtain input from, and otherwise prepare the client for upcoming Individual Habilitation ~~Plan~~ Planning meetings;

(d) to record the results of the Individual Habilitation ~~Plan~~ Planning meetings, interpret them to the client and disseminate copies to all Individual Habilitation Team members within two weeks of the Individual Habilitation ~~Plan~~ Planning meeting; and

(e) to ensure that the Individual Habilitation Planning Team members assigned the tasks of monthly reviews document such reviews in the client's Individual Habilitation Plan file;

(f) to inform team members of the requirements of confidentiality.

~~(ii)~~ (10) The decision-making process for development of an Individual Habilitation Plan shall be as follows:

(a) decisions shall be made by consensus of Individual Habilitation Planning Team members;

(b) if a consensus cannot be reached, the Individual Habilitation Planning Team shall adjourn for no more than five (5) working days, to allow time for a resolution of the conflict;

(c) at the next Individual Habilitation ~~Plan~~ Planning meeting, if a consensus still has not been reached, the unresolved issues shall be referred to the regional supervisor and the social worker services district supervisor III who shall meet within ten (10) working days to jointly make a decision. Individual Habilitation Planning Team members may attend to document the differing points of view;

(d) if the regional supervisor and the social services district worker supervisor III cannot reach a decision, or if any Individual Habilitation Planning Team member is dissatis-

fied with the decision, an appeal to the division administrator and social services bureau chief may be made who shall meet within ten (10) working days to jointly make a decision;

(e) further appeal may be made to the director of the department, whose decision shall be final.

{12} (11) At each Individual Habilitation Planning Team meeting, the case manager shall review the requirements of confidentiality. Each non-member must sign a statement to the effect that he or she is aware of the confidential nature of the client information and will treat such information in accordance with the department's policy on confidentiality.

3. The Department has thoroughly considered all verbal and written commentary received.

Comment: The requirement for an Individual Habilitation Team meeting to be held minimally at 12 month intervals should be substituted for an Individual Habilitation Team meeting to be held minimally at 6 months for each client.

Response: Individual program review, at least every 6 months, is necessary in order to monitor progress and make significant changes as needed in the service delivery to each client.

Comment: Add "interdisciplinary" to describe the Individual Habilitation Team.

Response: The rule includes the term "interdisciplinary" which is defined in the definition rule.

Comment: The duties of the case manager include responsibility for assessing the need for and provisions of voluntary or involuntary protective services and the provision of all routine social services.

Response: The duties outlined pertain only to the social workers' responsibility for the Individual Habilitation Plan.

Comment: Veto power shall be the responsibility of case manager or the institutional representative when clients are wards of the state or not formally discharged from the institutions.

Response: If consensus cannot be reached by the team, the member or members who disagree with the proposed decision have further recourse as outlined in the rules.

Comment: Substitute the title, Area Social Services Supervisor, for District Social Service Supervisor.

Response: The title now reads Social Worker Supervisor III.

Comment: In order to clarify that both client and advocate are to be involved as team members, insert "and" for "or."

Response: The substitution of "and" for "or" has been made.

Comment: Clarify the notification of Individual Habilitation Planning meetings to parents as well as their contribution to the team.

Response: Advisory members include any family member or relative who is not legally responsible for the client and psychologists, medical personnel and other consultants. Parents will be notified of habilitation planning meetings.

Comment: Clarify the clients status during an appeal process due to lack of consensus of the team.

Response: Services will continue to be provided to the client; only unresolved issues will be considered during the appeal process.

Comment: The review of confidentiality is a duty of the case manager and should be reflected as such.

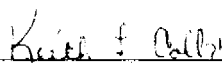
Response: Confidentiality review is included in the case managers' duties.

Comment: Individual Habilitation Plans should be monitored by the division.

Response: Through provider agreements with the Department, the division is responsible for monitoring services which include individual habilitation plans.

Comment: A summary and rationale of a clients' medical and health, including all medications prescribed, should be limited to medications routinely prescribed on an as-needed basis.

Response: Medication information should be complete; therefore, all prescribed medication should be listed.



Director, Social and Rehabilitation Services

Certified to the Secretary of State December 18, 1979.

24-12/27/79

Montana Administrative Register

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption of a	)	NOTICE OF THE
rule, 46-2.22(1)-S2241, pertaining to	)	ADOPTION OF A RULE,
developmental disabilities, regional	)	46-2.22(1)-S2241
council and the repeal of rule 46-2.22	)	AND THE REPEAL OF
(1)-S2240	)	46-2.22(1)-S2240

TO: All Interested Persons

1. On November 15, 1979, the Department of Social and Rehabilitation Services published notice of a proposed adoption of a rule and the repeal of 46-2.22(1)-S2240 pertaining to developmental disabilities, regional council at page 1360 of the 1979 Montana Administrative Register, issue number 21.

2. The agency has repealed 46-2.22(1)-S2240 as proposed.

3. The agency has adopted the rule with the following changes:

46-2.22(1)-S2241 (46.8.401) REGIONAL COUNCILS

(1) The director of the department shall recognize a petition by a citizens' organization for a developmental disabilities regional council under the procedures set forth herein. The petition shall be signed by a majority of the proposed members and shall provide:

(a) that the proposed council has not more than twenty (20) members;

(b) the names and addresses of each proposed council member;

(c) that the citizens' organization is broadly representative of the region and at least one-third (1/3) of the council's members are consumers or representative of consumers or consumer organizations in the discipline of developmental disabilities;

(d) that no providers, employees of providers, or members of governing boards of providers, or employees of the department or other persons whose membership on the council would cause a conflict of interest as determined by the council, are voting members of the council, except that a proposed council may designate no more than one-fourth (1/4) of its total membership as nonvoting members; proposed members are employees of the department of social and rehabilitation services or employees of a provider service program funded wholly or in part through the developmental disabilities division;

(e) that the citizens' organization held at least three (3) public meetings in different areas of the region and that the public was encouraged to attend and participate in the

formation of a regional council;

(f) that the public was given adequate notice of the meetings by means of local news media such as radio, newspapers and television throughout the region;

(g) that the organization has compiled by-laws for the proposed council; and

(h) that a recognized regional council for developmental disabilities does not exist for that region.

(2) A citizens' organization shall submit its petition to the director, department of social and rehabilitation services, P.O. Box 4210, Helena, MT 59601. The director shall notify the citizens' organization, in writing, no later than thirty (30) days after receipt of the petition whether the citizens' organization is approved as a regional council for developmental disabilities.

(3) Citizens' organizations approved by the department as regional councils prior to December 1, 1979, shall be treated as if approved in accordance with the provisions of this section.

(4) Regional councils shall file with the director of the department no later than October 1 of each year, current copies of council by-laws and council membership lists. The council membership list shall include sufficient information about council members to verify that the council is constituted in accordance with the laws of the state and this chapter provided, however, that any person who is a member of a regional council on January 1, 1980, may complete his or her term. Notice of approval or non-approval of by-laws and membership will be sent by the director no later than November 1. Any regional council determined by the director not to be operating in accordance compliance with the provisions of state law or this chapter will be provided a period of time, as determined by the director, which will be no less than ~~ninety (90)~~ thirty (30) days, to correct such situation.

(5) Regional council by-laws. A regional council shall adopt by-laws which shall set forth:

(a) a stated purpose;

(b) the council duties, consistent with law;

(c) that membership on the council, except for vacancies occurring for any reason during a member's term, will be determined by election held at a public meeting which has been advertised in the news media throughout the region for a set number of days, and for which a set number of days' notice has been given; and which persons present are eligible to vote in such elections;

(d) that providers, employees of providers, members of governing boards of providers, employees of the department and such other persons determined by the council to be in conflict of interest situations, shall be nonvoting members of the council, except that no more than one-fourth

~~(4)~~ of the total membership of the council shall be nonvoting; that no members are employees of social and rehabilitation services or employees of a provider service program funded wholly or in part through the developmental disabilities division;

(e) provisions which:

~~(i)~~ identify potential conflict of interest situations for council members;

~~(ii)~~ detail the manner in which such conflicts will be handled, which provisions must, at a minimum, restrict a member from evaluating a service program in which the member has a direct interest or voting on any matter, the outcome of which will directly affect a member's interest; and

~~(iii)~~ provide for the monitoring of such conflict of interest provisions.

~~(e)~~ (f) provisions governing terms for members;

~~(f)~~ (g) provisions for filling vacancies created on the council during members' regular terms;

~~(g)~~ (h) provisions for electing officers for the council, for terms of office for officers, and for the filling of vacancies created during terms of office;

~~(h)~~ (i) that a quorum shall be at least a majority of the voting membership of the council, including alternates present to represent absent members;

~~(i)~~ (j) that the council will conduct regular meetings at least once during each calendar quarter, that records shall be kept of activities of the council and the means by which the public has access to the records;

~~(j)~~ (k) that if a committee is created, the purpose and function of that committee; and

~~(k)~~ (l) provisions for amending the by-laws.

(6) Regional councils shall:

(a) Advise the department, other state agencies, councils, local governments, and private organizations on programs for services to the developmentally disabled within the region;

~~(a)~~ (b) make an annual written review and evaluation of needs within the region, including a list of priorities according to the findings of the review, and provide a copy of the review to the department and the developmental disabilities planning and advisory council by December 1 of each year;

~~(b)~~ (c) develop an annual plan for a system of community-based services for the developmentally disabled within the region and provide a copy of the plan to the department and the planning and advisory council by March 1 of each year preceding the federal fiscal year to which the plan applies;

~~(c)~~ (d) make an annual written review and evaluation of services presently provided within the region and provide

a copy of the evaluation to the department and the planning and advisory council by May 1 of each year;

(d) (e) provide two names for regional representatives to the planning and advisory council as requested by the council; and

(e) (f) inform the department of changes in officers, members and alternates of the regional council, or of changes in the by-laws.

(7) The department shall employ a regional supervisor for each region to provide technical and administrative assistance to the regional council in:

(a) preparing a review and evaluation of needs and services;

(b) advising the department on programs for services;

(c) developing a plan for the developmentally disabled within the region, and to provide such additional assistance as may be assigned by the division administrator.

4. The department has thoroughly considered all verbal and written commentary received.

Comment: The proposed rule which addresses membership eligibility restricts identified volunteer consumer citizens from contributing as voting council members. Persons, such as members of provider governing boards, who may have a potential conflict of interest on some issues should be members, but abstain from voting on issues and monitoring service programs in which they serve as board members.

Response: The proposed rule allows each regional council to identify persons who may have a potential conflict of interest; to detail the manner in which the conflict will be handled, and to monitor the conflict of interest provisions.

Comment: The department should explain the reason for the exclusion in the rule of a portion of the law which states that regional councils shall advise the department and other agencies and organizations on programs for services.

Response: A rule is prepared to implement, interpret or prescribe law or policy and determine procedures or requirements of an agency. Rules should not repeat statutory language unless it is necessary for clarity or consistency. The law in this case was included in the rule for clarification purposes.

Comment: It is necessary to clarify the criteria set forth in the rule concerning the approval of a citizens' organization as well as to specify the result if councils fail to comply with the rule.

Response: The rule states that approval of councils will be based upon an annual review of by-laws and membership for compliance with the rule. If a council is in noncompliance, it will be allowed a period of time, which will be at least 30 days, to correct the situation.

Comment: The roles and responsibilities of regional councils to the planning and advisory council are not clear.

Response: Regional councils are to provide to the planning and advisory council, on the dates specified in the rule, a written review of needs, an annual plan, and an evaluation of services within the region. Each council has one regional representative member on the planning and advisory council.

Keith F. Callis
Director, Social and Rehabilitation Services

Certified to the Secretary of State December 18, 1979.

BEFORE THE BOARD OF BARBERS
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL LICENSING OF
THE STATE OF MONTANA

In The Matter Of The Application) DECLARATORY RULING
of BIG SKY COLLEGE OF BARBER-)
STYLING, INC. For Approval Of An)
Alternative Apprenticeship)
Program)

On October 20, 1979, the Big Sky College of Barber-Styling, Inc. of Missoula, Montana, by Gary T. Lucht, its president, submitted a petition to the Board for a ruling that a certain apprentice barber could serve the balance of her required year of apprenticeship by working as an instructor in the school. The Board invited the petitioner and other parties known to be interested to attend a Board meeting on November 12, 1979, and discuss the request further.


At the meeting the Board proposed to treat the petition as a request for a declaratory ruling and to waive any technical differences between the form of this petition and meeting and the forms prescribed in the Department's procedural rules. This was accepted by the petitioner. Mr. Lucht and the apprentice, herein designated as C.D., then spoke in support of their petition. The relevant issue was defined as whether instructing in the Big Sky College of Barber-Styling, Inc. was the "equivalent" of a "normal work year" such that the Board in its discretion could approve the program as qualified apprenticeship under its rule ARM 40-3.18(6)-S1860(3).

Mr. Lucht stated that "equivalency" meant "of equal value" and that C.D. would gain experience instructing in the college of at least equal value to that gained by a typical apprentice barber in Missoula. C.D. stated that she had previous training or experience in teaching and office management and expected to cut or style more hair in a typical day at the school than she had in her three months as an apprentice in a Missoula barber shop. In response to questions from Board members, C.D. stated that she had little experience with the basic clipper cut in a shop setting but that she also had little interest in such. C.D. also stated that Mr. Lucht's schedule (he is the principal instructor in the school) was spread too thinly and that her teaching would enable him to teach more effectively. C.D. indicated that her business management experience had been in a dental office.

A year of apprenticeship is required by law (37-30-305, MCA) before a barber college graduate may take the examination for the barber's certificate. In adopting the above-mentioned rule as part of its administration of the apprenticeship process, the Board has stated a policy of supplementing a scholastic education with practical experience before a person can seek to be a fully licensed barber. Among those aspects of practical experience which the Board

deems very important in any apprenticeship are the business management of a shop and the hands-on experience of cutting hair of real customers. A continuation of C.D.'s scholastic environment will not give her this experience. The Board is also not persuaded that the proposed division of the teaching load between Mr. Lucht and C.D. will involve the "immediate personal supervision" which the apprentice must receive from the licensed barber. On the other hand, the Board is inclined to give some recognition to C.D.'s past experience and to the current surplus of apprentices and barbers in Missoula relative to the demand. If C.D. will work at least half a normal work year in the commercial environment of a barber shop, the Board will recognize her instructional work--provided the requisite immediate personal supervision is shown--in a barber college as the equivalent of the other half. C.D. can fulfill her half-year in a shop with six months' full-time work, twelve months of half-days, or a combination of the two which amounts to the same time.

Lawrence Sandretto, Chairman
Board of Barbers

By: 
Ed Carney, Director
Department of Professional and
Occupational Licensing