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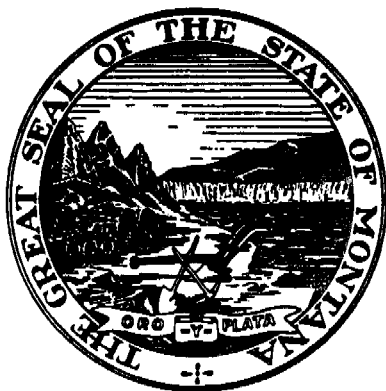
# **MONTANA ADMINISTRATIVE REGISTER**

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1979 ISSUE NO 9  
MAY 18 1979

**PAGES 395 — 446**

MONTANA COLLEGE OF  
MINERAL SCIENCE AND TECHNOLOGY  
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NOTICE: The July 1977 through June 1978 Montana Administrative Registers have been placed on jacketing, a method similar to microfiche. There are 31 jackets 5 3/4" x 4 1/2" each, which take up less than one inch of file space. The jackets can be viewed on a microfiche reader and the size of print is easily read. The charge is \$.12 per jacket or \$3.72 per set plus \$.93 postage per set. Montana statutes require prepayment on all material furnished by this office. Please direct your orders along with a check in the correct amount to the Secretary of State, Room 202, Capitol Building, Helena, Montana 59601. Allow one to two weeks for delivery.

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 9

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ADMINISTRATIVE CODE COMMITTEE

NOTICE OF REQUEST  
FOR PUBLIC INPUT  
CONCERNING GOVERNMENT  
PAPERWORK STUDY

The Administrative Code Committee is mandated by SB 287, enacted during the 1979 Legislature, to conduct a study of all government forms filled out by citizens and required by a state agency. The study is an attempt to find methods of making state government more accessible and responsive to the people by identifying unnecessary or confusing government forms and eliminating or clarifying them. The committee is making a plea for public input and strongly urges any Montana citizen who has had difficulty with a state government form of any kind to write:

Montana Administrative Code Committee  
Room 138  
Capitol Building  
Helena, Montana 59601

or call:

Citizen's Advocate  
Toll Free 1-800-332-2272

9-5/10/79

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption )	NOTICE OF PUBLIC HEARING
of rules to implement Title )	FOR ADOPTION OF RULES
2, Chapter 18, MCA. )	(COMPENSATORY TIME AND
)	OVERTIME)

TO: All Interested Persons:

1. On May 31, 1979, at 7:30 p.m. a public hearing will be held in the Department of Social and Rehabilitation Services auditorium, 111 Sanders Street, Helena, Montana to receive input from interested persons on the adoption of Rules providing for computation of and payment of compensatory time and overtime to State employees; specifically: (a) 8 hours or 40 hours for computing compensatory time and overtime, (b) pay status or work status for computing overtime.

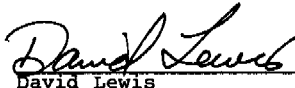
2. The proposed rule does not replace or modify any section currently found in the Montana Administrative Code.

3. The Rule is noticed for proposed adoption in Issue No. 5 of the Montana Administrative Register at pages 206-209.

4. Interested persons may submit their data, views or arguments concerning the proposed rules, oral or in writing at the hearing or in writing until June 8, 1979, to the Department of Administration, Personnel Division, Room 130, Mitchell Building, Helena, Montana 59601.

5. The hearing will be conducted by Clarette C. Martin, Administrative Officer, Personnel Division, Department of Administration.

6. The authority of the Department to make the proposed adoption of the Rule is based on Section 2-18-102, MCA (59-913 R.C.M.) and implementation is based on Section 2-18-102, MCA (59-913 R.C.M.).



David Lewis  
Director  
Department of Administration

Certified to the Secretary of State May 1, 1979.



BEFORE THE DEPARTMENT OF STATE LANDS AND  
THE BOARD OF LAND COMMISSIONERS  
OF THE STATE OF MONTANA

In the matter of the amend-	)	NOTICE OF PROPOSED
ment of rules 26.3.108 and	)	AMENDMENT OF ARM 26.3.108
26.3.121 relating to the pre-	)	RENEWAL OF LEASE and ARM
ference right granted to sur-	)	26.3.121 TRANSFER OF
face lessees of state lands	)	LEASES: ASSIGNMENTS
		AND SUBLEASES; NO PUBLIC
		HEARING CONTEMPLATED

TO: All Interested Persons

1. On June 18, 1979 the Board of Land Commissioners proposes to amend rules 26.3.108 and 26.3.121 which concern renewals and subleasing of state surface leases.

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

Rule VIII (26.3.108) RENEWAL OF LEASE (1) A current lessee shall be sent an application to renew his lease. The application shall be accepted under the same conditions as specified in Rule VI (1); however, application for renewal will only be accepted from December 1 of the year preceding the expiration of the lease until February 28, the date of expiration.

(2) A surface lessee who has paid all rentals and complied with the terms of the previous lease is entitled to exercise a preference right if:

(a) he has not subleased or otherwise allowed the land or any portion of the land to be operated by a person other than himself for more than 30% of the lease term and has not subleased or allowed another person to operate on the land during the last 2 years of the term; provided that the department may grant exceptions to these rules in special circumstances beyond the control of the lessee such as illness or injury; or,

(b) he terminates a current sublease or other arrangement which allows another person to use the land, prior to January 1, 1980, and uses the land himself until the lease expires.

(3) (2) A surface lessee has a preference right to renew his lease provided all rentals have been paid and the terms of the previous lease have not been violated. The lease shall be renewed at the rental rate provided by law, provided no other applications for the lease have been received by the department 30 days prior to the expiration of the lease.

9-5/10/79

MAR Notice No. 26-2-24

(4){3} If other applications are received by January 28 of the year the lease expires the lessee shall have a preference right to renew his lease provided he meets the bid of the high bidder for such lease. Such bid is deemed to be met if the amount of the high bid is received by the department prior to the expiration of the lease or in the case of agricultural land leased solely on a crop share rental basis, if the lessee agrees in writing to meet the high bid prior to the expiration of the lease. A lessee may request a hearing before the commissioner after he meets the high bid if he considers the bid too high to be in the best interests of the state. The lessee shall submit evidence of rental rates in the area for similar land with his request. The commissioner may grant or deny a request for a hearing and if the request is granted the commissioner may recommend to the board that the bid be lowered only if he feels that it is in the best interests of the state to do so. The Board may accept or reject the commissioner's recommendation. The lessee is obligated to lease the property at the rate determined by the Board. The lease of such land shall be such as to return to the state revenue commensurate with the highest and best use of the land or portions thereof, as determined by the Department.

(5){4} Regardless of any provision to the contrary in these rules, the board, at renewal time, may withdraw any land, or portion of land from further leasing for an indefinite period. The department may provide in any lease at time of execution or renewal that the land may be withdrawn from further leasing after reasonable notice, if the department considers such action to be in the best interests of the state.

(6){5} When land, under lease, has previously been sold and the certificate of purchase has been cancelled, any later reinstatement of the certificate of purchase shall not have the effect of cancelling any lease except that the current lessee shall lose his right to renew the lease.

Rule XXI (26.3.121) TRANSFER OF LEASES: ASSIGNMENTS AND SUBLEASES (1) All assignments and subleases shall be made on blanks prescribed by the department and available at no cost. An assignment in order to be binding on the state and a sublease in order to be legal must be approved by the department. A copy must be filed with the department and a fee as specified in ARM 26.2.401, 26.2.2(10)-\$230 must be paid. An assignment or sublease will not be approved if all rentals or other payments due have not been paid or the terms of the lease have been violated. If a sublease or assignment is made on terms less advantageous to the sublessee than terms given by the state or without filing a copy of the sublease and receiving the department's approval, the commissioner shall cancel the lease subject to the

appeal procedures provided in Rule XXV. A person who subleases or otherwise allows another person to utilize the land may lose his preference right to renew the lease as provided in rule 26.3.108.

(2) A lessee of state land shall not sublease such land as part of the sale of his own fee lands. In order to transfer such lease as part of the sale of lands, the lessee must assign the lease as provided in paragraph (1). Failure to comply with the terms of this rule shall be grounds for cancellation of the lease.

(3) State land leases and leasehold interests may be pledged or mortgaged by the lessee. The pledgee or mortgagee shall file the pledge or mortgage or certified copy thereof with the department within 30 days of its receipt by him. Within 30 days after payment of the indebtedness, termination of the pledge agreement, or release of the mortgaged leasehold interest, the lessee shall file proof of that fact with the department.

(4) A lessee who wishes to surrender his lease in whole or in part must submit a request to the department for approval. Also upon request, two or more leases may be combined when held by the same lessee. The request from the lessee must be in writing and if approved, the lease or leases will be combined with the lease which expires first so that no lease shall run longer than its prescribed term.

(5) In the event of a lessee's death the lease shall be transferred to the decedent lessee's estate. The department shall consider the estate to be the lessee until such time as proof of different ownership is received by the department. In most cases the department shall require a copy of the decree of distribution or assignment by a court appointed personal representative. Exceptions to this rule may be allowed when the department determines that an unusual situation exists.

3. The rules are proposed to be amended in response to a recent ruling by the Montana Supreme Court in Jerke v. State Department of Lands 36 St. Rptr. 389 (1979), which declared the preference right to be unconstitutional as applied to the facts in Jerke. The proposed amendments specify when a lessee may exercise the preference right to renew the lease.

4. Interested parties may submit their data views or arguments concerning the proposed amendment in writing to Leo Berry, Jr., Commissioner, Department of State Lands, Capitol Station, Helena, MT 59601 no later than June 11, 1979.

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 a written request for a hearing and submit this request along with any written comments he has to Leo Berry, Jr., Commissioner, Department of State Lands, Capitol Station, Helena, MT 59601 no later than June 11, 1979.

6. If the agency receives requests for a public hearing on the proposed amendment from more than 10% or 25 or more persons who are directly affected by the proposed amendment or from the Administrative Code Committee of the Legislature, 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 more than 25 persons based on approximately 8,600 surface leases.

7. The authority of the board to make the proposed amendment is based on section 77-6-104 MCA (section 81-423 R.C.M. 1947).

  
John F. North, Acting Commissioner  
Department of State Lands

Certified to the Secretary of State May 1, 1979.

BEFORE THE BOARD OF  
OIL AND GAS CONSERVATION

In the matter of the adoption )	NOTICE OF PROPOSED ADOPTION
of rules concerning implemen- )	OF RULES IMPLEMENTING THE
tation of the Natural Gas )	NATURAL GAS POLICY ACT OF
Policy Act of 1978 )	1978, NO PUBLIC HEARING IS
	CONTEMPLATED

TO: All Interested Persons:

1. On June 9, 1979 the Board of Oil and Gas Conservation proposes to adopt rules concerning implementation of the Natural Gas Policy Act of 1978. The rules will be discussed at the Board's June 7 meeting to be held in Sidney, Montana, at the Elks Club Meeting Room at 8:00 a.m.

2. The proposed rules replace the emergency rules adopted March 15, 1979 at pages 261 through 267 of the Montana Administrative Register, issue number 5.

The proposed rules read as follows:

Sub-Chapter 20

Montana Regulations to Implement  
Natural Gas Policy Act

36-3.18(20)-S18500 APPLICATIONS FOR DETERMINATION (1)

Any person owning an interest in the production of gas from a well desiring a determination that natural gas from that well qualifies for a maximum lawful price as prescribed by Natural Gas Policy Act of 1978 (NGPA) or desiring a change in an existing determination or desiring any other determination or finding authorized by the NGPA, shall apply to the Board. Duplicate original copies of all applications shall be filed in both the Helena and Billings offices of the Board. Applications shall be made on the forms prescribed by the Federal Energy Regulatory Commission (FERC) and Board Form No. 15. All applications shall be executed so as to comply with the following:

(a) Signature. If the person filing an application under this rule is an individual, the filing shall be signed by such individual, or in the case of a minor or other legally disabled person, his duly qualified legal representative. If the person making such filing is a corporation, partnership, or trust, the filing shall be signed by a responsible official of the partnership, or the trustee of the trust. In the case of any other legal entity, the operator of the well may sign the application. An operator under a joint operating agreement may sign an application for a well covered by the operating agreement if notice of the application is given by the operator to all other parties to the joint operating agreement and that fact is certified in the application.

(2) The applicant shall furnish with the application original, photocopies or certified copies of all documents, tech-

nical data and records relied upon to support its application. Copies of the Board's official files and orders must be certified.

(3) The application shall contain information necessary to support the category or determination sought by the owner, including, but not limited to:

(a) The name and address of the operator of the well.  
(b) The name and address of all non-operating owners.  
(c) Well identification, location by legal subdivision, township and range, A.P.I. identification number, field and/or reservoir designation, if any.

(d) A designation of the category(ies) applied for and the specific NGPA sections relied upon.

(e) The supporting documents designated in subsection 4 herein and in applicable FERC regulations as minimum requirements for each category or determination applied for.

(f) Identification and addresses of all purchaser(s) of natural gas, and, where State, Federal or Indian mineral interests are involved, that information.

(g) A certificate of service indicating that copies of the application (less required supporting documents) have been served upon all working interest owners in the well or wells involved in the application and upon the Department of State Lands (if state owned mineral interests are involved) and upon all purchasers of gas from such well or wells. Names and addresses of all working interest owners and gas purchasers shall be provided.

(4) Documents and Technical Data Supporting Application.

(a) All applicants must comply with the minimum requirements imposed by the FERC from time to time in addition to those special requirements set forth herein. Additional documentation, technical data, or evidence may be required by the examiner.

(b) Special Documentation Required by the Board.

(i) New Gas Determinations under Section 102: (No special documentation required.)

(ii) 1,000 Feet Deeper Test. Directional drilling surveys shall be required only for wells which are purposely directionally drilled. However, if directional drilling surveys are voluntarily run, copies of the results thereof shall be submitted.

(iii) New Onshore Reservoirs. Copies of any directional drilling surveys or dip meter tests available to the applicant on any of the wells in (or within one mile of) the new reservoir shall be filed with the application.

(iv) New Onshore Production Wells Under Section 103. Copies of any statement provided by the petroleum engineer in any eligibility proceeding under Rule MAC 36-3.18 (10)-S18020 (Subpart 4(b)) or any other proceedings which modify the otherwise applicable spacing unit, such as Board Orders authorizing multiple wells in a spacing unit, shall be provided with the application.

(v) High Cost Natural Gas Wells. (No special documentation required.)

(vi) Stripper Wells Under Section 108:

(A) Application for Determination. (No special documentation required.)

(B) Notice by an Operator or Purchaser of an Increase in Production. (No special documentation required.)

(C) Determination of Increased Production Resulting From Enhanced Recovery Techniques. (No special documentation required.)

(D) Designation That a Well is Seasonally Affected. (No special documentation required.)

(E) Determination of Maximum Efficient Rate. If the application is for determination as to whether the well produced at its maximum efficient rate, the application shall be accompanied by the results of all openflow, four point, back pressure or other tests taken to ascertain the maximum efficient rate. The Board may require such further testing as deemed appropriate.

36-3.18(20)-S18510 OBJECTIONS TO APPLICATIONS. (1) Any interested person may submit objections to any application or express views thereon. Any expression of views is hereafter referred to as an objection. Objections must be in writing and may be supported by documentation and technical data in the same manner as the documentation and technical data submitted by the applicant. An objection notification must relate to one application and contain the following:

(a) The name and address of the objecting party;

(b) The docket number or subsidiary docket number with sufficient clarity to identify the application;

(c) Reasons for the objection and reference to any documentation, data or exhibits which objector is submitting with the objection and which objector asserts is proof of the reasons for the objection.

All objections, together with any documentation and technical data, must be filed by the 20th of the month in which the finding or determination is to be made, or the next working day if the 20th falls on a weekend or holiday. Any amendment to the objection or supporting documentation or data not received by the deadline shall be returned to the objecting party.

36-3.18(20)-S18520 ACTION ON APPLICATIONS. (1) Upon receipt of an application, the Board will assign a docket number of a subsidiary docket number which identifies the case as one of the applications for NGPA determination for the month involved. A list, in chronological order of receipt, will be maintained by the Board at both Helena and Billings, showing the docket number, or subsidiary docket number, the date of filing, the name of the applicant, the category or categories of determination applied for and the location by section, township and range of the well or wells to be considered in the determination. Such list shall be posted inside the Board offices in Helena and Billings at a location readily available to the public. All applications and supporting documentation, as well as

the notice list, shall be available for examination during normal business hours at both the Helena and Billings offices of the Board. All applications for that month's determinations must be filed by the third working day of the month.

(2) Time of Action on Determinations. On the fourth Tuesday of each month, or on the following day of such day is a legal holiday, an examiner appointed by the Board shall make preliminary determinations, whether positive or negative, based solely upon the applications and any objections thereto timely filed during such month. Copies of the examiners determination shall be mailed within two days of the date of the determination by ordinary mail to the applicant and to all owners and purchasers identified on the certificate of service submitted in compliance with Rule I(3), as well as to all objectors. Any applications which are deficient because of failure of the applicant to comply with any of the regulations of the federal regulations or these rules shall be rejected by written notice to the applicant, informing the applicant of the deficiencies, but retaining the application and supporting documentation. The application shall be reconsidered on the following months determination date if the deficiencies are timely corrected. If the deficiencies are not corrected by the date set for new filings the application shall be finally rejected and returned to the applicant.

If the application is unopposed and the preliminary determination by the examiner is positive, such determination when rendered shall become a final action of the Board and the examiner, for the Board, shall give written notice to the Federal Energy Regulatory Commission with 15 days of the determination. Such notice shall consist of the following:

(a) A list of all participants in the proceeding as well as any persons who submitted or who sought an opportunity to submit written comments (whether or not such persons participated in the proceeding);

(b) A statement indicating whether the matter was opposed before the Board;

(c) A copy of the application together with a copy or description of other materials in the record upon which the determination by the Board was made; and

(d) An affirmative finding that the information contained in the notice to the Commission pursuant to this section includes all of the information required to be filed by the applicant under these regulations and 18 CFR Part 274 (Subpart B) of the Federal regulations, and in any case in which other materials in the record constitute portions of such information, a copy of those portions of the record.

(3) If the application was opposed, or if the preliminary determination is a negative determination, the examiner shall withhold any notification to the Federal Energy Regulatory Commission until at least 20 days after the date of the preliminary determination, during which time the aggrieved party may solicit requests from two or more Board members that the determination be reviewed by the Board. Should two or more



Board members request a review, the preliminary determination shall not become final until the Board shall have reviewed the matter at a regularly docketed do novo hearing and shall have issued its order. In accordance with Section 503(c)(4) of the NGPA, the Board's final order shall not be subject to appeal or judicial review. Notice to the Federal Energy Regulatory Commission, as provided in Subpart (b) of this Rule, shall be given within 15 days of the order by the Board becoming final.

36-3.18(20)-S18530 SPECIAL FINDINGS AND DETERMINATIONS

(1) New Onshore Production Wells Under Section 103.

(a) Applications pursuant to 18 CFR Section 271.305(b) for a finding that a well is necessary to effectively and efficiently drain a portion of the reservoir covered by the spacing unit which cannot be effectively and efficiently drained by an existing well within the spacing unit, shall be treated as a spacing exception application under Section 60-129 (R.C.M. 1947) and be separately docketed and noticed for hearing before the Board as a spacing exception application, and, in addition, shall be included in the list of applications posted pursuant to Rule III, above, for the month in which the hearing on the application shall be held. The list of applications shall be appropriately noted to the effect that the matter will be heard by the Board at its next regular hearing.

(b) Applications pursuant to 18 CFR Section 271.305(c) for a determination that gas produced from a well drilled after February 19, 1977 and before January 1, 1979 qualifies for the Section 103 price because the Board had explicitly or implicitly found, prior to commencement of the drilling, that the new well was necessary to effectively and efficiently drain a portion of the reservoir covered by the spacing unit, which portion of the spacing unit could not be effectively and efficiently drained by any existing well within the spacing unit, shall be accompanied by certified copies of all exhibits submitted to the Board or to the Petroleum Engineer in connection with the hearing or the eligibility proceeding which preceded commencement of drilling or issuance of the drilling permit. Upon review of the application plus the previously submitted exhibits and the prior order or finding by the Board or Petroleum Engineer, the examiner shall make a finding on whether the Board or Petroleum Engineer had theretofore made an explicit finding that the drilling of the new well was necessary to effectively and efficiently drain a portion of the reservoir covered by the spacing unit which could not be effectively and efficiently drained by any existing well within the proration unit. An affirmative finding by the examiner shall constitute the geologic evidence to be demonstrated in compliance with 18 CFR Section 274.204(f) or any successor regulation. If the examiner's finding is negative, the determination on the original application shall be postponed until the following month, during which time the applicant may submit to the examiner a certified transcript of the oral testimony, if any, taken at the previous hearing.

Notice by ordinary mail of the negative finding shall be given the applicant within three (3) days of the issuance of the finding. If the transcript is not timely filed, the determination shall be negative. If the transcript is timely filed, the matter shall be reconsidered by the examiner at the ensuing month's regular NGPA determination date so as to ascertain whether the Board or the Petroleum Engineer had made or could have made an explicit affirmative finding on the matter, based on the evidence before it, prior to commencement of drilling or issuance of the drilling permit.

(2) Stripper Well Production.

(a) Maximum Efficient Rate of Flow Determinations. The examiner is authorized to establish maximum efficient rates of flow from any gas well utilizing any criteria proscribed by FERC or, if FERC has not proscribed criteria, the following:

- (i) The well's open flow potential.
- (ii) The well's flow potential into the nearest pipeline with pressures lower than the well, if any.
- (iii) Pressure analysis (bottomhole, if advisable, or wellhead).
- (iv) Log and core analysis for information thickness, permeability, etc.
- (v) Reservoir fracturing, whether natural or administered.
- (vi) Reservoir model and analysis.
- (vii) Other data which the examiner requires or considers pertinent.

(b) Seasonally Affected Wells. The examiner is authorized to make findings in accordance with 18 CFR Section 271.804(e)(2) that seasonal fluctuations of production from a well theretofore classified as a stripper well have not and cannot reasonably be expected to increase production levels above an average of 60 mcf per production day for any 12-month period. Such findings shall be based upon the reported history of production from such well plus analysis of any established maximum efficient rate of flow and any evidence of pressure differential which might cause temporarily increased production levels.

(c) Enhanced Recovery Techniques. The examiner is authorized to determine that an increase in production from a well theretofore classified as a stripper well is the result of the application of recognized enhanced recovery techniques. In the absence of controller, federal regulations or FERC interpretations, the examiner shall ascertain whether the particular enhancement technique involved in the determination is a recognized technique.

(d) General. The examiner shall treat any petition or application for determination that production in excess of an average of 60 mcf per production day for any 90-day production period was due to enhanced recovery techniques or to seasonal fluctuations as if it were an application for an initial determination under Rule 36-3.18(20)-\$18500.

4. The reason for the rules is as follows:

- a. The Natural Gas Policy Act of 1978 authorizes the state

agency having regulatory jurisdiction with respect to the production of natural gas to make certain determinations under the Act.

b. The Federal Energy Regulatory Commission has taken the position that the state agency should make such determinations on private and state lands within their respective states and has adopted rules and regulations governing such determinations by state agencies.

c. The Montana Board of Oil and Gas Conservation is the state agency having regulatory jurisdiction with respect to natural gas production in Montana and is authorized to make such determinations under the Natural Gas Policy Act.

d. Montana producers of natural gas are required to make application to the Board and receive a positive determination from the Board prior to charging the higher prices for natural gas production authorized under the Act.

e. The Act and rules and regulations adopted by the Federal Energy Regulatory Commission allow the retroactive collection of the prices authorized by the Act back to December 1, 1978, if the state determination procedure is functioning prior to March 1, 1979.

f. The retroactive collection of the authorized prices will substantially benefit the people of Montana by providing increase revenue through taxes and through royalties to the state and individual citizens.

5. Interested persons may submit their data, views or arguments concerning the proposed adoption to Mrs. Dee Rickman, Assistant Administrator, Oil and Gas Conservation Division, Department of Natural Resources and Conservation, 32 So. Ewing, Helena, Montana 59601 on or before June 7, 1979.

6. If a person directly affected wishes to express his data, views or arguments orally or in writing at a public hearing and submit his request along with any written comments to the above described office on or before June 7, 1979.

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

8. The authority of the Board to make the proposed adoption of the rules is based on Section 4, Chapter 19, Laws of Montana, 1979. Implementation is based upon Section 4, Chapter 19, Laws of Montana, 1979.

  
ASSISTANT ADMINISTRATOR  
OIL AND GAS CONSERVATION DIVISION

Certified to the Secretary of State, May 1, 1979.

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

IN THE MATTER of the Proposed)  
Amendment of ARM 40-3.14(10)-)  
S14030 sub-sections (1) and )  
(3)(a) concerning weights and )  
classes. )

NOTICE OF PROPOSED AMENDMENT  
OF ARM 40-3.14(10)-S14030  
SUB-SECTIONS (1) AND (3)(a)  
WEIGHTS AND CLASSES

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On June 9, 1979, the Board of Athletics proposes to amend ARM 40-3.14(10)-S14030 sub-sections (1) and (3)(a) concerning weights and classes for boxing bouts.

2. The amendment to sub-section (1) of the above stated rule as proposed will read as follows: (new matter underlined, deleted matter interlined)

"(1) The following limitations or weights are placed on all boxing bouts:

Between Junior Flyweights.....(109 lbs.),	4 3 lbs.
Between Flyweights.....(112 lbs.),	4 3 lbs.
Between Junior Bantamweights..(115 lbs.),	5 3 lbs.
Between Bantamweights.....(118 lbs.),	6 3 lbs.
Between Junior Featherweights.(122 lbs.),	6 3 lbs.
Between Featherweights.....(126 lbs.),	7 3 lbs.
Between Junior Lightweight... (130 lbs.),	9 3 lbs.
Between Lightweight.....(135 lbs.),	11 3 lbs.
Between Junior Welterweights..(140 lbs.),	11 3 lbs.
Between Welterweights.....(147 lbs.),	11 3 lbs.
Between Middleweights.....(160 lbs.),	13 3 lbs.
Between Light Heavyweights....(175 lbs.),	13 3 lbs.
Between Cruiser Weights.....(175-190 lbs.),	3 lbs.

Heavyweights, all over 175 lbs..(no limitation)

Only 3 lbs. overweight will be allowed from Junior Flyweights to Light Heavyweights and including Cruiserweights, Heavyweights - no limitations.

\* For example, a flyweight weighing 110 lbs, could not box an opponent weighing over 114-113; if he weighed 112 lbs., his opponent could not exceed 116-115, etc."

3. The Board is proposing the change as the World Boxing Council took action effective May 1, 1979 to allow this new weight class. The allowance of only 3 pounds overweight is to comply with the allowances of the World Boxing Council and the World Boxing Association.

4. The amendment of sub-section (3)(a) of the above stated rule as proposed will read as follows: (deleted matter interlined)

"(3)..(a) Inspectors must file, within twenty-four hours after a bout has been held, a report of the weights of the contestants at the hour of their physical examination. Contestants failing to appear for weighing and examination, as specified by rule, ~~at three o'clock when the exhibition is to be held in the evening and 10:00 A.M. when the exhibition is~~

~~to-be-held-in-the-afternoon~~, must be reported to the Board and may be suspended not to exceed one year for non-appearance."

5. The Board is proposing this change as they feel the language to be deleted is obsolete.


6. Interested parties may submit their data, views or arguments concerning the proposed amendments of the rule in writing to the Board of Athletics, Lalonde Building, Helena, Montana 59601, no later than June 7, 1979.

7. If a person who is directly affected by the proposed amendments 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 Athletics, Lalonde Building, Helena, Montana 59601 no later than June 7, 1979.

8. If the Board receives requests for a public hearing on the proposed amendments from more than 10% of those persons who are directly affected by the proposed amendments, or from the Administrative Code Committee of the Legislature, 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 4 persons based on the 40 persons boxing in any weight class in Montana.

9. The authority of the Board to make the proposed amendments is based on section 23-3-102 MCA (82-301 R.C.M. 1947). The proposed amendments implement section 23-3-103 MCA (82-303 R.C.M. 1947).

BOARD OF ATHLETICS  
PATRICK J. CONNORS, CHAIRMAN

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

Certified to the Secretary of State, May 1, 1979.

9-5/10/79

MAR Notice No. 40-3-14-9

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

IN THE MATTER of the Proposed)  
Amendment of ARM 40-3.30(9)- )  
S30145 sub-sections (1) and )  
(2) Licenses )

NOTICE OF PROPOSED AMENDMENT  
OF ARM 40-3.30(9)-S30145  
(1) and (2) LICENSES

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On June 9, 1979, the Board of Cosmetologists proposes to amend ARM 40-3.30(9)-S30145 concerning licenses for electrolysis.

2. The amendment to ARM 40-3.30(9)-S30145 adds a new sub-section (1), adds a new sub-section (a), changes the current number (a) to (i) and amends it; deletes the current sub-section (2) and replaces it with a new sub-section (b) and (i); rennumbers the present (3) and (4) as (2) and (3) and will read as follows: (new matter underlined, deleted matter interlined)

"(1) License without examination:

(a) Electrified Needle.

~~(a)-(1)~~ Any person who is currently licensed to practice electrolysis with an electrified needle in another state, by the appropriate state board of that state may at the discretion of the State Board of Cosmetologists in this state, be licensed to practice in this state without examination.

~~(2)--The Electrology-salon-and-operator's-license will have the same format and appearance as a regular cosmetology-salon-and-operator's-license--~~

(b) Electrified Tweezer.

(i) Any person who is currently licensed to practice electrolysis or cosmetology in another state by the appropriate state board of that state, and who, in addition thereto, provides proof of training and/or experience in the medical profession, may, at the discretion of the Montana State Board of Cosmetologists, be licensed to practice without examination."

3. The Board is proposing the amendment to implement legislative amendment of Section 37-32-102 MCA (66-3602 R.C.M. 1947), sub-sections (1) through (4) and clearly define the requirements for applying for an electrolysis license, by use of an "electrified needle" or "electrified tweezer".

4. Interested parties may submit their data, views or arguments concerning the proposed amendment of the rule in writing to the Board of Cosmetologists, Lalonde Building, Helena, Montana 59601, no later than June 7, 1979.


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 Cosmetologists, Lalonde Building, Helena, Montana 59601, no later than June 7, 1979.

6. If the Board receives requests for a public hearing on the proposed amendment from more than 10% of those persons who are directly affected by the proposed amendment, or from the Administrative Code Committee of the Legislature, 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 4 persons based on the possible 40 persons in the state using electrolysis techniques.

7. The authority of the Board to make the proposed amendment is based on section 37-32-201 MCA (66-3607 R.C.M. 1947).

BOARD OF COSMETOLOGISTS  
JUNE BAKER, PRESIDENT

BY:

  
ED CARNEY, DIRECTOR  
DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, May 1, 1979.

STATE OF MONTANA  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING  
BEFORE THE BOARD OF LANDSCAPE ARCHITECTS

IN THE MATTER OF the Proposed) NOTICE OF PROPOSED AMENDMENT  
Amendment of ARM 40-3.48(6) - ) OF ARM 40-3.48(6)-S48000 FEES  
S48000 Fees Schedule, sub- ) SCHEDULE, SUB-SECTION (3)  
section (3) )

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On June 9, 1979, the Board of Landscape Architects proposes to amend ARM 40-3.48(6)-S48000 sub-section (3) concerning fees for landscape architects.

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

"(3) Landscape Architects Fee Schedule:

Application (not included in examination fees)	\$50-00-75.00
Certificate (license)	\$25-00 35.00
Examination (full) (effective after 7/1/76)	\$100-00 120.00
Examination (per section) (effective after 7/1/76)	\$20-00 30.00

License Renewal

Duplicate Certificate

Stamps - Seals

\$60-00 90.00

\$-5-00-35.00

\$25.00"

3. The Board is proposing the amendment because they were just re-established by the Legislature following the Sunset Audits, and having a bare-bones appropriation, the Board is faced with financial crisis. Increased administrative costs and small membership necessitate augmented revenue in the future.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment of the rule in writing to the Board of Landscape Architects, Lalonde Building, Helena, Montana 59601, no later than June 7, 1979.

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 Landscape Architects, Lalonde Building, Helena, Montana 59601, no later than June 7, 1979.

6. If the Board receives requests for a public hearing on the proposed amendment from more than 10% of those persons who are directly affected by the proposed amendment, or from the Administrative Code Committee of the Legislature, 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 6 persons based on the 66 landscape architects licensed in Montana.

7. The authority of the Board to make the proposed amendment is based on section 37-66-202 MCA (82A-1602.30 R.C.M. 1947). The amendment implements section 37-66-307 MCA (66-3807 R.C.M. 1947).

MAR NOTICE NO. 40-3-48-4

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BOARD OF LANDSCAPE ARCHITECTS  
DICK MAYER, PRESIDENT

BY:

  
ED CARNEY, DIRECTOR  
DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, May 1, 1979.

9-5/10/79

MAR Notice No. 40-3-48-4

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PROPOSED REPEAL  
repeal of a rule and the adop- ) OF RULE 1.2.100 CODE FORMAT--  
tion of new rules pertaining ) PREPARATION INSTRUCTIONS and  
to the ARM format ) THE ADOPTION OF NEW RULES I  
 ) THROUGH XII PERTAINING TO  
 ) THE SAME SUBJECT.  
 ) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On June 9, 1979, the Secretary of State proposes to repeal a rule and adopt new rules in Title 1, Chapter 2 of the Administrative Rules of Montana. These rules pertain to format procedures.

2. The rule proposed to be repealed is found on pages 1-22.3B through 1-22.8 of the ARM.

3. The Secretary of State proposes to repeal this rule and transfer the language into individual new rules that pertain to the format in specific areas of the ARM. From experience, comments and suggestions received, it is felt that this rule should be broken down into new rules, in outline form, and with an example included in some rules.

Since these new format rules contain the transferred language from the repealed rule listed above and are quite lengthy, they will not be published in the Montana Administrative Register. They will be mailed to rulemaking agencies and other interested persons upon request.

4. Interested parties may submit their data, views or arguments concerning the repeal or adoption of these rules in writing to Leonard Larson, Chief Deputy, Room 202, Capitol Building, Helena, Mt. 59601, by June 7, 1979.

5. The authority of the department to make the proposed amendment is based on section 2-4-306 MCA, IMP 2-4-306 MCA. (Sec. 82-4205, R.C.M. 1947).

Dated this first day of May, 1979

  
FRANK MURRAY  
Secretary of State

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PROPOSED NEW RULES
adoption of new rules regard-	)	REGARDING RECODIFICATION OF
ing recodification of ARM and	)	ARM AND AMENDMENT OF 1.2.111
the amendment of 1.2.111	)	REGARDING ANNUAL REVIEW
Annual Review of Rules by	)	
Agency.	)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On June 9, 1979, the Secretary of State proposes to adopt new rules and amend a rule in Title 1, Chapter 2 of the Administrative Rules of Montana.

2. The new rules proposed to be adopted will facilitate the recodification of the Administrative Rules of Montana (ARM) which must be accomplished by July 1980. The rule to be amended changes an annual review of the ARM to a biennial review.

3. The proposed amended rule will read as follows: (matter to be stricken is interlined, new matter underlined):

1.2.111 ANNUAL BIENNIAL REVIEW OF RULES BY AGENCY (1) As provided in Section 82-4204(6), R.C.M.-1947 2-4-314 MCA, each agency shall at least ~~annually~~ biennially review its rules to determine if any new rule should be adopted or any existing rules should be modified or repealed. A schedule will be set up by the secretary of state's office and each department will be informed when their its annual biennial review should be conducted. ~~During the annual review agencies are requested to eliminate decimal point pages where possible, shorten histories as provided in ARM-1.2.050 and submit updated index and cross reference tables. Annual review is the ideal time to convert the entire title or chapters of at least fifty pages to the new numbering system. Refer to 1.2.030.~~

(2) During biennial review, all the rules that have been repealed since an agency has recodified its title, will be deleted from their location in the body of the rules and from the sub-chapter table of contents. The rule number, the page number of the rule section of the Montana Administrative Register on which the rule was repealed, and the effective date of the repeal, will be placed on a repealed rule table that will be inserted in each title.

The proposed new rules read as follows:

RULE I RECODIFICATION OF THE ADMINISTRATIVE RULES OF MONTANA (ARM) (1) Prior to July 1, 1980, agencies shall recodify all the rules of a general and permanent nature appearing in the ARM, prepare them for publication and refile them in correct format and style with the secretary of state. The following changes will be accomplished during recodification:

Language in quotation marks is taken from Senate Bill 164, Chapter 600, Laws of 1979:

(2) "Recodify" means to compile, rearrange, and prepare for publication. It includes without changing the meaning, effect, or intent of any rule:

(a) correcting or changing punctuation, capitalization, spelling, or grammatical construction and numbering as required by uniform literary and rule-drafting practice;

(b) substituting the appropriate MCA reference for reference to a section of, to a chapter of, or to an entire division of the R.C.M.;

(c) substituting the calendar date for 'effective date', 'hereafter', and similar terms;

(d) creating new titles, chapters, subchapters, sections, or other divisions of ARM;

(e) changing or creating catchlines to clearly reflect the content of the section;

(f) changing or inserting language as made necessary because of rearrangement;

(g) eliminating redundant words;

(h) when given direction or authority by a statute or another ARM section, correcting inaccurate or obsolete references to:

(i) titles of officers or agencies, such as those changed by executive reorganization statutes or subsequent interagency reorganizations;

(ii) other ARM or R.C.M. sections, such as those which have been repealed or repealed and replaced;

(i) changing inaccurate terminology to comply with statutory or rule definitions or short-form amendments;

(j) renumbering all ARM rules in the new three-part numbering system;

(k) eliminating unnecessary information in the history of ARM rules;

(l) reserving blocks of page numbers in ARM where growth has been consistent in the past or future growth is anticipated;

(m) providing the secretary of state with an 'old to new' numbering table to be filed in front of each title;

(n) removing all repealed rules from ARM and listing them on the 'old to new' numbering table."

(3) "The effective date of the recodification is the date of the replacement page issue."

(4) "Effect of recodification and refiling. The rules in ARM that are recodified and refiled pursuant to" Rules I, II, III, IV "shall be given effect as a continuation of the rules in ARM as they exist on April 22, 1979 and not as a new adoption. A rule that is invalid, in whole or in part, on April 22, 1979 is not rendered valid by the process of recodification and refiling."

RULE II SCHEDULE FOR SUBMITTING RECODIFIED PAGES

(1) Due to the volume of existing pages involved in recodifying the Administrative Rules of Montana (ARM), "the secretary of state will set a schedule requiring an agency to recodify and refile its rules in chapter increments and prescribing the number of recodified pages to be submitted by each agency to the secretary of state at each scheduled date for replacement pages during the period beginning April 22, 1979 and ending on July 1, 1980."

(2) "Each agency shall submit a schedule to the secretary of state listing the chapter names, chapter numbers and page numbers in its title that will be recodified and refiled to meet the requirements" listed in paragraph (1), above.

(3) (a) Due to the time constraint placed on recodification of the Administrative Rules of Montana by July 1, 1980, by Senate Bill 164, Chapter 600, Laws of 1979, at least a portion of the existing pages of each title must be recodified and refiled by the first replacement date scheduled June 30, 1979.

(b) Chapter 1, which contains each department's organizational rule and charts, has been chosen to begin the recodification process. This chapter contains only one rule which is numbered (title no.) 1.101 and the beginning page number is (title no.) -1. It must be updated, recodified and refiled with the secretary of state by June 30, 1979, or earlier.

(4) If an agency has recodified other pages in chapter(s) increments, they may be refiled by June 30, 1979, or earlier.

(5) Sufficient time must be allotted by August 30, 1979 by each department to thoroughly review its chapters, rearrange if necessary, and submit to the secretary of state, the title's chapter table of contents which indicates the chapter numbers, names and the beginning page number of each chapter. This table is needed to furnish the subscribers to the Administrative Rules of Montana the insertion and removal instructions of the replacement pages.

(6) Early in August, 1979, the secretary of state will forward the person serving as liaison from each department, a form stating the number of pages expected to be recodified and refiled by that department by September 30, 1979. This form must be certified and returned by August 30, 1979 with the input from that department as to the chapter numbers, chapter names and number of pages that were chosen to be recodified and refiled to meet the requirements listed on the form. This will be the procedure followed for each replacement page date scheduled as listed below:

<u>Date form to be returned by designated person</u>	<u>Date recodified pages due to be refiled with secretary of state (an earlier submission, if possible, would be appreciated)</u>
August 30, 1979	September 30, 1979
November 30, 1979	December 31, 1979
February 29, 1980	March 31, 1980
May 31, 1980	June 30, 1980 (last replacement date to complete recodification)

(7) The number of pages prescribed for the four remaining replacement dates will be approximately 1/4 of the existing pages, along with the usual number of replacement pages that reflect rule changes that have appeared in the register for the past three months. Since we are accepting recodified pages in chapter increments only, the rule change replacement pages will not be recodified unless they are being placed in the chapters being recodified or that have already been recodified.

RULE III VALIDITY OF RULES IF PAGES SPECIFIED ON AGENCY'S SCHEDULE ARE NOT SUBMITTED BY DATE SPECIFIED (1) The schedule that an agency submits to the secretary of state's office which indicates the chapter names, chapter numbers and page numbers in its title that will be recodified and refiled by a specified date will serve as a check list to determine if all chapter names, chapter numbers and page numbers are so recodified and refiled by that specified date.

(2) "The validity of the rules that are not refiled by the scheduled date is suspended on that date. Such suspended rules may be recodified and refiled with the secretary of state by the next scheduled replacement page date, and if so recodified and refiled they become valid and effective on that date. If such suspended rules are not so recodified and refiled by that date, they are permanently invalid and may be revived only by fulfilling all requirements of the Montana Administrative Procedure Act relating to rulemaking in the same manner as new rules proposed for adoption."

RULE IV OFFICIAL REPORT OF THE RECODIFICATION OF TITLE

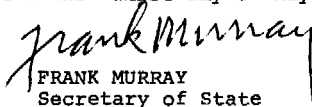
(1) "Prior to September 1, 1980, each agency shall prepare and submit to the secretary of state a report which must be certified by the agency as the Official Report of the Recodification of Title. The report must explain and indicate, in tabular or other form, all changes made during recodification, other than the changes listed in Rule I, (2)(a) through (e) and (2)(j) through (n) to clearly indicate the character of and rationale for each change.

(2) The report must be made available by the secretary of state on request and at a fee set by Sec. 2-6-103 MCA.

4. Since the format and general provisions are not substantive rules, a public hearing thereon is not required under Sec. 2-4-302 MCA. Interested persons may, until June 7, 1979, comment in writing on the proposed changes, addressing their comments to Leonard Larson, Room 202, Capitol Building, Helena, Montana 59601.

5. The authority of the secretary of state to make the proposed new rules and amend rules is based on Sec. 2-4-306, Imp. Sec. 2-4-306 MCA.

Dated this first day of May, 1979

  
FRANK MURRAY  
Secretary of State

BEFORE THE COMMISSIONER OF CAMPAIGN  
FINANCES AND PRACTICES OF  
THE STATE OF MONTANA

In the matter of the repeal of ) NOTICE OF PROPOSED REPEAL  
rules ARM 44-3.10(6)-S1041, 44- ) AND AMENDMENT OF RULES,  
3.10(6)-S1070, 44-3.10(6)-S1081, ) relating to the Montana  
44-3.10(6)- S1086, 44-3.10(10)- ) Campaign Finances and  
S10130, 44-3.10(10)-S10160, 44- ) Practices Act. NO PUBLIC  
3.10(10)-S10180 through 44-3.10 ) HEARING COMTEMPLATED.  
(10)-S10200, 44-3.10(10)-S10230, )  
and 44-3.10(10)-S10390 through )  
44-3.10(10)-S10410; and amending )  
rules relating to campaign fi- )  
nances and practices. )

TO: All interested persons

1. On July 1, 1979, the Commissioner of Campaign Finances and Practices proposes to repeal the above noticed rules which are found on pages 44-22, 44-24, 44-25, 44-29, 44-31 through 44-34, 44-41, and 44-42 of the Administrative Rules of Montana. The repeals are proposed to eliminate language which is now redundant due to recent amendments to the Montana Campaign Practices Act which incorporate the rule language into the statutes. The substantive language of repealed ARM 44-3.10(6)-S1070 is incorporated by amendment into 44-3.10(10)-S10330, and subsection (3) of ARM 44-3.10(10)-S10130 is incorporated into 44-3.10(10)-S10125 in order to provide clarity and eliminate redundant language. No substantive changes are intended.

2. The proposed amendments provide as follows (stricken material is interlined, new material is underlined):

44-3.10(2)-P1010 INCORPORATION OF MODEL RULES, IN PART

(1) The Commissioner of Campaign Finances and Practices herein adopts and incorporates the Attorney General's Model Procedural Rules ~~1-through-12-by-reference-to-such-rules-as stated-in-MAC-1-1.6(2)-P650-through-MAC-1-1.6(2)-P6060-and-the Attorney-General's-Model-Procedural-Rules-28-through-34-by reference-to-such-as-stated-in-MAC-1-1.6(2)-P6220-through-MAC 1-1.6(2)-P6280~~ Introduction through rule 7 by reference to such rules as stated in ARM 1-1.6(2)-P650 through 1-1.6(2)-P6010 and the Attorney General's Model Procedural Rules 22 through 24 by reference to such as stated in ARM 1-1.6(2)-P6170 through ARM 1-1.6(2)-P6200 in cases when a formal declaratory ruling proceeding is requested by a person through the filing of a petition as prescribed in ~~MAC-1-1.6(2)-P6230~~ ARM 1-1.6(2)-P6170. In all other cases, the Commissioner will issue declaratory rulings, designated as "advisory opinions" under the following procedure:

(a) (balance of rule remains the same )

Implement: section 2-4-201, MCA (§82-4203(1)(a), R.C.M. 1947.)

MAR Notice No. 44-3-10-12

9-5/10/79



44-3.10(6)-S1060 CONTRIBUTION-DEFINITION (1) (same as existing rule).

(2) (same as existing rule).

~~(3)---The-term-"contribution"-does-not-include-~~

~~(a)---Filing-fees-paid-for-by-the-candidate-~~

~~(b)---Interest-on-monies-deposited-in-a-campaign-depositary-~~

~~(c)---The-cost-of-any-bona-fide-news-story-commentary-or editorial-distributed-through-the-facilities-of-any-broadcasting-station-newspaper-magazine-or-other-periodical publication-of-general-circulation-~~

~~(d)---The-cost-of-any-communication-by-any-membership-organization-to-its-members-so-long-as-such-organization-is-not a-primary-political-committee-~~

Implement: section 13-1-101(3), MCA (§23-4777(5), R.C.M. 1947)

44-3.10(6)-S1080 EXPENDITURE-DEFINITION (1) For the purposes of Title 13, chapters 35, 36, and 37, MCA, and these rules, the term "expenditure" as defined in section 13-1-101 (7), MCA, includes, but is not limited to:

(a) (remains the same)

(b) (remains the same)

(c) Expenses incurred in support of or opposition to the drafting, printing, distribution and collection of signatures for any petition for nomination or a statewide ballot issue.

(d) (remains the same)

(e) (remains the same)

(f) (remains the same)

~~(2)---The-term-"expenditure"-does-not-include-~~

~~(a)---Filing-fees-paid-for-by-the-candidate-~~

~~(b)---The-costs-of-any-bona-fide-news-story-commentary-or-editorial-distributed-through-the-facilities-of-any-broadcasting-station-newspaper-magazine-or-other-general-periodical-publication-of-general-circulation-~~

~~(c)---The-cost-of-any-communication-by-any-membership-organization-to-its-members-so-long-as-such-organization-is-not a-primary-political-committee-~~

Implement: section 13-1-101(7), MCA (§23-4777(7), R.C.M. 1947)

44-3.10(6)-S1090 POLITICAL COMMITTEE-DEFINITION (1) ~~For-the-purposes-of-the-definition-of-"political-committee"-as defined-in-section-23-4777(8),-any-combination-of-two-or-more individuals,-or-a-person-other-than-an-individual,-is-a-political-committee-if-it-makes-an-expenditure-~~

~~(a)---To-or-on-behalf-of-a-candidate-or-a-committee-organized-to-support-or-oppose-a-candidate,-or~~

~~(b)---To-support-or-oppose-a-ballot-issue-or-a-petition for-nomination,-or~~

~~(c) -- To a committee organized to support or oppose a ballot issue or a petition for nomination or~~

~~(d) -- As an earmarked contribution.~~

~~(i) -- Any combination of two or more individuals, or a person other than an individual, who receives an expenditure which is made in a manner as specified in subsection (1)(a) through (d), is a political committee and must report it as a contribution.~~

~~(2) -- The fact that the identity and/or number of specific candidates or issues to support or oppose has not been determined at the time of the formation of any political committee does not exclude it from the definition of political committee.~~

(1) "Political committee" is defined in section 13-1-101(14), MCA.

~~(3)~~ (2) A candidate and his or her campaign treasurer do not constitute a political committee. The campaign treasurer, while performing the statutory duties of a campaign treasurer, is the agent of the candidate.

(4) (3) If a political committee has subdivisions within the state, such as county committees, which have authority to receive contributions and make expenditures independent of the parent political committee, each subdivision is considered a separate political committee for purposes of Title 13, chapters 35, 36, and 37, MCA, and these rules.

Implement: section 13-1-101(12), MCA (§23-4777(8), R.C.M. 1947.)

44-3.10(10)-S10120 REPORTS AND STATEMENTS, FILING

(1) (remains the same)

(2) (remains the same)

(a) (remains the same)

(b) Each statement and report filed shall be a legible ~~notarized~~ copy bearing an original signature of the individual filing the statement or report.

(c) (balance of rule remains the same)

Implement: section 13-37-231(1), MCA (§23-4780(1), R.C.M. 1947.)

44-3.10(10)-S10125 AMENDMENTS TO REPORTS AND STATEMENTS, REPORTING

(1) Amendments correcting a report filed pursuant to sections 13-37-225 and 13-37-226, MCA, for a previous reporting period shall be filed with the next report following the date ~~of the event prompting the change in reported information or the date~~ upon which the person filing the report became aware of the inaccuracy. The ~~change or~~ correction shall identify the reporting period, ~~form~~, and schedule, and ~~section~~ containing the information to be ~~changed or~~ corrected and the reason for the ~~change or~~ correction.

(2) "Reporting period" is defined in ARM 44-3-10(10)-610200. Any material change in information previously submitted in a Statement of Candidate or Statement of Organization filed pursuant to sections 13-37-201 or 13-37-205, MCA, shall be reported by filing an amended statement with the appropriate filing officers within five (5) days after the change.

Authority: sections 13-37-229(10) and 13-37-230(7), MCA (§23-4779(16), R.C.M. 1947.)

Implement: sections 13-37-201, MCA (§23-4781(1), R.C.M. 1947); 13-37-202(1), MCA (§23-4781(2), R.C.M. 1947); 13-37-204, MCA (§23-4781(5), R.C.M. 1947); 13-37-205, MCA (§23-4781(6), R.C.M. 1947.)

44-3.10(10)-S10150 AFFIDAVIT BY LOCAL CANDIDATE OR POLITICAL COMMITTEE NOT ANTICIPATING CONTRIBUTIONS OR EXPENDITURES IN EXCESS OF FIVE HUNDRED DOLLARS (\$500) (1) For the purposes of section 23-4778(5), "an election" means all elections in a campaign in which a candidate or political committee participates by receiving contributions or making expenditures.

{2} If a local candidate or a political committee, regardless of the number of local candidates or issues it is supporting or opposing, which is specifically organized to support or oppose a particular local candidate or issue anticipates receiving contributions in a total amount of less than five hundred dollars (\$500) and anticipates expending funds in a total amount of less than five hundred dollars (\$500) for an election, the candidate or an officer of the political committee shall file an affidavit of such intent at the same time the Statement of Candidate or Statement of Organization is filed as required by ARM 44-3-10(10)-S10130 sections 13-37-201 and 13-37-205, MCA.

{3} (2) (balance of rule remains the same)

Implement: section 13-37-226(3), MCA (§23-4778(5), R.C.M. 1947.)

44-3.10(10)-S10240 TRANSFER OF CONTRIBUTION TO CAMPAIGN TREASURER (1) Any candidate or agent of any candidate or political committee who receives a contribution on behalf of his a candidacy candidate or political committee shall, before the end of the fifth day, transfer it to the campaign treasurer with full disclosure of the source, as required by section 13-37-229, MCA, and ARM 44-3.10(10)-S10300 and ARM 44-3.10(10)-S10220.

~~(2) -- Any officer or agent of any political committee who receives a contribution on behalf of the political committee shall, before the end of the fifth day, transfer it to the campaign treasurer with full disclosure of the source, as required by section 23-4779 and ARM 44-3.10(10)-610300 and 44-3.10(10)-610220.~~

Implement: section 13-37-207, MCA (§23-4782, R.C.M. 1947); section 13-37-208(1), MCA (§23-4783(1), R.C.M. 1947); section 13-37-229, MCA (§23-4779, R.C.M. 1947.)

44-3.10(10)-610250 CONTRIBUTIONS, REPORTING (1) A contribution ~~is made~~ becomes a contribution on the date when it is received; or, in the case of an in-kind contribution, on the date the consideration is received by the candidate or political committee.

~~(2) -- For the purposes of section 23-4778(3)(a) and (4)(a), the term "after the last pre-election report" means the period beginning with the day after the closing date of books for the last report before an election and ending with and including the day before the election.~~

~~(3) (2) For the purposes of section 23-4778(3)(a), (4)(a), and (5) 13-37-226(1)(a) and (2)(a), MCA, the report required to be filed within twenty-four (24) hours at any time after the last pre-election report shall be filed as follows:~~

~~(a) (remains the same)~~

~~(b) It shall be deposited within twenty-four (24) hours after the receipt thereof, Sundays and holidays excepted, as certified mail in an established U. S. Post Office, postage pre-paid; and~~

~~(c) It shall be reported in the next required report.~~

~~44) (3) A joint contribution received by check drawn on a joint checking account shall be deemed and reported as a contribution from each of the person signing the check contributors in an amount proportional to the total number of contributors, unless otherwise specified in writing by the contributors at the time of the contribution is received.~~

~~(5) (4) In the case of property held jointly by a candidate and another, a contribution therefrom will be presumed to be a contribution from the candidate of the candidate's personal property so long as the property was owned jointly prior to the time that the candidate became a candidate as defined in section 13-1-101(2), MCA and applicable regulations.~~

~~46) (5) A contribution shall be reported on the date and for the reporting period during which it is received made.~~

Authority: section 13-37-229(10), MCA (§23-4779(16), R.C.M. 1947)

Implement: section 13-37-226(1)(a) and (2)(a), MCA (§23-4778(3)(a) and (4)(a), R.C.M. 1947); section 13-37-229, MCA (§23-4779, R.C.M. 1947.)

44-3.10(10)-S10330 AGGREGATE CONTRIBUTIONS, ~ DEFINITION, REPORTING (1) For the purposes of ~~section~~ sections 13-37-229 and 13-37-216, MCA, the term "aggregate contributions" means ~~a~~ the total of all of the following contributions made by or received from a person for all elections in a campaign:

(a) All contributions, as defined in ARM 44-3.10(6)-S10607, ~~made-by-a-person-to-a-candidate-or-political-committee~~

(b) All earmarked contributions, as defined in ARM 44-3.10(10)-S10300, subsection (1), ~~made-by-a-person-to-a-candidate-or-political-committee-ultimately-intended-to-receive them.~~

(c) All expenditures encouraged in order to avoid a contribution, as specified in ARM 44-3.10(10)-S102907, ~~made-in connection-with-a-campaign.~~

(2) For purposes of section 13-37-216, MCA, a contribution to a multi-candidate principal campaign committee is considered a contribution to each of the candidates in an amount proportional to the total number of candidates, unless otherwise specified in writing by the contributor at the time the contribution is received.


Authority: section 13-37-229(10), MCA (§23-4779(16), R.C.M. 1947.)

Implement: section 13-37-216, MCA (§23-4795, R.C.M. 1947); section 13-37-229(2), MCA (§23-4779(2), R.C.M. 1947.)

3. The amendments are proposed to (1) edit the rules for style and grammar, and (2) eliminate language which is now redundant due to recent amendments to the Montana Campaign Practices Act in which the language is substantially duplicated. No substantive change in the law is intended.

4. Interested parties may submit their views, data, or arguments in writing to JOHN N. HANSON, Commissioner of Campaign Finances and Practices, Capitol Station, Helena, Montana 59601, no later than June 7, 1979. Under the circumstances, the Commissioner estimates that no one is materially affected by the proposed amendments, but if 25 or more persons request a hearing in writing, no later than June 9, 1979, a hearing will be held at a later date.

5. The authority of the Commissioner to repeal rules and make the proposed amendments is found in section 13-37-114, MCA (§23-4786(14), R.C.M. 1947.) Any additional authorities and implementing sections for amended rules are noted following each rule.

  
JOHN N. HANSON  
Commissioner of Campaign  
Finances and Practices

Certified to the Secretary of State May 1, 1979.

9-5/10/79

MAR Notice No. 44-3-10-12

BEFORE THE COMMISSIONER OF CAMPAIGN  
FINANCES AND PRACTICES OF  
THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PUBLIC HEARING FOR  
of rule ARM 44-3.10(6)-S10100, ) THE PROPOSED AMENDMENT OF  
which describes various types ) RULE ARM 44-3.10(6)-S10100  
of political committees under )  
the Montana Campaign Practices )  
Act )

TO: All interested persons

1. On May 31, 1979, at 10:00 o'clock a.m., a public hearing will be held in room 413 of the State Capitol Building, Helena, Montana, to consider the amendment of rule ARM 44-3.10(6)-S10100.

2. The proposed amendment substantially replaces present rule 44-3.10(6)-S10100, found on page 44-26 of the Administrative Rules of Montana. The proposed amendment would revise the Commissioner's internal procedures regarding the classification of political committees.

3. The rule as proposed to be amended provides as follows (stricken material is interlined, new material is underlined):

44-3.10(6)-S10100 POLITICAL COMMITTEE, TYPES (1) For purposes of Title 13, chapters 35, 36, and 37, MCA, and these rules, political committees shall be of two three types:

(a) Primary Principal campaign political committee.

(b) Independent committee.

(c) Incidental political committee.

(2) These types of political committees are defined as follows:

(a) A primary-political principal campaign committee is a combination-of-two-or-more-individuals-or-a-person-other-than-an-individual-the-primary-purpose-of committee which is specifically organized to support or oppose a particular candidate and/or or issue or-to-influence-the-result-of-an-election-by-any-expenditure-made-on-behalf-of-a-candidate,-issue,-or-political-committee.

(i)--"Primary-purpose"-shall-be-determined-upon-such criteria-as-allocation-of-budget,-staff-or-member's-activity,-and-the-statement-of-purpose-or-goals-of-the-individuals-or person.

(b) An independent committee is a committee which is not specifically organized to support or oppose any particular candidate or issue but one which is organized for the primary purpose of supporting or opposing various candidates and/or issues over a continued period of time. For example, political party committees are independent committees.

~~(b)~~ (c) An incidental political committee is an independent committee a combination of two or more individuals, or a person other than an individual, an incidental purpose of which is to not organized or maintained for the primary purpose of influencing elections but which may incidentally become a political committee by reason of making a contribution or expenditure to support or oppose a candidate and/or issue or to influence the result of an election by any expenditure made on behalf of a candidate, issue, or political committee. For example, a business firm or a partnership which makes an expenditure to support or oppose an issue is an incidental committee.

~~(2)~~ (3) "Incidental Primary purpose" shall be determined upon such criteria as allocation of budget, staff or member's activity, and the statement of purpose or goals of the individuals or person.

4. The agency is proposing this amendment because recent amendments to the Campaign Practices Act make the classification of political committees significant for purposes of filing reports, and the proposed amendment clarifies the standards under which committees will be classified.

5. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing, or may address comments in writing to JOHN N. HANSON, Commissioner of Campaign Finances and Practices, Capitol Station, Helena, Montana 59601, no later than June 7, 1979.

6. Jack J. Lowe, % Commissioner of Campaign Finances and Practices, Capitol Station, Helena, Montana 59601, has been designated to preside over and conduct the hearing.

7. The authority of the Commissioner to make the proposed amendment is based on section 13-37-114, MCA (§23-4786(14), R.C.M. 1947.) Implement: section 13-1-101(12), MCA (§23-4777(8), R.C.M. 1947); section 13-37-226(5), MCA (§23-4780(3), R.C.M. 1947.)

In the matter of the amendment )	NOTICE OF PUBLIC HEARING FOR
of rule ARM 44-3.10(10)-S10170,) )	THE PROPOSED AMENDMENT OF
which prescribes a schedule for) )	RULE ARM 44-3.10(10) S10170
the filing of reports by inci-) )	
dental political committees )	
under the Montana Campaign )	
Practices Act )	

TO: All interested persons

1. On May 31, 1979, at 10:00 o'clock a.m., a public hearing will be held in room 413 of the State Capitol Building, Helena, Montana, to consider the amendment of rule ARM

9-5/10/79

MAR Notice No. 44-3-10-13

44-3.10(10)-S10170.

2. The proposed amendment would prescribe a slightly different schedule for the filing of reports by incidental political committees, but in most cases would not mean the filing of any additional reports.

3. The rule as proposed to be amended provides as follows (stricken material is interlined, new material is underlined):

44-3.10(10)-S10170 INCIDENTAL POLITICAL COMMITTEE, FILING SCHEDULE, REPORTING (1) An incidental political committee shall file reports according to the schedule set forth in section 13-37-226(4)(a) and (b), except that it shall file reports only for the reporting periods in which it makes contributions or expenditures to or on behalf of a candidate, issue, or political committee or for the purpose of directly or indirectly influencing the result of an election.

(2) If an incidental committee makes a contribution or expenditure in connection with a prior election after the closing date of books for the post-election report, it shall file a report within twenty days after the date of that contribution or expenditure. But if the "prior election" was a primary election and the committee intends to participate in the general, it shall file the pre-general report.

~~42~~ (3) (balance of rule remains the same)

4. The agency is proposing this amendment because of recent amendments to the Campaign Practices Act which give express authority to treat incidental committees under the Act differently from principal campaign committees. In general such incidental committees will have to file fewer reports, as the rule provides.

5. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing, or may address comments in writing to JOHN N. HANSON, Commissioner of Campaign Finances and Practices, Capitol Station, Helena, Montana 59601, no later than June 7, 1979.

6. Jack J. Lowe, \* Commissioner of Campaign Finances and Practices, Capitol Station, Helena, Montana 59601, has been designated to preside over and conduct the hearing.

7. The authority of the Commissioner to make the proposed amendment is based on section 13-37-114, MCA (§23-4786(14), R.C.M. 1947.) Implement: section 13-37-226(5), MCA (§23-4780(3), R.C.M. 1947.)



In the matter of the amendment )	NOTICE OF PUBLIC HEARING FOR
of rule ARM 44-3.10(10)-S10310,) )	THE PROPOSED AMENDMENT OF
which provides a definition for) )	RULE ARM 44-3.10(10)-S10310
"itemized account of proceeds" )	
as the term is used in the Cam-) )	
paign Practices Act )	

TO: All interested persons

1. On May 31, 1979, at 10:00 o'clock a.m., a public hearing will be held in room 413 of the State Capitol Building, Helena, Montana, to consider the amendment of rule ARM 44-3.10(10)-S10310, found on page 44-38 of the Administrative Rules of Montana.

2. The proposed amendment would revise the method by which candidates and political committees account for and report the proceeds of mass collections and fund-raising events.

3. The rule as proposed to be amended provides as follows (stricken material is interlined, new material is underlined):

44-3.10(10)-S10310 MASS COLLECTIONS AT FUND-RAISING EVENTS - ITEMIZED ACCOUNT OF PROCEEDS, REPORTING (1) For purposes of section 13-37-229(7), MCA:

(a) "Mass collections" made at a fund-raising event include the proceeds received from passing the hat or from the sale of items such as campaign pins, flags, emblems, hats, banners, raffle tickets, auction items, refreshments, baked goods, admission tickets and similar items sold at a dinner, rally, auction, dance, bake sale, rummage sale or similar fund-raising event. Provided, that mass collections do not include the proceeds which total more than \$25 from any one person at a particular fund-raising event.

(b) "Itemized account of proceeds" means the nature, date, and number of individuals in attendance at a fund-raising event, a description of the method utilized to gain the proceeds of a mass collection (i.e.; passing the hat, sale of raffle tickets, auction items, etc.) and the total amount received from each method utilized ~~contributions of less than twenty-five dollars (\$25) per person.~~

(2) For purposes of determining those persons who contribute a total of \$25 or more through mass collections at a fund-raising event and for purposes of preparing the statement of deposit required by 13-37-207(2), a record identifying the name and amount received from each person must be maintained for each purchase of any item sold at a cost of \$15 or more. The proceeds of items sold at a cost of less than \$15 and contributions received from passing the hat, if less than \$25 from any one person, may be recorded and deposited in lump sum without identifying the name of the contributor.

4. The proposed rule deals with a phenomenon of widespread occurrence and great conceptual difficulty, the "fund-raising event." Montana statutes require that any person who contributes \$25 or more during a campaign be disclosed as an itemized contributor. Yet they also provide for certain common types of fund-raising events where keeping precise track of every purchaser (technically a contributor) would impose a discouraging burden of record-keeping requirements. It is not the Agency's intention here to open a loophole, but to ease the record-keeping requirements for small-scale fund-raisers. We feel that it is preferable to encourage such events rather than to force campaigns to depend on fewer and larger contributions.

5. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing, or may address comments in writing to JOHN N. HANSON, Commissioner of Campaign Finances and Practices, Capitol Station, Helena, Montana 59601, no later than June 7, 1979.

6. Jack J. Lowe, % Commissioner of Campaign Finances and Practices, Capitol Station, Helena, Montana 59601, has been designated to preside over and conduct the hearing.

7. The authority of the Commissioner to make the proposed amendment is based on section 13-37-114, MCA (§23-4786(14), R.C.M. 1947); section 13-37-229(10), MCA (§23-4779(16), R.C.M. 1947.) Implement: section 13-37-229(2) and (7), MCA (§23-4779(2) and (7), R.C.M. 1947.)

In the matter of the adoption )	NOTICE OF PUBLIC HEARING ON
of two rules; one prescribing )	THE ADOPTION OF RULES I AND
the circumstances under which )	II
a year-end report must be filed)	
by independent political commit-)	
tees, and one prescribing rules)	
for the filing of reports by )	
out-of-state political commit- )	
tees which file reports with )	
the Federal Election Commission)	

TO: All interested persons

1. On May 31, 1979, at 10:00 o'clock a.m., a public hearing will be held in room 413 of the state Capitol Building, Helena, Montana, to consider the adoption of two new rules.

2. The proposed rules do not replace or modify any section currently found in the Montana Administrative Register. Rule I prescribes the circumstances under which independent political committees must file a year-end report under the

Campaign Practices Act. Rule II provides for the filing of periodic reports by committees which are headquartered outside Montana, and by committees which file periodic reports with the Federal Election Commission.

The text of the proposed rules is as follows (all language is new):

NEW RULE I CLOSING REPORT - INDEPENDENT COMMITTEES (1)

Independent political committees which are not incidental committees shall file a year-end closing report pursuant to 13-37-226(4). The closing date of books for this report is December 31 and the report shall be filed with the appropriate filing officers no later than January 31.

(2) The closing report shall cover all contributions received and expenditures made since the closing date of books for the most recently filed report.

(3) The closing date of books for a year-end report shall mark the cutoff date for such committees for the purpose of computing aggregate contributions and expenditures, and future reports shall use that date as a beginning point for the purpose of aggregation.

(4) An independent committee which will not participate in future elections and which wishes to end its status as a reporting committee may file a statement of termination with its closing report. Any further activity by a terminated committee will require a new Statement of Organization.

(5) Exception. If an independent committee has filed a closing report pursuant to 13-37-226 during the second half of a calendar year, and no further expenditures have been made by it since the closing date of books for that report, no year-end closing report shall be required. Such a committee may use the closing date of books for that closing post-election report as a cutoff date for the purpose of aggregating contributions and expenditures.

NEW RULE II NONRESIDENT AND FEDERALLY-FILING COMMITTEES, REPORTING (1) As used in this rule, "federally-filing committee" means a state party central committee, a qualified multi-candidate committee under 2 U.S.C. §441(a)(4), or any other committee which files reports with the Federal Election Commission on a monthly or quarterly basis pursuant to the Federal Election Campaign Act of 1971, as amended.

(a) If a federally-filing committee's reports filed with the Federal Election Commission fully disclose the source and disposition of all funds used to influence elections in Montana, the Commissioner shall accept copies of such reports in lieu of the periodic reports prescribed by the Campaign Finances and Practices Act. Such reports need be filed with the Commissioner only for periods in which a federally-filing committee receives contributions from Montana sources or expends funds to influence elections in Montana. A copy of a

statement of organization (FEC Form 1) shall accompany the first report, and copies of any amendments thereto shall be filed with the Commissioner.

(b) This regulation does not affect the duty of any such committee under 2 U.S.C. §439 to file copies of reports with the Montana Secretary of State.

(2) Committees headquartered outside the state of Montana which are not federally-filing committees and which expend funds to influence elections in Montana may satisfy the requirements of the Montana Campaign Practices Act in one of two ways:

(a) If the committee files reports with a state officer in its home state, the Commissioner may accept copies of such reports in satisfaction of the requirements of the Montana Campaign Finances and Practices Act if those reports fully disclose the source and disposition of all funds used to influence elections in Montana. Such reports need be filed only for periods in which the committee expends funds to influence elections in Montana. A copy of a statement of organization or equivalent statement shall accompany the first such report, and copies of any amendments thereto shall be filed with the Commissioner as they occur.


(2) If a nonresident committee cannot satisfy the requirements set forth in the preceding subsection, it shall file reports on Montana forms for the periods in which the committee expends funds to influence elections in Montana. Such reports shall contain the information required by 13-37-229, 13-37-230, MCA, and these rules.

4. Rule I is proposed because recent amendments to 13-37-226, MCA, provide for filing of a year-end report by independent committees on a date to be prescribed by the commissioner. It is expected that the new report will not result in any increase in the overall number of reports filed by committees in most circumstances. Rule II is proposed because recent amendments to 13-37-227, MCA, mandate that the commissioner shall by rule provide for the filing of reports by committees which are headquartered out-of-state and committees which file periodic reports with the Federal Election Commission. In most cases such committees can satisfy the requirements of the Montana Campaign Practices Act by filing copies of reports already filed with other Agencies.

5. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing, or may address comments in writing to JOHN N. HANSON, Commissioner of Campaign Finances and Practices, Capitol Station, Helena, Montana 59601, no later than June 7, 1979.

6. Jack J. Lowe, § Commissioner of Campaign Finances and Practices, Capitol Station, Helena, Montana 59601, has been designated to preside over and conduct the hearing.

7. The authority of the Commissioner to adopt the proposed rules is based on section 13-37-114, MCA (§23-4786(14), R.C.M. 1947); and sections 13-37-226(4)(c) and 13-37-227, MCA (no equivalent R.C.M. statutes.) Implement: sections 13-37-226(4)(c) and 13-37-227, MCA (no equivalent R.C.M. statute.)

  
JOHN N. HANSON  
Commissioner of Campaign  
Finances and Practices

Certified to the Secretary of State May 1, 1979.

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

In the matter of the amendment of	)	NOTICE OF PROPOSED
Rule 46-2.10(18)-S11451D pertaining	)	AMENDMENT OF RULE
to reimbursement for skilled nursing	)	46-2.10(18)-S11451D
and intermediate care services,	)	pertaining to
reimbursement method and procedures.	)	reimbursement for
	)	skilled nursing and
	)	intermediate care
	)	services, reimburse-
	)	ment method and
	)	procedures. NO
	)	PUBLIC HEARING
	)	CONTEMPLATED.

TO: All interested persons

1. On June 9, 1979, the Department of Social and Rehabilitation Services proposes to amend three sections of ARM 46-2.10(18)-S11451D. These are D(2), D(2)(f), and D(2)(g) which pertain to reimbursement method and procedures for skilled and intermediate care services.

2. The sections of the rule as proposed to be amended in 46-2.10(18)-S11451D(2), (2)(f), and (2)(g) provide as follows:

(2) Prospective Rates. Prospective rates are the rates on record with the department's fiscal intermediary as of March 31, 1979, or the rates determined as follows, whichever are higher. and Prospective rates shall be announced no later than the beginning date of the period for which the prospective rate is to be effective:

(f) The performance incentive factor is determined by a facility's relation to the 90th 00th percentile of costs per day. If the facility's cost per day is at or above the 90th 00th percentile, its performance incentive factor is zero. If the facility's cost per day is less than the 90th 00th percentile, the performance incentive factor is 50 percent of the difference between the 90th 00th percentile of all costs per day and its cost per day up to \$1.50 per patient day.

(g) The maximum prospective rate that will be allowed any facility is the cost per day as adjusted by 46-2.10(18)-S11451D(2)(d) that is applicable to the facility that is at the 90th 00th percentile.

3. These amendments allow facilities that experience a reduction in reimbursement rates from those on record just prior to the implementation of these rules to have a period of gradual adjustment to the new financial limitations. The increase of the percentile used to indicate the maximum rate and the performance incentive factors will reduce for many facilities the time it will take for the rates under these rules to exceed the rates that were being paid on March 31, 1979.

4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to the Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601, no later than June 7, 1979.

5. The Department's authority to make these proposed amendments is based on Section 53-6-113, MCA (Sec. 71-1511, R.C.M. 1947). The implementing authority for the proposed rules is based on Section 53-6-141, MCA (Sec. 71-1517, R.C.M. 1947).

Kirk P. Collo  
Director, Social and Rehabilitation Services

Certified to the Secretary of State May 1, 1979.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption of) NOTICE OF ADOPTION OF RULES  
rules concerning new employee ) ARM 2-2.14(52)-S14770  
orientation. ) THROUGH 2-2.14(52)-S14800  
 ) PERTAINING TO NEW EMPLOYEE  
 ) ORIENTATION

TO: All Interested Persons

1. On March 15, 1979, the Department of Administration published notice of the proposed adoption of rules concerning new employee orientation at pages 210-215 of the 1979 Montana Administrative Register, issue number 5.

2. The agency has adopted the rules exactly as proposed. The agency has numbered the Rule ARM 2-2.14(52)-S14770 through 2-2.14(52)-S14800.

3. The agency has adopted the rules because of the need to provide orientation procedures for new employees.

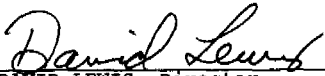
In the matter of the adoption of) NOTICE OF ADOPTION OF RULES  
rules concerning exit interview ) ARM 2-2.14(56)-S14810  
for State employees. ) THROUGH 2-2.14(56)-S14840  
 ) PERTAINING TO EXIT INTERVIEW

TO: All Interested Persons

1. On March 15, 1979, the Department of Administration published notice of the proposed adoption of rules concerning exit interview for State employees at pages 216-220 of the 1979 Montana Administrative Register, issue number 5.

2. The agency has adopted the rules exactly as proposed. The agency has numbered the Rule ARM 2-2.14(56)-S14810 through 2-2.14(56)-S14840.

3. The agency has adopted the rules because of the need to provide exit interview procedures for a terminating employee.

  
\_\_\_\_\_  
DAVID LEWIS, Director  
Department of Administration

Certified to the Secretary of State May 1, 1979.



BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

In the matter of the repeal of ) NOTICE OF REPEAL OF RULES  
Rules: 4.10.000, 4.10.010, ) 4.10.000 THROUGH 4.10.070,  
4.10.020, 4.10.030, 4.10.040, ) INCLUSIVE, AND THE ADOPTION  
4.10.050, 4.10.060, 4.10.070, ) OF RULES: I (4.10.071),  
AND ) II (4.10.072), III (4.10.073),  
IV (4.10.074), V (4.10.075),  
VI (4.10.076), VII (4.10.077),  
In the matter of the adoption ) VIII (4.10.078).  
of new Rules: Rule I, Rule II,) )  
Rule III, Rule IV, Rule V, ) )  
Rule VI, Rule VII, Rule VIII. ) )

TO: All Interested Persons

1. On February 28, 1979, the Montana Department of Agriculture published notice of its proposal to repeal ARM Rules: 4.10.000, 4.10.010, 4.10.020, 4.10.030, 4.10.040, 4.10.050, 4.10.060 and 4.10.070 concerning financial responsibility requirements for commercial pesticide applicators, at pages 174 through 180, inclusive, Montana Administrative Register, issue number 4 of 1979.

2. The agency has repealed all the said rules as proposed.

3. Comments were received orally at the hearing from four people; one person submitted written testimony; 7 people submitted written comments, and a resolution, in writing, was submitted by the Montana Aviation Trades Association. The four people who made oral comments at the hearing each favored the repeal of the rules proposed to be repealed, and each favored the adoption of the new proposed rules modified to conform to the resolution proposed by the Montana Aviation Trades Association.

4. The resolution submitted by the Montana Aviation Trades Association contained 3 specific recommendations relative to ARM Rule 4.10.100 which said rule was not proposed to be changed so those comments had to be stricken as not being responsive. The said resolution also has 5 specific recommendations relative to the complete and total elimination of requirements relative to financial responsibility. This recommendation is in direct conflict with statute section 80-8-214 MCA which provides that the department will promulgate rules requiring that each year each commercial pesticide applicator shall furnish proof of financial responsibility in such amount as it establishes by rule, so these recommendations were stricken. Two comments were received which urged that by the department establishing a minimum financial responsibility requirement of \$1,500.00 for aerial commercial pesticide applicators, while establishing a minimum financial responsibility requirement of \$500.00 for all other commercial pesticide applicators constituted discrimination against the aerial applicators. In view of the fact that on occasion an aerial applicator has flown, loaded to where he believes the

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field to be which he is to spray, and after spraying determines he sprayed the wrong field; or when the direction of the wind is different at the field to be sprayed from what it was at where he became airborne and the spray drifts onto adjacent land; or that it is very easy to fly over watercourses and allow pesticides to illegally fall into water; and lastly, damage can be inflicted over a large area much more rapidly by aerial application as compared to ground applications. These situations can be guarded against much more readily by ground applicators, so the difference in financial responsibility requirements is reasonable and the allegations of discrimination are overruled.

5. The department has adopted Rules: I (4.10.071 Financial Responsibility), II (4.10.071 Types and Conditions of Financial Responsibility), III (4.10.073 Approval, Modification, and Cancellation of Financial Responsibility Elements), IV (4.10.074 Judgment of Damages and/or Injury), V (4.10.075 Incident Reports and Records), VI (4.10.076 Revocation of License), VII (4.10.077 Personal Liability for Damages), and VIII (4.10.078 Licensing Period), all as proposed.

  
W. Gordon McOmber, Director

Certified to the Secretary of State Apr 27, 1979.

BEFORE THE DEPARTMENT OF STATE LANDS AND  
THE BOARD OF LAND COMMISSIONERS  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF ADOPTION
adoption of rules on	)	OF RULES 26.3.101-
surface leasing of	)	26.3.127
State land	)	

TO: All Interested Persons

1. On February 15, 1979, the Department of State Lands published notice of proposed adoption of rules on surface leasing of state land at pages 68-83 of the 1979 Montana Administrative Register, issue no. 3.

2. The Board of Land Commissioners has adopted the rules with editorial changes and the following amendment to rule ARM 26.3.112(2)(b) MINIMUM RENTAL RATES:

(b) ~~As provided in section 77-6-507-MCA~~ Prior to July 1, 1979, the board will compute the per annum base rental rate per animal-unit-month (AUM) of all grazing lands by multiplying three times the average price per pound of beef cattle on the farm in Montana for the previous year, as determined by the United States Department of Agriculture at the time of computation or from another reliable source which is current at the time of computation, plus 50 cents. After July 1, 1979, the board will compute the per annum base rental rate per animal-unit-month (AUM) of all grazing lands by multiplying six times the average price per pound of beef cattle on the farm in Montana for the previous year, determined in the same manner as prior to July 1, 1979.

3. Written comments were received from two state agencies. The following list summarizes the comments.

(a) Rules XI(26.3.111) and XVI(26.3.116) incorrectly refer to timber sales and forest product permits as "leases".

(b) The rules generally do not protect the wildlife resource on state land.

(c) The role of multiple use management is unclear.

(d) Islands should be given special consideration because of the high recreational and wildlife potential.

(e) Unleased land should be inspected prior to re-lease.

(f) Land leased for agriculture should not be utilized for grazing on the parcels which are not broken.

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(g) Carrying capacity should be appraised more frequently than once in 10 years.

(h) The board should reserve the right to protect fish and wildlife habitat.

(i) Rule XVI(26.3.116) is unclear and furthermore hunting and fishing privileges should not be sold and trespass rights should not be sold to individuals or associations.

(j) The rules should specify the responsibility to protect endangered species.

(k) The criteria for breaking land should be included in the rules.

(l) The purposes for which easements can be granted should be specified.

(m) The rules should provide for the state to collect damages for poor land use.

(n) Resource development projects should emphasize multiple use and protection of fish and wildlife.

The rules as published in the Administrative Register were previously amended in response to comments (c), (i) and (k).

Comment (a) has merit; however, the language in the rules is directly quoted from the law. A change in the rules would not necessarily clarify the matter. Also timber lands are not under the jurisdiction of these rules. Therefore the rules were not amended.

Comments (b), (d), (h) and (n) concern the protection of the fish and wildlife resource. The importance of this resource is recognized; however, the board's obligation to manage trust lands for the benefit of the school trust is not always consistent with the protection of the fish and wildlife resource. Therefore the rules cannot be amended to give special consideration to this resource.

Comment (e) is rejected since an inspection is not always appropriate and when a problem does exist it is handled on a case-by-case basis.

Comment (f) incorrectly assumes no grazing revenue is derived from unbroken parcels on land classed as agricultural.

Comment (g) is rejected since budget limitations prevent inspections on a more frequent basis.

Comment (j) is rejected since all lessees are responsible for complying with laws regarding endangered species.

Comment (l) is rejected since the public purposes for which easements may be granted are specified in section 77-2-101 MCA and a reiteration in the rules on surface leasing would be inappropriate.

Comment (m) is rejected since the board does not have the authority to enact rules which provide for damages for poor land use.



Ted Schwinden, Acting Governor &  
Acting Chairman of the Board of  
Land Commissioners

Certified to the Secretary of State May 1, 1979.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING  
BEFORE THE BOARD OF CHIROPRACTORS

In the matter of the Amendments )	NOTICE OF AMENDMENTS OF ARM
of ARM 40-3.26(6)-S2640 Set and )	40-3.26(6)-S2640 SET AND
Approve Requirements and Stand- )	APPROVE REQUIREMENTS AND
ards; ARM 40-3.26(6)-S2670 Exam- )	STANDARDS; ARM 40-3.26(6)-
inations; ARM 40-3.26(6)-S2690 )	S2670 EXAMINATIONS; ARM 40-
Reciprocity; ARM 40-3.26(6)- )	3.26(6)-S26000 RENEWALS; AND
S26000 Renewals, sub-sections )	ARM 40-3.26(6)-S26020
(1) and (2); and ARM 40-3.26(6)- )	INVESTIGATIONS
S26020 Investigations. )	


TO: All Interested Persons:

1. On March 29, 1979, the Board of Chiropractors published a notice of proposed amendments to rules ARM 40-3.26(6)-S2640 concerning requirements and standards; ARM 40-3.26(6)-S2670 concerning examinations; ARM 40-3.26(6)-S2690 concerning reciprocity; ARM 40-3.26(6)-S26000 concerning renewals and ARM 40-3.26(6)-S26020 concerning investigations. (p. 311-314, MAR No. 6)

2. The Board has amended the rules as proposed with one exception, that being the last sentence of sub-section (1) under the amendment to ARM 40-3.26(6)-S26000 in paragraph 8. of the notice. The sentence will read as follows: (new matter underlined, deleted matter interlined)

"Failure for a licensee to comply with this rule will constitute reason for ~~revocation-of-their-license~~  
~~denial of license renewal.~~"

3. The above change is in response to a letter from the Administrative Code Committee recommending the rewording as the Committee determined that the proposed provision relating to "revocation" for noncompliance with the continuing education requirement was improper. The law and rules already require continuing education as a condition to license renewal. The Committee felt the Board need not take any affirmative action when there is noncompliance. It could simply refuse to renew the license. They felt the provision implied that the Board could take disciplinary action before a license expired, an implication which they felt represents an excess of statutory authority. No other comments or testimony were received. The reasons for the amendments are as stated in the notice.

  
ED CARNEY, DIRECTOR  
DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, May 1, 1979.

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

In the matter of the amendment	)	NOTICE OF THE AMENDMENT
of Rule 46-2.6(2)-S6180G(1)(o)	)	OF RULE 46-2.6(2)-
pertaining to licensing procedures	)	S6180G pertaining to
for child care agencies.	)	licensing procedures
	)	for child care agencies

TO: All Interested Persons:

1. On March 29, 1979, the Department of Social and Rehabilitation Services published notice of a proposed amendment to Rule 46-2.6(2)-S6180G(1)(o) pertaining to licensing procedures for child care agencies at page 315 of the 1979 Montana Administrative Register, issue number 6.

2. The authority of the Department to make the amendment to this rule is found in Sections 53-2-201, MCA (71-210, R.C.M. 1947) and 41-3-503, MCA (10-1318, R.C.M. 1947).

3. The agency has amended the rule as proposed.

4. No comments or testimony were received. The agency has amended the rule to bring state licensing procedures of child care agencies into compliance with the child care agency's representatives' intent when originally drafting the current standards.

Keith P. Olsen  
Director, Social and Rehabilitation Services

Certified to the Secretary of State May 1, 1979.

46-2.10(18)-S11451D SOCIAL AND  
REHABILITATION SERVICES

EMERGENCY RULES TO AMEND

Statement of reasons for emergency.

On March 20, 1979, the Department adopted final rules for nursing home reimbursement to be effective April 1, 1979. These rules set new procedures that caused both increases and decreases in rates that were being paid to nursing homes prior to April 1, 1979. Administrators for many of the homes that would experience decreased rates submitted letters terminating their participation in the State's Medicaid Program. Most of these administrators stated that they felt compelled to terminate because the rates were too low.

Based on discussions with representatives from the nursing home industry, it appears that the difficulties many of the administrators are having with the new rates could be substantially mitigated by continuing the rates in effect prior to April 1, 1979, until such time as the new rate structure catches up. Also, raising the upper limit rate from the 80th percentile to the 90th percentile.

If administrators discontinue participation in the program, Medicaid-supported patients will need to find new nursing home facilities. This could mean they would have to leave their communities. For many, such a move can cause severe physical hardship, and for a few can even be life threatening. The Department believes the amendments may cause most of the administrators to reconsider their withdrawal from the program, and thereby prevent eminent peril to the patients' health, safety, and welfare.

The sections of the rule to be amended are 46-2.10(18)-S11451D(2), (2)(f), and (2)(g) with the remainder of the rule staying the same. The amended sections of the rule provide as follows:

(2) Prospective Rates. Prospective rates are the rates on record with the department's fiscal intermediary as of March 31, 1979, or the rates determined as follows, whichever are higher. and Prospective rates shall be announced no later than the beginning date of the period for which the prospective rate is to be effective:

(f) The performance incentive factor is determined by a facility's relation to the 90th 80th percentile of costs per day. If the facility's cost per day is at or above the 90th 80th percentile, its performance incentive factor is zero. If the facility's cost per day is less than the 90th 80th percentile, the performance incentive factor is 50 percent of the difference between the 90th 80th percentile of all costs per day and its cost per day up to \$1.50 per patient day.



(g) The maximum prospective rate that will be allowed any facility is the cost per day as adjusted by 46-2.10(18)-S11451D (2)(d) that is applicable to the facility that is at the 90th ~~80th~~ percentile.

BY: Keith P. Cello  
Director, Social and Rehabilitation Services

CERTIFIED TO THE SECRETARY OF STATE April 25, 1979.

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

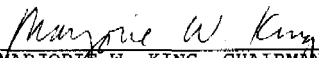
In the matter of the amendment ) NOTICE OF THE AMENDMENT OF  
of Rule 48-2.6(2)-S6000 regard- ) RULE 48-2.6(2)-S6000  
ing administrative assistants )

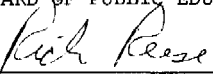
TO: All Interested Persons:

1. On February 28, 1979, the Board of Public Education published notice of a proposed amendment to rule 48-2.6(2)-S6000 regarding administrative assistants at pages 197-198 of the 1979 Montana Administrative Register, issue number 4.

2. The agency has amended the rule as proposed.

3. No comments or testimony were received. The agency has amended the rule in order to replace a section that was mistakenly deleted.

  
MARJORIE W. KING, CHAIRMAN  
BOARD OF PUBLIC EDUCATION

BY   
ASSISTANT TO THE BOARD

Certified to the Secretary of State May 1, 1979.