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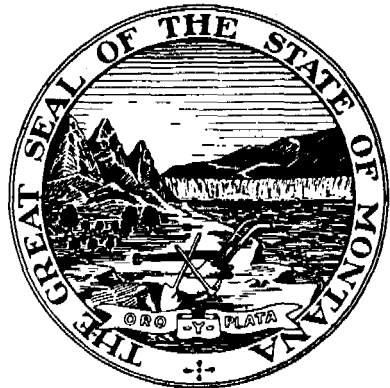
MONTANA ADMINISTRATIVE REGISTER

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FEB 19 1980

OF MONTANA

1980 ISSUE NO. 3
PAGES 440-605



FEB 19 1980

OF MONTANA

NOTICE OF FUNCTIONS OF ADMINISTRATIVE CODE COMMITTEE

The Administrative Code Committee reviews all proposals for adoption of new rules or amendment or repeal of existing rules filed with the Secretary of State. Proposals of the Department of Revenue are reviewed only in regard to the procedural requirements of the Montana Administrative Procedure Act. The Committee has the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. In addition the Committee may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a Joint Resolution directing an agency to adopt, amend, or repeal a rule.

The Committee welcomes comments from the public and invites members of the public to appear before it or to send it written statements in order to bring to the Committee's attention any difficulties with existing or proposed rules. The address is Room 138, State Capitol, Helena, Montana 59601.

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

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 3

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BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA
MONTANA BOARD OF HOUSING

IN THE MATTER OF THE AMENDMENT	)	NOTICE OF PUBLIC
OF RULE 2-3.28(5)-S2840 for the	)	HEARING ON PRO-
consideration of assets where es-	)	POSED AMENDMENT
tablishing income limits for lower	)	OF RULE 2-3.28(5)-
income persons and families.	)	S2840 Lower Income
	)	Persons And
	)	Families

TO: All Interested Persons.

1. On March 6, 1980 at 10:00 o'clock a.m., a public hearing will be held in the Auditorium of the Social and Rehabilitation Services Building, 111 N. Sanders St., at Helena, Montana, to consider the amendment of rule ARM 2-3.28(5)-S2840.

2. The proposed amendment replaces present rule ARM 2-3.28(5)-S2840(1)(a) found in the Administrative Rules of Montana. The proposed amendment would require that the Board of Housing also consider assets and other financial resources when establishing income limits for lower income persons and families.

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

2-3.28(5)-S2840 LOWER INCOME PERSONS AND FAMILIES

(1) Each June and at such other time as may be necessary, the Board will establish, review and revise the adjusted gross annual income limits for lower income persons and families deemed to require assistance under Board programs. In establishing these limits, the Board will consider:

(a) the amount expressed as a percentage of total personal and family income, assets, and other financial resources that can be reasonably devoted to housing needs as defined in information provided by federal housing assistance programs and the private enterprise system.

4. The Board is proposing this amendment to its rule to implement 90-6-103(16)(a), MCA. In particular, the rule specifies the additional factors to be taken into consideration by the Montana Board of Housing as required by Ch. 357, L. 1979.

5. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Lyle E. Olson, Administrator, Montana Board of Housing, Capitol Station, Helena, Montana, 59501, no later than March 14, 1980.

6. Lyle E. Olson, Administrator, Montana Board of

Housing, Capitol Station, Helena, Montana, 59601, has been designated to preside over and conduct the hearing.

7. The authority of the agency to make the proposed amendment is based on sections 90-6-104 and 90-6-106, MCA, and the rule implements section 90-6-103, MCA.

IN THE MATTER OF THE AMENDMENT	)	NOTICE OF PUBLIC
OF RULE 2-3.28(6)-S2850 to pro-	)	HEARING ON PRO-
vide that no person or family	)	POSED AMENDMENT
qualifying under the Board's single	)	OF RULE 2-3.28(6)-
family program may obtain more than	)	S2850 Financing
one loan unless said person or	)	Programs
family shall relocate their resi-)	
dence by more than 30 miles.)	

TO: All Interested Persons.

1. On March 6, 1980 at 10:00 o'clock a.m., a public hearing will be held in the Auditorium of the Social and Rehabilitation Services Building, 111 N. Sanders St., at Helena, Montana, to consider the amendment of rule ARM 2-3.28(6)-S2850.

2. The proposed amendment adds to the present rule a paragraph ARM 2-3.28(6)-S2850(3) found in the Administrative Rules of Montana. The proposed amendment would provide that no person or family qualifying under the Board's single family program may obtain more than one loan unless said person or family shall relocate their residence by more than 30 miles.

3. The rule as proposed to be amended provides as follows, and the existing paragraphs shall be redesignated as to number:

(3) No person or family qualifying for a loan under the Board's single family program may obtain more than one loan under the Board's programs, provided, however, that a second loan may be approved by the Board if the person or family relocates their principal residence by more than 30 statutory miles, as determined by the shortest highway route on the official Montana highway map in effect at that time.

4. The Board is proposing the adoption of this rule because experience gained under existing programs has shown that certain persons and families qualifying under the Board's single family programs have sold a house obtained under the Board's programs at a profit and thereafter have applied for a second loan under the Board's programs without showing that the house obtained through the first loan is inadequate or that said person or family requires assistance of the Board to provide decent, safe and sanitary housing.

Persons and families who seek multiple loans under the

Board's programs frequently do so for speculative purposes to the detriment of persons and families which qualify under the Board's programs and are in actual need of decent, safe and sanitary housing, but are unable to obtain a loan because of their location in the State or funds are not otherwise available under the Board's programs in violation of the intent of the Housing Act of 1975.

5. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Lyle E. Olson, Administrator, Montana Board of Housing, Capitol Station, Helena, Montana, 59601, no later than March 14, 1980.

6. Lyle E. Olson, Administrator, Montana Board of Housing, Capitol Station, Helena, Montana, 59601, has been designated to preside over and conduct the hearing.

7. The authority of the agency to make the proposed amendment is based on sections 90-6-104 and 90-6-105, MCA, and the rule implements sections 90-6-102, 90-6-103 and 90-6-104, MCA.

IN THE MATTER OF THE AMENDMENT	)	NOTICE OF PUBLIC
OF RULE 2-3.28(6)-S2870 to pro-	)	HEARING ON PRO-
vide that no qualified lending	)	POSED AMENDMENT
institution may enter into any	)	OF RULE 2-3.28(6)-
written commitment to make mortgage	)	S2870 Qualified
loans to be purchased or financed	)	lending
by the Board with a builder, dev-	)	institutions.
eloper, or real estate agent or)	
broker unless the Board first de-)	
termines that, due to economic)	
and other conditions prevailing)	
in the area involved, such com-)	
mitments are made necessary or de-)	
sirable to provide decent, safe,)	
and sanitary housing which is)	
within the capabilities of lower)	
income persons and families.)	

TO: ALL INTERESTED PERSONS.

1. On March 6, 1980 at 10:00 o'clock a.m., a public hearing will be held in the Auditorium of the Social and Rehabilitation Services Building, 111 N. Sanders St., at Helena, Montana, to consider the amendment of rule 2-3.28(6)-S2870.

2. The proposed amendment adds to the present rule, paragraph ARM 2-3.28(6)-S2870(5) found in the Administrative Rules of Montana. The proposed amendment would provide that no qualified lending institutions may enter into any written

commitment to make mortgage loans to be purchased or financed by the Board with a builder, developer, or real estate agent or broker unless the Board first determines that, due to economic and other conditions prevailing in the area involved, such commitments are made necessary or desirable to provide decent, safe, and sanitary housing which is within the capabilities of lower income persons and families.

3. The rule as proposed to be amended provides as follows, and the existing paragraph shall be re-designated as to number:

(5) No qualified lending institutions may enter into any written commitment to make mortgage loans to be purchased or financed by the Board with a builder, developer, or real estate agent or broker unless the Board first determines that, due to economic and other conditions prevailing in the area involved, such commitments are made necessary or desirable to provide decent, safe, and sanitary housing which is within the capabilities of lower income persons and families.

4. The Board is proposing this rule because experience gained under existing programs has shown that a practice has developed whereby qualified lending institutions have entered into written agreements with certain builders, developers and real estate agents or brokers for a commitment to allocate a portion of the mortgage funds available to the said lending institutions from the Board's programs.

The effect of this practice has been to restrict the availability of mortgage funds only to those clients or customers of those builders, developers and real estate agents or brokers obtaining commitments for funds to the detriment of persons and families which qualify under the Board's programs and are in actual need of decent, safe and sanitary housing but are unable to obtain a loan because they are not clients or customers of said builders, developers and real estate agents or brokers, or funds are not otherwise available from qualified lending institutions under the Board's programs in violation of the intent of the Housing Act of 1975.


This practice also results in the sale of houses by certain builders, developers, and real estate brokers and agents at a premium sales price because of the desirable low-interest loans available under the Board's programs, thereby increasing the cost of housing financed under the Board's programs to more than the cost of housing available in the normal housing market and financed through conventional financing programs to the detriment of persons and families which qualify under the Board's programs in violation of the intent of the Housing Act of 1975.

5. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Lyle E. Olson, Administrator, Montana Board of Housing, Capitol

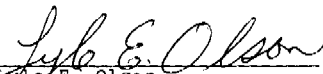
Station, Helena, Montana, 59601, no later than March 14, 1980.

6. Lyle E. Olson, Administrator, Montana Board of Housing, Capitol Station, Helena, Montana, 59601, has been designated to preside over and conduct the hearing.

7. The authority of the agency to make the proposed amendment is based on sections 90-6-104 and 90-6-106, MCA, and the rule implements sections 90-6-102, 90-6-103 and 90-6-104, MCA.



W. A. Groff, Chairman
Board of Housing

By: 

Lyle E. Olson
Administrator

Certified to Secretary of State, February 1, 1980.

BEFORE THE FISH AND GAME COMMISSION
OF THE STATE OF MONTANA

In the matter of the repeal of) NOTICE OF PROPOSED REPEAL
Rule 12-2.6(1)-S680 relating) OF RULE 12-2.6(1)-S680
to age at time of application) AGE AT TIME OF APPLICATION
for special licenses) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Interested Persons.

1. On March 15, 1980, the Montana Fish and Game Commission proposes to repeal Rule 12-2.6(1)-S680 relating to age at time of application for persons applying for special licenses.

2. The rule proposed to be repealed is on page 12-18.1 of the Administrative Rules of Montana.

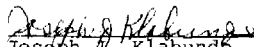
3. The agency proposes to repeal this rule because the action of the past legislature makes this rule unnecessary.

4. Interested parties may submit their data, views, or arguments concerning the proposed repeal in writing to Robert F. Wambach, Department of Fish, Wildlife & Parks, 1420 E 6 Avenue, Helena, Mont. 59601, no later than March 13, 1980.

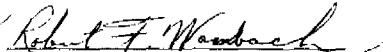
5. If a person who is directly affected by the proposed repeal wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments to Dr. Wambach at the above address no later than March 13, 1980.

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

7. The authority of the agency to make the proposed repeal is based on section 87-1-301, MCA, and the rule implements section 87-2-106, MCA.


Joseph J. Klabunde, Chairman
Montana Fish & Game Commission

Attest:


Robert F. Wambach, Secretary
Montana Fish & Game Commission

Certified to Secretary of State February 1, 1980

BEFORE THE FISH AND GAME COMMISSION
OF THE STATE OF MONTANA

In the matter of the repeal of	)	RENOTICE OF PROPOSED
Rules 12-2.2(10)-P290 through	)	RULES IMPLEMENTING THE
-P2060 pertaining to rules	)	MONTANA ENVIRONMENTAL
implementing the Montana Envir-	)	POLICY ACT; AND ADOPTION
onmental Policy Act; and the	)	OF REVISED RULES
adoption of new Rules I through	)	IMPLEMENTING MEPA -- NO
XX implementing MEPA	)	PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. At its March 15, 1980 meeting, the Montana fish and game commission proposes to repeal rules 12-2.2(10)-P290 through -P2060 which implement the Montana Environmental Policy Act and adopt revised rules to implement that Act.

2. The rules as proposed to be repealed and adopted are:

To be repealed: ARM Rules 12-2.2(10)-P290 through 12-2.2(10)-P2060

To be adopted: Rules I through XX as set forth at page 88, 1980 Montana Administrative Register issue No. 1, notice of repeal and adoption of new rules implementing the MEPA by Department of State Lands, except that all references to Department of State Lands are to be changed to Department of Fish, Wildlife & Parks.

3. On June 28, 1979, the fish and game commission published notice of a public hearing to be held to consider repeal of the present rules implementing the MEPA and adoption of revised rules pertaining to that Act, at page 619 of 1979 Montana Administrative Register issue No. 12. The hearing was held on August 30, 1979, and public comment received. The rules were to be acted upon concurrently by the several state agencies whose responsibilities include decisions covered by the MEPA. All other affected state agencies adopted the revised rules effective January 18, 1980 (see 1980 MAR Issue No. 1) and included therein, or by reference, the public comments and responses thereto. The Montana Administrative Procedure Act requires publication of a notice of adoption of a rule within 6 months of the notice of publication of a proposed rule. More than 6 months have passed since publication of notice of proposed action on this rule. Thus, the commission renotices its proposed repeal and adoption of rules implementing the MEPA.

4. The proposed new rules replace the present rules. The new rules are similar in many respects; but because of the many changes throughout the text, they are presented as new rather than amended rules. The interlined and underlined material denote changes resulting from public comment on the proposed rules. The main purpose of this action is to make the processing of environmental impact statements

and other environmental review as quick and efficient as possible while meeting the requirements of the Montana Environmental Policy Act.

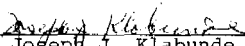
5. The proposed revision affects the rule as found on page 12-10.3 of the Administrative Rules of Montana.

6. Interested parties may submit their data, views, or arguments concerning the proposed repeal and revision in writing to Robert F. Wambach, Director, Department of Fish, Wildlife, and Parks, 1420 E. 6 Avenue, Helena, Montana 59601. Written comments in order to be considered must be received no later than March 13, 1980.

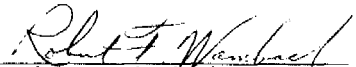
7. If a person who is directly affected wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make a written request for a hearing and submit this request along with any written comments to Dr. Wambach at the above-stated address no later than March 13, 1980.

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

9. The authority of the commission to make the proposed repeal and revision is based upon sections 2-4-201, 2-15-112, 87-1-201(1)(6), and 87-1-301, MCA, and implements sections 87-1-201, 87-1-401, and 75-1-201, MCA.


Joseph J. Klabunde, Chairman
Montana Fish & Game Commission

Attest:


Robert F. Wambach, Secretary
Montana Fish & Game Commission

Certified to Secretary of State February 1, 1980

BEFORE THE FISH AND GAME COMMISSION
OF THE STATE OF MONTANA

In the matter of the amend-) NOTICE OF PROPOSED AMENDMENT
ment of Rule 12-2.10(14)-) OF RULE RELATING TO WATER
10190 relating to water) SAFETY REGULATIONS - NO
safety regulations) PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. At its March 15, 1980 meeting, the Montana Fish and Game Commission proposes to amend Rule 12-2.10(14)-S10190 relating to water safety regulations.

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

12-2.10(14)-S10190 WATER SAFETY REGULATIONS

(1) through (a) remains the same.

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

(i) All rivers and streams in the following counties east of the continental divide:

Silver Bow

Beaverhead

Jefferson

~~Gallatin~~

Madison

Gallatin-Exception: Missouri down-
river from Headwaters state park

Park-Exception: Yellowstone down-
river from Interstate 90 bridge at
Livingston

Broadwater-Exception: Missouri down-
river from ~~Toston-dam~~ the Broadwater-
Gallatin county line

(remainder of the rule remains the same)

3. The rule is proposed to be amended in the interests of providing increased recreational opportunity to the general public.

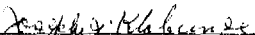
4. Interested parties may submit their data, views, or arguments concerning the proposed amendment in writing to Robert F. Wambach, Director, Dept. of Fish, Wildlife & Parks, 1420 E. 6 Ave., Helena, Mt. 59601 no later than March 13, 1980.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments to Dr. Wambach at the above address no later than March 13, 1980.

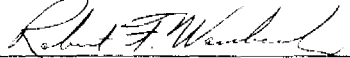
6. If the commission receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons directly affected; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less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

the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 25.

7. The authority of the commission to make the proposed amendment is based on sections 87-1-303 and 23-1-106(1), MCA, and implements sections 87-1-303 and 23-1-106(1), MCA.


Joseph B. Klabunde, Chairman
Montana Fish & Game Commission

Attest:


Robert F. Wambach, Secretary
Montana Fish & Game Commission

Certified to Secretary of State February 1, 1980

BEFORE THE FISH AND GAME COMMISSION
OF THE STATE OF MONTANA

In the matter of the repeal of) NOTICE OF PROPOSED REPEAL
Rule 12-2.10(14)-S10110 and the) OF A RULE RELATING TO
adoption of a new revised rule) MOTORBOAT AND VESSEL
relating to motorboat and vessel) EQUIPMENT REQUIREMENTS
equipment requirements) AND ADOPTION OF A NEW
) REVISED RULE
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Interested Persons.

1. At its March 15, 1980 meeting, the Montana Fish and Game Commission proposes to repeal Rule 12-2.10(14)-S10110 which pertains to motorboat and vessel equipment requirements and adopt a new rule in this matter.

2. The rule proposed to be repealed is on page 12-37 of the Administrative Rules of Montana.

3. The proposed rule provides as follows:

Rule I. MOTORBOAT AND VESSEL EQUIPMENT REQUIREMENTS

(1) The following are requirements for equipment upon motorboats and vessels launched upon the waters of this state:

(a) Personal flotation devices and life preservers:

(i) all recreational boats less than 16 feet in length, and all canoes and kayaks of any length must have one type I, II, III device (of a suitable size) or type IV aboard for each person;

(ii) all recreational boats 16 feet in length and over, in addition to the above, must have one throwable type IV device (seat cushion with handles or ring buoy);

(iii) the type I, II, and III devices shall be readily accessible to all persons on board; the type IV device shall be immediately available for use.

(b) Ventilation system:

(i) at least two ventilation ducts fitted with cowls or their equivalent for the purpose of properly and efficiently ventilating the bilges of every engine and fuel tank compartment of boats decked-over using gasoline as fuel and other fuels having a flashpoint of 110°F or less;

(ii) at least one exhaust duct installed so as to extend to the lower portion of the bilge, and at least one intake duct installed so as to extend to a point at least midway to the bilge or at least below the level of the carburetor air intake.

(c) Fire extinguishers:

(i) less than 26 feet in length -- one B-I type approved hand portable fire extinguisher or a fixed fire extinguisher system;

(ii) 26 feet to less than 40 feet in length -- two

B-I type approved hand portable fire extinguishers; or at least one B-II type; when an approved fixed system is installed, one less B-I type is required;

(iii) 40 feet to not more than 65 feet in length -- three B-I type approved portable fire extinguishers, or at least one B-I type plus one B-II type; when approved fixed system is installed, one less B-I type is required;

(iv) fire extinguishers must be carried on all motorboats that have one or more of the following conditions that make the boat of closed construction --

(A) inboard engines; or

(B) closed compartments under thwarts and seats wherein portable fuel tanks may be stored; or

(C) double bottoms not sealed to the hull or which are not completely filled with flotation material; or

(D) closed living spaces; or

(E) closed storage compartments in which combustible or flammable material is stored; or

(F) permanently installed fuel tanks.

(d) Lights required when in operation between sunset and sunrise:

(i) motorboats and sail power auxiliary boats less than 26 feet --

(A) display one white light aft (on rear of vessel) to show all around the horizon 32 pts. (360°) higher than the bow light visible for two miles;

(B) a combination red-green light or separate lights on the forepart of the boat showing green to starboard (right side) and red to port 10 pts (112.5°) visible for one mile;

(ii) motorboats and sail power auxiliary boats 26 feet to not more than 65 feet --

(A) same as above;

(B) same as above except red and green lights must be separate lights with screens to prevent being seen across the bow;

(C) a white light as far forward as practicable to show an unbroken light of 20 pts. (225°) visible for two miles.

(iii) sailboats (sail alone) --

(A) white light aft showing 12 pts. (135°) visible for two miles;

(B) red and green lights forward same as motorboats under 26 feet.

(e) Lights for use when anchored:

(i) power boats under 65 feet and all sailing vessels at anchor must display anchor lights except those in special anchorage areas (an anchor light is a white light visible to a boat approaching from any direction and is displayed in

the forepart of the vessel;

(ii) rowing boats whether under oars or sail shall have ready at hand a lantern showing a white light which shall be temporarily exhibited in sufficient time to prevent collision.

(f) Efficient sound producing devices on motorboats:

(i) less than 16 feet in length - none;

(ii) 16 feet to less than 26 feet in length - one hand, mouth, or power-operated whistle, or horn, audible at least one-half mile;

(iii) 26 feet to not more than 65 feet in length - one bell which when struck produces a clear, bell-like tone and one hand or power-operated whistle, or horn, audible at least one mile.

(g) Measuring your boat for length:

(i) for determining the length of a vessel, the distance is measured in a straight line from the foremost part of the vessel to the aftermost part of the vessel, parallel to the center line, exclusive of sheer;

(ii) bowsprits, bumpkins, rudders, outboard motors and brackets and similar fittings or attachments are not to be included in the measurement.

4. The rule is proposed to be repealed and replaced with a reworded rule so it is more clear and to bring the equipment requirement terminology in conformity with U. S. Coast Guard requirements and present state law.

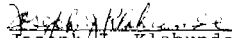
5. Interested parties may submit their data, views, or arguments concerning the proposed repeal and adoption in writing to Robert F. Wambach, Director, Department of Fish, Wildlife, and Parks, 1420 E. 6 Avenue, Helena, Montana 59601. Written comments in order to be considered must be received no later than March 13, 1980.

6. If a person who is directly affected 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 to Dr. Wambach at the above-stated address no later than March 13, 1980.

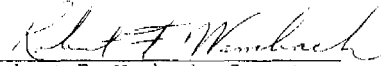
7. If the commission receives requests for a public hearing on the proposed repeal and adoption from either 10% or 25, whichever is less, of the persons directly affected; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having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

8. The authority of the commission to make the proposed repeal and adoption is based upon sections 87-1-301, 87-1-303,

and 23-2-521, MCA, and implements Section 23-2-521, MCA.


Joseph J. Klabunde, Chairman
Montana Fish & Game Commission

Attest:


Robert F. Wambach, Secretary
Montana Fish & Game Commission

Certified to Secretary of State February 1, 1980

BEFORE THE FISH AND GAME COMMISSION
OF THE STATE OF MONTANA

In the matter of the amend-) NOTICE OF PROPOSED AMENDMENT
ment of Rule 12-2.10(14)-) OF A RULE RELATING TO BOATING
S10120 relating to boating) REGULATIONS
regulations) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Interested Persons.

1. At its March 15, 1980 meeting, the Montana Fish and Game Commission proposes to amend Rule 12-2.10(14)-S10120 relating to boating regulations.

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

12-2.10(14)-S10120 BOATING REGULATIONS (1) The following waters/areas will be either closed as posted and/or marked by barrel booms to the use of all boats or other water craft except in case of rescue craft or plant maintenance work:

~~(a)--Missouri-River-immediately-below-Holter-Dam-in-Lewis-&-Clark-County-~~

~~(b)--Holter-Reservoir-immediately-above-Holter-Dam-in-Lewis-&-Clark-County-~~

~~(c)--Missouri-River-immediately-below-Hauser-Dam-in-Lewis-&-Clark-County-~~

~~(d)--Hauser-Reservoir-immediately-above-Hauser-Dam-in-Lewis-&-Clark-County-~~

~~(e)--Missouri-River-immediately-below-Canyon-Ferry-Dam-in-Lewis-&-Clark-County-~~

~~(f)--Canyon-Ferry-Reservoir-immediately-above-Canyon-Ferry-Dam-in-Lewis-&-Clark-County-~~

~~(g)--Clark-Fork-River-immediately-below-Milltown-Dam-in-Missoula-County-~~

~~(h)--Milltown-Dam-Reservoir-immediately-above-Milltown-Dam-in-Missoula-County-~~

~~(i)--Flint-Creek-Dam-Reservoir-immediately-above-Flint-Creek-Dam-in-Deer-bodge-County-~~

~~(j)--Kerr-Dam-Reservoir-immediately-above-Kerr-Dam-in-Lake-County-~~

(a) area immediately above and below Holter dam in Lewis & Clark county;

(b) area immediately above and below Hauser dam in Lewis & Clark county;

(c) area immediately above and below Canyon Ferry dam in Lewis & Clark county;

(d) area immediately above and below Milltown dam in Missoula county;

(e) area immediately above Flint Creek dam in Deer Lodge county;

(f) area immediately above Kerr dam in Lake county.

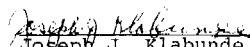
3. The rule is proposed to be amended to more clearly define the areas so regulated.

4. Interested parties may submit their data, views, or arguments concerning the proposed amendment in writing to Robert F. Wambach, Director, Department of Fish, Wildlife, and Parks 1420 E. 6 Avenue, Helena, Montana 59601. Written comments in order to be considered must be received no later than March 13, 1980.

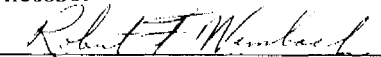
5. If a person who is directly affected wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make a written request for a hearing and submit this request along with any written comments to Dr. Wambach at the above-stated address no later than March 13, 1980.

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

7. The authority of the commission to make the proposed amendment is based upon section 87-1-301, MCA, and implements section 87-1-303, MCA.


Joseph J. Klabunde, Chairman
Montana Fish & Game Commission

Attest:


Robert F. Wambach, Secretary
Montana Fish & Game Commission

Certified to Secretary of State February 1, 1980

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

In the matter of the repeal	)	NOTICE OF PUBLIC HEARINGS
of ARM 16-2.14(1)-S14040,	)	FOR REPEAL OF RULE
Ambient Air Quality Standards	)	ARM 16-2.14(1)-S14040
and the adoption of new rules	)	AND ADOPTION OF NEW RULES
relating to ambient air	)	RELATING TO
quality standards	)	AMBIENT AIR QUALITY STANDARDS

TO: All Interested Persons

1. On May 7, 1980, 7:00-11:00 p.m., at the Eastern Montana College Library, Room 231, Billings, Montana; and on May 8, 1980, 7:00-11:00 p.m., at the Missoula County High-school (Hellgate Highschool) auditorium, Missoula, Montana; and on May 27, 1980, beginning at 9:00 a.m. and continuing each day thereafter, as necessary, through May 31, 1980, at the Department of Highways auditorium, 2701 Prospect Avenue, Helena, Montana, public hearings will be held to consider the repeal of rule ARM 16-2.14(1)-S14040, Ambient Air Quality Standards, and adoption of new rules relating to ambient air quality standards.

2. The proposed rules replace ARM 16-2.14(1)-S14040 which can be found on pages 16-65 through 16-69, Administrative Rules of Montana.

3. The proposed rules provide as follows:

RULE I PURPOSE In accordance with section 75-2-102, MCA, of the Montana Clean Air Act, it is the primary purpose of this sub-chapter to establish ambient air quality standards which protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state, and facilitate the enjoyment of the natural attractions of this state.

RULE II DEFINITIONS In this sub-chapter, the following words and phrases shall have the following meanings:

- (1) "Act" means the Montana Clean Air Act.
- (2) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.
- (3) "Ambient air quality standards" means a permissible level of an air contaminant in the ambient air as defined by the maximum frequency with which a specified level may be exceeded or by a maximum level of an air contaminant in or on body or plant tissues.
- (4) "Annual average" means an arithmetic average of all valid recorded averages of any 12 consecutive calendar months

provided that:

(a) at least forty 24-hour average recorded values are necessary and each of these values must be separated from the previous value by at least 6 days, or

(b) at least 5840 hourly average valid recorded values are necessary.

(5) "Approved equivalent method" means any method of measuring concentrations of air contaminants regulated in this sub-chapter which has been approved as an equivalent method by the U.S. Environmental Protection Agency pursuant to Title 40, Part 53, Code of Federal Regulations or which has been approved by the department. Methods approved by the department are kept on file and are available for inspection and copying.

(6) "Carbon monoxide" means the gas having the molecular composition of one carbon atom and one oxygen atom.

(7) "Department" means the department of health and environmental sciences.

(8) "Eight hour average" means the arithmetic average of all valid recorded values during any consecutive eight hours but not less than six valid hourly averages.

(9) "Fluoride" means fluorine combined with one or more other substances.

(10) "Forage" means any plant part which is grazed or browsed.

(11) "Grams per square meter" (gm/m^2) means a concentration numerically equal to the mass of an air contaminant (in grams) deposited on one square meter of surface.

(12) "Hourly average" means an arithmetic average of all valid values recorded between the first minute and sixtieth minute of the hour (e.g. 1:00 to 2:00), but not less than two-thirds of the data obtainable from the monitoring device during the hour, or an integral sample of more than 40 minutes.

(13) "Hydrogen fluoride" means the gas having the molecular composition of one fluorine atom and one hydrogen atom.

(14) "Hydrogen sulfide" means the gas having molecular composition of one sulfur atom and two hydrogen atoms.

(15) "Lead" means elemental lead or lead in combination with any other substance.

(16) "Micrograms per cubic meter" ($\mu\text{g}/\text{m}^3$) means a concentration numerically equal to the mass of an air contaminant present (in micrograms) in a one cubic meter of air, corrected to standard conditions.

(17) "Micrograms per gram" ($\mu\text{g}/\text{g}$) means a concentration numerically equal to the mass of an air contaminant (in micrograms) in one gram of dry material.

(18) "Ninety day average" means an arithmetic average of all valid recorded values during any ninety consecutive days. The minimum number of valid recorded values shall be ten provided that each of these values must be separated

from the previous value by at least six days.

(19) "Nitrogen dioxide" means the gas having the molecular composition of one nitrogen atom and two oxygen atoms.

(20) "Ozone" means the gas having the molecular composition of three oxygen atoms.

(21) "Particle scattering coefficient" means the fractional change in the light intensity per meter of sight path due to particulate matter.

(22) "Particulate matter" means any material, except water in an uncombined form, that is or has been airborne and exists as a liquid or a solid at standard conditions.

(23) "Parts per billion" (ppb) means a concentration of an air contaminant numerically equal to the volume of a gaseous air contaminant present in one billion volumes of air at the same conditions of temperature and pressure.

(24) "Parts per million" (ppm) means a concentration of an air contaminant numerically equal to the volume of a gaseous air contaminant present in one million volumes of air at the same conditions of temperature and pressure.

(25) "Standard conditions" means a temperature of 25° Celsius and a pressure of 760 millimeters of mercury.

(26) "Sulfur dioxide" means the gas having the molecular composition of one sulfur atom and two oxygen atoms.

(27) "Thirty-day average" means an arithmetic average of all recorded values during any consecutive thirty days, but not less than twenty valid twenty-four hour average recorded values or an integral sample of more than twenty days.

(28) "Twenty-four hour average" means an arithmetic average of each valid recorded value during any consecutive twenty-four hours, but not less than eighteen valid hourly averages or an integral sample of more than eighteen hours.

(29) "Valid recorded value" means data recorded, collected, transmitted and analyzed as required by Rule IV of this sub-chapter.

(30) "Year" means any 12 consecutive months.

RULE III ENFORCEABILITY Any person who violates any provision of this sub-chapter shall be subject to the enforcement provisions of the act. Except as otherwise provided in this sub-chapter, the ambient air quality standards are applicable throughout the state of Montana.

RULE IV METHODS AND DATA Except as otherwise provided in this sub-chapter, all sampling and data collection, recording, analysis and transmittal, including but not limited to site selection, calibrations, precision and accuracy determinations must be performed as specified in Title 40, Part 58, (Appendices A through E), Code of Federal Regulations (1979). If a valid recorded value comprises in whole or in part an exceedance of an ambient air quality standard, such recorded value shall not comprise in whole or in part an exceedance of

the same ambient air quality standard.

RULE V AMBIENT AIR QUALITY STANDARDS FOR CARBON MONOXIDE

(1) No person shall cause or contribute to concentrations of carbon monoxide in the ambient air which exceed any of the following standards:

(a) Hourly average: 23 parts per million, hourly average, not to be exceeded more than once per year.

(b) Eight-hour average: 9 parts per million, eight-hour average, not to be exceeded more than once per year.

(2) Measurement method: For determining compliance with this rule, carbon monoxide shall be measured by the non-dispersive infra-red method, as more fully described in Title 40, Part 50 (Appendix C), Code of Federal Regulations (1979), or by an approved equivalent method.

RULE VI AMBIENT AIR QUALITY STANDARDS FOR FLUORIDES

(1) No person shall cause or contribute to concentrations of fluorides in the ambient air or in forage which exceed any of the following standards:

(a) Hydrogen fluoride

(i) Twenty-four hour average: 1 part per billion hydrogen fluoride, 24-hour average, not to be exceeded more than once per year;

(ii) Thirty-day average: 0.30 parts per billion hydrogen fluoride, 30-day average, not to be exceeded more than once per year.

(b) Fluoride in or on forage: 35 micrograms per gram fluoride in or on forage, annual average, with no monthly average to exceed 50 micrograms per gram.

(2) Measurement method for hydrogen fluoride: For determining compliance with this rule, concentrations of hydrogen fluoride shall be measured by the double tape sampler, as more fully described in "Methods of Air Sampling and Analysis, Second Edition" (1977) Method No. 42222-02-72T, as modified by the addition of a heated stainless steel sample inlet line, with the NaOH - impregnated tape analyzed by the semiautomated method discussed in "Methods of Air Sampling and Analysis, Second Edition" (1977) Method No. 122-2-02-68T, section 7.3, or by an approved equivalent method.

(3) Sampling method for fluoride in or on forage: For determining compliance with this rule, concentrations of fluorides in or on forage shall be determined from forage collected according to a sampling protocol approved by the department and analyzed by the semiautomated method, as more fully described in "Methods of Air Sampling and Analysis, Second Edition" (1977), Method No. 122-2-02-68T, provided that the surfaces of the plant material are not to be washed, or by an approved equivalent method.

RULE VII AMBIENT AIR QUALITY STANDARD FOR HYDROGEN SULFIDE (1) No person shall cause or contribute to concentrations of hydrogen sulfide in the ambient air which exceed the following standard:

(a) Hourly average: 0.05 parts per million, 1-hour average, not to be exceeded more than once per year.

(2) Measurement method: For determining compliance with this rule, hydrogen sulfide shall be measured by the methylene blue spectrophotometric method, as more fully described in "Methods of Air Sampling and Analysis, Second Edition" (1977) Method P & CAM 126-6, or by an approved equivalent method.

RULE VIII AMBIENT AIR QUALITY STANDARD FOR LEAD (1) No person shall cause or contribute to concentrations of lead in the ambient air which exceed the following standard:

(a) Ninety-day average: 1.5 micrograms per cubic meter of air, 90-day average, not to be exceeded.

(2) Measurement method: For determining compliance with this rule, lead shall be measured by the atomic absorption method, as more fully described in Title 40, Part 50 (Appendix G), Code of Federal Regulations (1979), or by an approved equivalent method.

RULE IX AMBIENT AIR QUALITY STANDARDS FOR NITROGEN DIOXIDE (1) No person shall cause or contribute to concentrations of nitrogen dioxide in the ambient air which exceed any of the following standards

(a) Hourly average: 0.30 parts per million, 1-hour average, not to be exceeded more than once per year;

(b) Annual average: 0.05 parts per million, annual average, not to be exceeded.

(2) Measurement method: For determining compliance with this rule, nitrogen dioxide shall be measured by the chemiluminescence method, as more fully described in Title 40, Part 50, (Appendix F), Code of Federal Regulations (1979), or by an approved equivalent method.

RULE X AMBIENT AIR QUALITY STANDARD FOR OZONE (1) No person shall cause or contribute to concentrations of ozone in the ambient air which exceed the following standard:

(a) Hourly average: 0.10 parts per million 1-hour average, not to be exceeded more than once per year.

(2) Measurement method: For determining compliance with this rule, ozone shall be measured by the chemiluminescence method, as more fully described in Title 40, Part 50 (Appendix D), Code of Federal Regulations (1979), or by an approved equivalent method.

RULE XI AMBIENT AIR QUALITY STANDARD FOR SETTLED PARTICULATE MATTER (1) No person shall cause or contribute to concentrations of particulate matter in the ambient air such that the mass of settled particulate matter exceeds the following standard:

(a) Thirty-day average: 10 grams per square meter, 30-day average, not to be exceeded.

(2) Measurement method: For determining compliance with this rule, settled particulate matter shall be measured by the dust fall method, as more fully described in "Methods of Air Sampling and Analysis, Second Edition" (1977), Method No. 21101-0170T, or by an approved equivalent method.

RULE XII AMBIENT AIR QUALITY STANDARDS FOR SULFUR DIOXIDE

(1) No person shall cause or contribute to concentrations of sulfur dioxide in the ambient air which exceed any of the following standards:

(a) Hourly average: 0.50 parts per million, 1-hour average, not to be exceeded more than once per year;

(b) Twenty-four hour average: 0.10 parts per million, 24-hour average, not to be exceeded more than once per year;

(c) Annual average: 0.02 parts per million, annual average, not to be exceeded.

(2) Measurement method: For determining compliance with this rule, sulfur dioxide shall be measured by the pararosaniline method as more fully described in Title 40, Part 50 (Appendix A) Code of Federal Regulations (1979), or by an approved equivalent method.

RULE XIII AMBIENT AIR QUALITY STANDARDS FOR TOTAL SUSPENDED PARTICULATE MATTER (1) No persons shall cause or contribute to concentrations of particulate matter in the ambient air which exceed any of the following standards:

(a) Twenty-four hour average: 200 micrograms per cubic meter of air, 24-hour average, not to be exceeded more than once per year.

(b) Annual average: 75 micrograms per cubic meter of air, annual average, not to be exceeded.

(2) Measurement method: For determining compliance with this rule, total suspended particulate matter shall be measured by the high volume method as more fully described in Title 40, Part 50, (Appendix B) Code of Federal Regulations (1979), or by an approved equivalent method.

RULE XIV AMBIENT AIR QUALITY STANDARD FOR VISIBILITY

(1) No person shall cause or contribute to concentrations of particulate matter such that the scattering coefficient of particulate matter in the ambient air exceeds the following standard:

(a) Annual average: 3×10^{-5} per meter, annual average, not to be exceeded.

(2) The provisions of subsection(1) are applicable only in Class I areas as are and as may be designated under ARM 16-2.14(1)-S1418, Prevention of Significant Deterioration, of the Montana Clean Air Act rules.

(3) Measurement method: For determining compliance with this rule, visibility shall be measured by the integrating nephelometer method, as more fully described in "Methods of Air Sampling and Analysis, Second Edition" (1977) Method No. 11203-03-76T, as modified by the addition of a heated sample inlet line and green spectral sensitivity; or by an approved equivalent method.

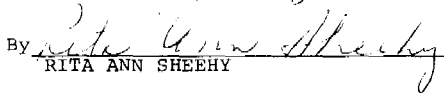
4. The board is proposing the repeal of rule ARM 16-2.14(1)-S14040 and the adoption of the foregoing new rules (Rules I through XIV) for purposes of clarifying the role of air quality standards and for purposes of determining acceptable levels of air contaminants in the state of Montana in light of current scientific knowledge.

5. Interested persons may present their data, views, or arguments, in writing, as provided by ARM 16-2.14(1)-S14041. Participation in and conduct of the hearings shall be in accordance with ARM 16-2.14(1)-S14041.

6. C. W. Leaphart, Jr., 1 North Last Chance Gulch, Helena, Montana, has been designated to preside over and conduct the hearings.

7. The authority of the department to make the proposed rules is based on sections 75-2-111 and 75-2-202, MCA, and the rules implement section 75-2-202, MCA.


JOHN F. MCGREGOR, M.D., Chairman

By 
RITA ANN SHEEHY

Certified to the Secretary of State February 5, 1980

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

In the matter of the adoption)	NOTICE OF PUBLIC HEARING
of rules establishing)	FOR ADOPTION OF RULES
immunization requirements for)	SETTING IMMUNIZATION
public and private schools)	STANDARDS FOR SCHOOLS

TO: All Interested Persons

1. On March 17, 1980, at 1:30 p.m., a public hearing will be held in the Department of Highways auditorium, 2701 Prospect Avenue, Helena, Montana, to consider the adoption of rules which establish reporting and record-keeping requirements for schools regarding the immunization status of their students and establish standards for adequate immunization of students against diphtheria, pertussis, tetanus, polio, rubella, and measles.

2. The proposed rules do not replace or modify any sections currently found in the Administrative Rules of Montana.

3. The proposed rules provide as follows:

RULE I DEFINITIONS The following definitions shall apply throughout this sub-chapter:

(1) "Department" means the department of health and environmental sciences.

(2) "Montana immunization initiative" means the actions taken by state and local public health officers between October 1, 1977, and October 1, 1979, to attempt to assess the immunization status of all Montana school children and to fully immunize up to 90% of children under age 15 against the immunizable childhood diseases, in conjunction with the nationwide immunization project stating those goals and initiated by the federal department of health, education and welfare in April, 1977.

(3) "Official parent-maintained immunization record" means a standard document distributed by a state's principal health or education agency to record the immunization status of children as part of that state's immunization maintenance system and designed to be retained and maintained by the parents of those children.

(4) "Physician" is a person licensed to practice medicine in any jurisdiction in the United States or Canada.

RULE II REQUIREMENTS FOR UNCONDITIONAL ENROLLMENT

(1) In order to unconditionally enroll a person as a pupil, a school must receive adequate documentation that immunizations were performed on the schedule and with the agents noted below:

(a) DTP, DT, or Td:

(i) For children aged less than 7 years, the schedule shall be four or more doses of diphtheria and tetanus toxoids and pertussis vaccine (DTP) and/or diphtheria/tetanus (DT) toxoids, with at least one dose (booster) given after the fourth birthday;

(ii) For persons after the seventh birthday who have not completed the above requirement, any combination of three doses of either DTP or TD shall be acceptable, with at least one dose given after the fourth birthday.

(iii) Pertussis vaccine is not required for a person seven years of age or older.

(b) Polio: The schedule shall be three or more doses of live, oral, trivalent poliomyelitis vaccine, with at least one dose (booster) given after the fourth birthday.

(c) Measles:

(i) The schedule shall be one dose of live, attenuated measles (rubeola) vaccine, given after the first birthday. Persons receiving measles vaccine prior to one year of age or prior to 1968 shall be revaccinated, unless, in the latter case, it can be documented that the vaccine, if administered between 1966 and 1968, was a live virus vaccine.

(ii) Persons certified by a physician as having had measles disease shall not be required to receive measles vaccine.

(d) Rubella:

(i) The schedule shall be one dose of live rubella vaccine given after the first birthday.

(ii) Females who have reached age 12 are exempted from the rubella vaccine requirement.

(2) In order to unconditionally enroll a person as a pupil, a school must receive adequate documentation of the following dates for each disease noted:

(a) DTP, DT, Td, and polio -- the year a series was completed.

(b) Rubella and boosters for DTP, DT, Td, and polio -- the month and year administered.

(c) Measles (rubeola) -- month, day and year vaccination administered, or if disease contracted, the date of diagnosis.

(3) "Adequate documentation" means that documentation required by Rules III, IV, or V, depending upon the school year in question.

RULE III DOCUMENTATION OF IMMUNIZATION STATUS OF CHILDREN FIRST ENROLLED PRIOR TO AUGUST 1, 1980 (1) Immunization data shall be kept on the department's cumulative health record form (SDH & ES-1, Revised 2/78; due to typographical error, the form may be labeled SCH & EX-1), the department's certificate of immunization form, or an equivalent form documenting the same immunization information.

(2) If the documentation has not been provided to the school on one of the forms referred to in subsection (1) above, immunization information must be transferred onto one of those forms from one or more of the types of documentation listed below:

- (a) an official school medical record from any school;
- (b) a record from any public health department, signed by a public health officer or nurse;
- (c) a certificate signed by a physician;
- (d) any parent-maintained immunization record, if information has been recorded by a physician, physician's designee, local health officer, or that officer's designee;
- (e) any state's official parent-maintained immunization record if signed by a physician, physician's designee, local health officer, or that officer's designee;
- (f) for measles (rubeola) only, a letter or statement signed by a physician indicating that the child had measles (rubeola) disease, with the date of diagnosis indicated;
- (g) for pupils seven years of age or older, for the 1980-1981 school year only, immunization assessment data collected during the Montana immunization initiative. This information, if and when entered into an official school immunization record, or certificate of immunization form, shall be considered adequate evidence of immunization throughout the remaining years of school attendance of such pupil.

RULE IV DOCUMENTATION OF IMMUNIZATION STATUS OF CHILDREN ENROLLING FOR THE FIRST TIME AFTER JULY 31, 1980, FOR THE 1980-1981 SCHOOL YEAR (1) Immunization data shall be kept only on the department's certificate of immunization form and shall be signed by a physician, local health officer, or their designees, if the data is submitted to the school on that form.

(2) If the documentation has not been provided to the school on a certificate of immunization form:

(a) immunization data must be transferred onto that form from one or more of the other types of documentation listed in subsection (3) below, and

(b) the certificate of immunization must be signed by the person transferring the information, rather than a physician, local health officer, or their designees.

(3) Immunization data may be transferred onto the certificate of immunization form from one or more of the types of documentation listed below:

- (a) an official school medical record from any school;
- (b) the department's cumulative health record;
- (c) a record from any public health department, signed by a public health officer or nurse;
- (d) a certificate signed by a physician;

(e) any parent-maintained immunization record, if information has been recorded by a physician, physician's designee, local health officer, or that officer's designee;

(f) any state's official parent-maintained immunization record if signed by a physician, local health officer, or their designees;

(g) for measles (rubeola) only, a letter or statement signed by a physician indicating that the child had measles (rubeola) disease, with the date of diagnosis indicated;

(h) for pupils seven years of age or older, for the 1980-1981 school year only, immunization assessment data collected during the Montana immunization initiative. This information, if and when entered into an official school immunization record, shall be considered adequate evidence of immunization throughout the remaining years of school attendance of such pupil.

RULE V DOCUMENTATION OF IMMUNIZATION STATUS OF CHILDREN ENROLLING IN SCHOOL FOR THE FIRST TIME AFTER JULY 31, 1981

(1) Immunization data may be accepted by a school only if submitted on the department's certificate of immunization form and signed by a physician, local health officer, or their designees, except:

(a) if immunization was performed outside of Montana, the school may accept the following documentation:

(i) an official school medical record from any school;

(ii) a record from any public health department, signed by a public health officer or nurse;

(iii) a certificate signed by a physician;

(iv) for measles (rubeola) only, a letter or statement signed by a physician indicating that the child had measles (rubeola) disease, with the date of diagnosis indicated;

(b) data from the official parent-maintained immunization record of Montana or any other state may be accepted.

(c) if documentation of immunization comes from either (a) or (b) above, the data must be transferred to a certificate of immunization form and signed by the person performing the transfer.

RULE VI REQUIREMENTS FOR CONDITIONAL ENROLLMENT (1) A person may be admitted to school on a conditional basis if a physician or local health department indicates on the department's conditional enrollment form that immunization of the person has already been initiated by receiving, at a minimum, one DTP, (or DT or Td), one polio, one measles, and one rubella vaccination (unless rubella is not required because the person is a female 12 years of age or older).

(2) Conditional enrollment shall be for a reasonable length of time consistent with the immunization schedule in

subsection (4) below, in order to allow for completion of all immunization requirements, but in any case shall not exceed 90 days from the date of enrollment.

(3) The conditional enrollment form provided by the department shall be used to document conditional enrollment status and shall be retained in the school health record.

(4) A person who is conditionally enrolled shall qualify for unconditional enrollment when he or she receives the following number of doses of each vaccine, and at intervals of no less than four weeks:

Number of Polio Doses Child Has Received	Child Needs:
0	3
1	2
2	1
3	0
4	0
3 or more, but none after 4th birthday	1

Number of DTP (Td) Doses Child Has Received	Child Before 7th Birthday Needs <u>DTP</u> :	Child After 7th Birth- day needs Td:
0	3*	3*
1	2*	2*
2	2	2
3	1	1
4	0	0
3 or more, but none since 4th birthday	1	1

*A booster dose 8-14 months following the third dose is recommended. Td boosters are also recommended every 10 years.

(5) If the person who is conditionally enrolled fails to complete immunization within the time period indicated in subsection (2) above, he or she shall be considered exempt from the immunization requirements that remain unfulfilled and a statement that he is administratively exempt from those requirements, naming the particular diseases for which immunization remains incomplete, shall be filed in his school medical record on a form provided by the department.

RULE VII MEDICAL EXEMPTION (1) A person seeking enrollment in school shall not be required to have any immunizations which are medically contraindicated. A written and signed statement from any physician that an immunization is medically contraindicated will exempt a person from whatever

immunization requirements of section 20-5-403, MCA, the statement indicates necessary.

(2) The statement shall include:

(a) which particular immunization or immunizations are contraindicated;

(b) the period of time immunization is contraindicated; and

(c) the reasons for the medical contraindication.

(3) A physician's medical exemption form may be obtained from the department to be used as documentation.

(4) The physician's written statement shall be maintained by the school as part of the immunization record of the person qualifying for the exemption.

RULE VIII RELIGIOUS OR PERSONAL EXEMPTION (1) A person seeking enrollment in school shall be exempted from immunization requirements if the parent or guardian of that person, or the person himself if an adult, objects thereto in a signed, written statement indicating that the proposed immunization interferes with the free exercise of the religious or personal beliefs of the person signing the statement.

(2) The statement referred to in subsection (1) above must be made on the department's certificate of immunization form.

(3) The statement will be kept by the school as part of the person's immunization record.

RULE IX ADMINISTRATIVE EXEMPTION If a parent or guardian of a minor seeking enrollment, or the person seeking enrollment, if an adult, fails to submit documentation that he is in full compliance with the immunization requirements of these rules, to establish that he qualifies for conditional enrollment or to claim a medical, personal or religious exemption within the time period established by the board of trustees, the school shall file an administrative exemption in that person's school medical records, on a form provided by the department.

RULE X TIME LIMIT The board of trustees of a school may set a reasonable date by which information on immunization status qualifying a person for unconditional or conditional enrollment or an exemption must be submitted to the school, so long as that date is not later than the date of enrollment.

RULE XI REPORT OF EXEMPTED PUPILS (1) On or before October 15 of each year, all schools shall submit to the department and the local health department a report of all students who are exempt from the immunization requirements of section 20-5-403, MCA, because they, their parents or

guardians have claimed a medical, religious or personal exemption, or because they are administratively exempt by virtue of the failure of anyone to act to affirmatively claim exempt status, qualify for conditional enrollment, or provide documentation that the required immunizations are complete.

(2) The report shall be filed on forms provided by the department and shall indicate the disease or diseases in each case for which immunization is incomplete.

(3) If a person who is conditionally enrolled fails to complete immunization within the time period indicated in Rule VI, he shall be considered administratively exempt, and notice of that fact shall be sent immediately to the department and the local health department on the form provided by the department for reporting exemptions.

RULE XII SUMMARY REPORT OF IMMUNIZATION STATUS (1) A report of the immunization status of the pupils in every school shall be sent each year to the department by the principal or other person in charge of a school on a form provided by the department.

(2) During the 1980-1981 and 1981-1982 school years, the report of immunization status shall include the status of all pupils and shall be submitted by February 1 of the respective academic year.

(3) For the 1982-1983 school year and each year thereafter, the report shall be limited to the immunization status of pupils enrolling in school for the first time and transfer students and shall be submitted by December 1 of each school year.

(4) A copy of the report shall be sent concurrently from the school to the local health department, or, if there is no local health department, to the local board of health.

(5) If, after the annual report of immunization status has been submitted to the department and the appropriate local health authority, the immunization status of any person included in that report changes, another report form shall be filed within 30 days after the change in status showing only the altered data for the grade affected.

RULE XIII INFORMED CONSENT Before vaccine, other than DTP, DT, or Td, which is supplied by the department can be administered by anyone other than a private physician in his or her office, a form supplied by the department containing information regarding risks and benefits of each vaccine must be signed by the parent or legal guardian of a minor receiving a vaccine, or the person receiving vaccine, if an adult.

4. The department is proposing these rules in order to implement the provisions of sections 20-5-402 through 20-5-406, MCA, and 20-5-408 through 20-5-410, MCA, which become effective August 1, 1980, and require the department to establish immunization standards for school pupils and record-keeping and reporting requirements for schools regarding immunization status.

5. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Mr. Robert Solomon, Cogswell Building, Helena, Montana, 59601, no later than March 14, 1980.

6. Mr. Robert Solomon has been designated to preside over and conduct the hearing.

7. The authority of the department to make the proposed rules is based on section 20-5-407, MCA, and the rules implementation sections 20-5-402 through 20-5-406, and 20-5-408, MCA.

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

by John S. Anderson
JOHN S. ANDERSON, M.D.

Certified to the Secretary of State February 5, 1980

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

In the matter of the repeal of rules)	NOTICE OF PROPOSED REPEAL OF ARM
26-2.10(6)-S10070 through 26-2.10(6)-)	26-2.10(6)-S10070 through 26-2.10(6)-
S10100 and rule 26-2.10(6)-S10180,)	S10100 and 26-2.10(6)-S10180 (Opencut
specifying forms available under the)	Mining Act Forms) NO PUBLIC HEARING
Opencut Mining Act)	CONTEMPLATED

TO: All Interested Persons

1. On March 17, 1980, the Department of State Lands and Board of Land Commissioners propose to repeal rules 26-2.10(6)-S10070 through 26-2.10(6)-S10100 and rule 26-2.10(6)-S10180, specifying forms available under the Opencut Mining Act.

2. The rules proposed to be repealed are on pages 26-48.1 through 26-48.4E and 26-48.4M through 26-48.4Q of the Administrative Rules of Montana.

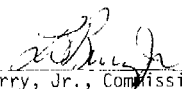
3. The agency proposes to repeal this rule because forms are no longer being included in the Administrative Rules of Montana.

4. Interested parties may submit their data, views and arguments concerning the proposed repeals in writing to Leo Berry, Jr., Commissioner, Department of State Lands, Capitol Station, Helena, Montana 59601, no later than March 14, 1980.

5. If a person who is directly affected by the proposed repeal of the above rules wishes to express his data, views and arguments orally or in writing at a public hearing he must make written request for a hearing and submit that request along with any written comments he has to Leo Berry, Jr., no later than March 14, 1980.

6. If the agency receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less of the persons directly affected; from the Administrative Code Committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 40 persons based upon the 400 persons holding Opencut Mining Contracts.

7. The authority to make and repeal the proposed rules is based on Section 82-4-422 MCA and the rules implemented Sections 82-4-431, 82-4-432 and 82-4-433 MCA.


Leo Berry, Jr., Commissioner
Department of State Lands

Certified to the Secretary of State February 5, 1980.

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

IN THE MATTER of the Proposed)	NOTICE OF PUBLIC HEARING ON
Adoption of Rules Implement-)	NEW RULES IMPLEMENTING MIN-
ing Minimum Operations Re-)	IMUM OPERATIONS REQUIREMENTS
quirements For Class D Motor)	FOR CLASS D MOTOR CARRIERS
Carriers.)	

TO: All Interested Persons

1. On March 28, 1980 in the Conference Room of the Montana Public Service Commission Office at 1227 11th Avenue, Helena, Montana at 10:00 a.m., a public hearing will be held to consider the proposed adoption of rules implementing minimum operations requirements for Class D motor carriers established in the 1979 amendment to Section 69-12-314, MCA.

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

3. The proposed rules provide as follows:

Rule I. USUAL BUSINESS OPERATION (1) A motor carrier who possesses a Class D motor carrier certificate conducts his Class D activities "as part of the motor carrier's usual business operation" as that requirement is set out in Section 69-12-314(2) if the carrier actually transports Class D materials and holds itself out to the public as a common carrier willing to serve the public within the area authorized by the Commission, provided the carrier offers the Class D service for the payment of charges intended to exceed the costs of providing such service and further provided that such service is not merely incidental to any other service provided to the customer by the carrier.

Rule II. REGULAR BASIS (1) A motor carrier who possesses a Class D certificate conducts his Class D activities "on a regular basis" as that requirement is set out in Section 69-12-314(2) if the carrier actually transports Class D materials on a frequent or recurring basis.

Rule III. RETAINING CLASS D CERTIFICATE (1) A motor carrier who possesses a Class D motor carrier certificate and who can show that its Class D service is used by at least 20 customers per month during each month of the calendar year, or can show that its Class D service generates not less than \$5,000 gross revenue per calendar year, is presumed to meet the requirements of actually engaging in the transportation of Class D materials on a regular basis as part of the motor carrier's usual business operation as those requirements are set out in Section 69-12-314(2) and is, therefore, further presumed to be entitled to possess a Class D motor carrier certificate.

Rule IV. OTHER CIRCUMSTANCES ALLOWING RETENTION OF CLASS D CERTIFICATE (1) A motor carrier who possesses a Class D motor carrier certificate but who because of seasonal operations or other circumstances cannot meet either of the conditions stated in Rule III, must submit to the Commission a signed and verified statement describing in detail those cir-

cumstances which lead the carrier to believe that it should be allowed to retain its Class D certificate consistent with the requirements of Section 69-12-314(2).

(2) Upon receipt of such a statement, the Commission will evaluate the circumstances described therein together with any other information it feels would be revealing and will make a determination as to whether the carrier is entitled to possess a Class D certificate pursuant to Section 69-12-314(2) based upon the criteria set out in Rule I and Rule II.

Rule V. REPORTS (1) In order to be entitled to retain its Class D authority, on or before March 31st of each year, every Class D carrier must submit with its annual report to the Commission one of the following concerning its operations for the previous calendar year:

(a) A report on a form available from the Commission office showing that the carrier's Class D service was used by at least 20 customers per month during each month of the preceding calendar year,

(b) A report on a form available from the Commission office showing that the carrier's Class D service generated at least \$5,000 gross revenue for the preceding calendar year, or

(c) A signed and verified statement as described in Rule IV.

Rule VI. ADDITIONAL INFORMATION REQUIRED BY THE COMMISSION (1) At any time, the Commission may in its discretion require any Class D carrier to submit additional supporting evidence beyond that received in accordance with Rule V.

(2) Upon refusal to submit additional evidence or receipt of additional evidence from the carrier or from any other source, the Commission may in its discretion:

(a) Determine that the presumption in Rule III has been rebutted,

(b) Reverse its earlier determination made under Rule IV(2),

(c) Determine that the carrier is entitled to possess a Class D certificate under Section 69-12-314(2), or

(d) Decide to conduct an investigation pursuant to Section 69-12-206.

Rule VII. SHOW CAUSE ORDER (1) When under the provisions of this sub-chapter the Commission determines that a Class D carrier is not in compliance with Section 69-12-314(2), the Commission may issue an order to show cause why the certificate should not be revoked pursuant to Section 69-12-327.

4. Minimum operations requirements were established for Class D motor carriers when the 1979 Montana Legislature added subsection (2) to Section 69-12-314, MCA. That subsection provides:

...(2) A motor carrier may not possess a Class D motor carrier certificate or operate as a Class D motor carrier unless the motor carrier actually engages in the transportation of ashes, trash, waste,

refuse, rubbish, garbage, and organic and inorganic matter on a regular basis as part of the motor carrier's usual business operation.

The proposed rules are necessary to establish guidelines by which the Montana Public Service Commission can determine whether or not a Class D motor carrier is in compliance with Section 69-12-314, MCA.

5. Interested parties may submit their data, views or arguments concerning the proposed adoption at the hearing, or in writing to Calvin Simshaw, Staff Attorney, Montana Public Service Commission, 1227 11th Avenue, Helena, Montana 59601, no later than March 26, 1980.

6. The Montana Consumer Counsel, 34 West Sixth Avenue, Helena, Montana 59601 (telephone 449-2771) is available and may be contacted to represent consumer interests in this matter.

7. The authority of the Commission to make this rule is based on Section 69-12-301, MCA, IMP Section 69-12-314 and Section 69-12-407, MCA.


GORDON E. BOLLINGER, Chairman

CERTIFIED TO THE SECRETARY OF STATE FEBRUARY 5, 1980.

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

IN THE MATTER of the Proposed) NOTICE OF PROPOSED AMENDMENTS
Amendments of ARM 40-3.34(6)-) OF ARM 40-3.34(6)-S3430
S3430 concerning examinations) EXAMINATIONS; 40-3.34(10)-
for dentists; ARM 40-3.34 (10)-) S3470 ALLOWABLE FUNCTIONS
S3470 Allowable Functions for) FOR DENTAL AUXILIARIES;
dental auxiliaries; and ARM 40-) AND ARM 40-3.34(10)-S34000
3.34(10)-S34000 concerning) EXAMINATIONS
examinations for dental)
Hygienists.) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On March 15, 1980, the Board of Dentistry proposes to amend ARM 40-3.34(6)-S3430 concerning examinations for dentists; 40-3.34(10)-S3470 subsections (5), (5)(a) and (b) concerning allowable functions for dental auxiliaries; and 40-3.34(10)-S34000 concerning examinations for dental hygienists.

2. The proposed amendment to ARM 40-3.34(6)-S3430 will read as follows: (new matter underlined, deleted matter interlined)

"40-3.34(6)-S3430 EXAMINATIONS (1) Applications for the oral interview and jurisprudence examinations must be submitted to the office of the board at least ~~thirty~~ thirty 20 days prior to the examination date.

(2) Notice of cancellation of examination by examinees must be postmarked at least twenty (20) days prior to the examination before the examination fee, minus \$10.00 administrative costs, will be refunded.

(3) Examinees must furnish their own dental supplies for the examination.

(4) The grading will be done by the board members. A final grade of at least 75% is required for passing the examination.

(5) Results of the State Board oral interview and jurisprudence examinations shall be sent to examinees by letter from the Department office.

(6) All candidates for license must submit a National Board Examination Certificate and score card from the National Board of Dental Examiners, except that only scores in Part II of the National Board Examination will be required if ten or more years have passed since the candidates' graduation from dental school.

(7) ~~Examinations will be given in June and December of each year. The June examination will be open to all qualified applicants. However, the December examination will be limited to a total of twenty (20) examinees (dentists and/or hygienists). The determination of which applicants shall qualify should there be more than twenty (20) will be made according to the first twenty (20) applicants the board receives.~~ The board

accepts, in satisfaction of the practical part, successful completion of an examination administered by the Western Regional Examining Board, after June 1979. The examination results of the Western Regional Examining Board shall be valid for a period of three years from the date of successful completion of the examination.

(8) Applicants for licensure shall submit an application, which shall be furnished by the board and shall include:

(a) certificate of successful completion of the Western Regional Examining Board clinical examination, within the last 3 years;

(b) three affidavits of good moral character;

(c) certificate of graduation from a board approved dental school;

(d) an examination fee of \$60.00;

(e) a recent photograph of the applicant;

(f) copies of all other state licenses which the applicant holds;

(g) names and addresses of all dental societies of which the applicant is a current member; and

(h) upon successful completion of the examination, a licensure fee of \$20.00."

3. The board is proposing the amendment to clarify examination (application) filing requirements. The authority of the board to make the proposed amendment is based on section 37-4-301(1) and (8) MCA and implements the same section.

4. The amendment of ARM 40-3.34(10)-S3470 deletes subsection (5) and (5)(a) and (b) and replaces them with the following: (new matter underlined, deleted matter interlined)
"40-3.34(10)-S3470 ALLOWABLE FUNCTIONS FOR DENTAL AUXILIARIES (1)....

~~(5) The requirements for expanded duty certification shall be as follows:~~

~~(a) the applicant shall have successfully completed a training program for dental assistants approved by the American Dental Association or shall have completed the Colorado Dental Assistants training program;~~

~~(b) the applicant shall sit for and successfully pass a written and practical examination administered by the Montana Dental Association under agreement with the Board. To qualify to perform the expanded duty function of making radiograph exposures, the assistant shall sit for and successfully complete a written and practical examination administered by the Montana Dental Association under agreement with the board. No certification or licensure will be issued by the board. The association, however, will provide the board with a list of~~

all assistants who have qualified. No dentist shall knowingly allow an assistant in his employ to perform the expanded duty function of making radiograph exposures without having first determined that said assistant has qualified as above specified.

(6)"

5. The board has by prior amendment specified that the only expanded duty for which qualification will be necessary is the making of radiograph exposures. Pursuant to its statutory duty to define the qualifications for that expanded duty, the board has determined that the passing of an examination shall be sufficient, without further specifying the nature of the training program prior to taking said examination. The board purposes deletion of the "certification" concept appearing in the existing rule in response to direction from the Administrative Code Committee and in recognition that the statute contemplates that auxiliary personnel shall be unlicensed and therefore does not contemplate any licensure or certification process. The board does, however, believe that the legislature, through authorizing the board to define tasks and qualifications, intended an enforcement mechanism. The board therefore will maintain a list of those persons who have become qualified and will further impose responsibility upon the employing dentist to assure that the qualifications are met before the function is performed.

The authority of the board to make the proposed amendment is based on section 37-4-408 MCA and implements the same.

6. The proposed amendment to ARM 40-3.34(10)-S34000 will read as follows: (new matter underlined, deleted matter interlined)

"40-3.34(10)-S34000 EXAMINATIONS (1) Applicants maybe required to write a short essay and answer questions posed to them by the board and demonstrate satisfactorily the clinical capabilities required by the board.

(2) Notice of cancellation of examination by examinees must be postmarked at least twenty (20) days prior to examination before the examination fee, minus \$10.00 administrative costs, will be refunded.

(3) Applications for the oral interview and jurisprudence examinations must be submitted to the office of the board at least 20 days prior to the examination date.

(4) Examinees must furnish their own dental supplies for the examination.

(5) The grading will be done by the board members. A final grade of at least 75% is required for passing the examination.

(6) The board accepts, in satisfaction of the practical part, successful completion of an examination administered by the Western Regional Examining Board, after June 1979. The examination results of the Western Regional Examining Board shall be valid

for a period of 3 years from the date of successful completion of the examination.

(7) Applicants for licensure shall submit an application, which shall be furnished by the board

(a) certificate of successful completion of the Western Regional Examining Board clinical examination, within the last 3 years;

(b) two affidavits of good moral character;

(c) certificate of graduation from a board approved dental hygiene school;

(d) an examination fee of \$60.00;

(e) a recent photograph of the applicant;

(f) copies of all other state licenses which the applicant holds;

(g) names and addresses of all dental hygiene Societies of which the applicant is a current member; and

(h) upon successful completion of the examination, a licensure fee of \$15.00."

7. The amendment is proposed to clarify the examination (application filing requirements. The authority of the board to make the proposed amendment is based on section 37-4-402 (3) and (8) MCA and implements the same.

8. Interested parties may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Dentistry, Lalonde Building, Helena, Montana 59601 no later than March 13, 1980.


9. 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 Dentistry, Lalonde Building, Helena, Montana 59601 no later than March 13, 1980.

10. If the board receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendments; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those person directly affected has been determined to be 10 based on the 100 examinees per year.

11. The authority and implements sections are stated after each proposed rule change.

BOARD OF DENTISTRY

DOUGLAS E. WOOD, D.D.S., PRESIDENT

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

Certified to the Secretary of State, February 5, 1980.

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

IN THE MATTER of the Proposal) NOTICE OF PROPOSED AMENDMENT
Amendment of ARM 40-3.38(6)-) OF ARM 40-3.38(6)-S3875
S3875 Apprentice Registration) APPRENTICE REGISTRATION

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On March 15, 1980, the State Electrical Board proposes to amend ARM 40-3.38(6)-S3875 concerning apprentices.

2. The amendment as proposed will delete all the existing subsections in their entirety and in lieu thereof will read as follows: (deleted material is located at pages 40-153 and 40-153.1 Administrative Rules of Montana)

"40-3.38(6)-S3875 APPRENTICES (1) Section 39-68-303 MCA states that the licensing requirements for doing electrical work do not prohibit a person from working as an apprentice in the trade of electrician with an electrician licensed under the act and under rules made by the board. Pursuant to this authorization, the board specifies, in the remainder of this rule, the conditions under which persons may employ and work as apprentices.

(2) Any electrical contractor wishing to employ a person to work as an apprentice, and any person desiring to work as an apprentice, shall first make application to the state electrical board on forms provided by the board.

(3) In order to qualify for an apprenticeship program the applicant contractor and the applicant apprentice shall either:

(a) present evidence that the contractor has established an apprentice training program certified by the apprenticeship bureau, department of labor and industry, state of Montana; or

(b) present evidence directly to the board that the employer has established an apprentice training program for the apprentice which is equivalent to programs of the Montana department of labor and industry.

(4) For purposes of determining whether a program is equivalent within the meaning of (3) (b) above, the board will consider and apply the current apprenticeship bureau standards. If the applicant employer's proposed program meets or exceeds the apprenticeship bureau standards then equivalency will be determined to have been met. In determining whether a proposed program meets or exceeds the apprenticeship bureau standards, the board will consider all factors used by the apprenticeship bureau. Interpretation of existence of these factors will be made with an overall expectation that proper safety standards for the apprentice are met and that the consumer is receiving proper and adequate

electrical installation services from the apprentice and his employer.

(5) With respect to apprenticeship programs established directly through the board, the board reserves the right to monitor said programs and to demand and receive any and all necessary progress reports from the employer and the apprentice.

(6) Compliance with federal and state law administered by the department of labor and industry, labor standards division, apprenticeship bureau, where such compliance is applicable shall be a condition to registering apprentices with the state electrical board."

3. The state electrical board has in the past made several attempts at implementing rules for regulating apprentices. Under the existing rule, virtually any person or any employer could list a person as an apprentice by filing his name with the board and submitting a quarterly report. Virtually no training standards are imposed under the existing rule and determinations as to the quality and extent to the apprentice's training are not made until the apprentice applies for journeyman licensure.

The board has found that the current rule allows extensive abuse of the licensing requirements and of the exemption from licensure for apprentices. The board has found in numerous instances that employers are using the simple listing requirements under the existing rule to obtain employees to do electrical work without any intention, or implementation of electrical training.

To correct such abuse, the board proposes this rule. As an existing apprenticeship training certifying program is administered by the state apprenticeship bureau, department of labor, it is the board's expectation that employers where possible will certify their program through that bureau. However, the board recognizes a legal need for an alternative to the apprenticeship bureau program, the board proposes in this rule the alternative to register a program through the electrical board.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to the State Electrical Board, Lalonde Building, Helena, Montana 59601 no later than March 13, 1980.

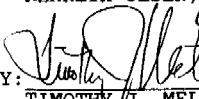
5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any comments he has to the State Electrical Board, Lalonde Building, Helena, Montana 59601 no later than March 13, 1980.

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

Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 4 based on the 45 registered apprentices.

7. The authority of the board to make the proposed rule amendment is based on section 37-68-201 MCA. The proposed amendment implements section 37-68-303 MCA.

STATE ELECTRICAL BOARD
KENNETH OLSEN, PRESIDENT

BY:  Ed Carney, Director
TIMOTHY J. MELOY, STAFF ATTORNEY
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL LICENSING

1980. Certified to the Secretary of State, February 5,

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

IN THE MATTER of the Proposed)
Adoption of new rules con-)
cerning environmental sanita-)
tion and employment responsi-)
bilities.)

NOTICE OF PROPOSED ADOPTION
OF ARM 40-3.100(6)-S10065
ENVIRONMENTAL SANITATION
AND ARM 40-3.100(6)-S10066
EMPLOYMENT RESPONSIBILITIES

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On January 17, 1980, the Board of Sanitarians published a notice of proposed adoption and several proposed amendments at page 69, 1980 Montana Administrative Register, issue number 1. The board inadvertently noticed incorrect material in the proposed adoption of ARM 40-3.100(6)-S10065. The material in the proposed amendments was correct. Therefore the board is with this notice, publishing a renote of the proposed adoption of ARM 40-3.100(6)-S10065, which has been split into two rules on the recommendation of the Administrative Code Committee.

2. On March 15, 1980, the Board of Sanitarians proposed to adopt new rules 40-3.100(6)-S10065 concerning environmental sanitation and 40-3.100(6)-S10066 concerning employment responsibilities.

3. The proposed rule 40-3.100(6)-S10065 will read as follows:

"40-3.100(6)-S10065 ENVIRONMENTAL SANITATION (1) The field of environmental sanitation to which section 37-40-101 (5) MCA refers involves the prevention and control of public health hazards which may be associated with food items; private and semi-private potable water supplies; public swimming pools; housing and public accommodations; institutions (such as schools, day-care centers, jails); private and semi-private sewage disposal; private and semi-private garbage storage and disposal; and filth."

4. The rule is proposed to delineate in greater detail what is meant by practice of the profession of a sanitarian.

5. The proposed rule 40-3.100(6)-S10066 will read as follows:

"40-3.100(6)-S10066 EMPLOYMENT RESPONSIBILITIES

(1) Any person whose employment responsibilities include planning, inspectional, educational or enforcement duties in one or more of the areas to which rule 40-3.100(6)-S10065 refers, must be registered in accordance with Title 37, Chapter 40 MCA unless exempt by the law or unless the person, possessing a baccalaureate degree from an accredited college or university for a profession other than sanitarian, is employed under a particular job classification which specifically requires the services of that person's profession (examples of such professions: microbiologist, chemist, soil scientist,

etc.)

(2) Sanitarians, registered in accordance with paragraph (1), may also be involved in and must be knowledgeable about such other environmental health areas as air quality control, water pollution control, occupational health, consumer safety, solid waste disposal, vector and pest control, and accident prevention."

6. The reason for the proposed adoption of this rule is the same as stated in paragraph 4. As was stated in paragraph 1. of this notice, the rules were originally part of one rule.

7. Interested parties may submit their data, views or arguments concerning the proposed adoptions in writing to the Board of Sanitarians, Lalonde Building, Helena, Montana 59601 no later than March 13, 1980.


8. If a person who is directly affected by the proposed adoptions 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 comments he has to the Board of Sanitarians, Lalonde Building, Helena, Montana 59601 no later than March 13, 1980.

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

10. The authority of the board to make the proposed adoptions is based on section 37-40-203 MCA. The proposed adoptions implement section 37-40-101 (5) MCA.

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

BY:


ED CARNEY, DIRECTOR
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, February 5, 1980.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF ADOPTION	)	NOTICE OF PROPOSED ADOPTION OF
OF RULES relating to drive-	)	RULES relating to drive-up
up window facilities for	)	window facilities for retail
retail sales of alcoholic	)	sales of alcoholic beverages.
beverages.)	
		NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On March 17, 1980, the Department of Revenue proposes to adopt rules relating to drive-up window facilities for retail sales of alcoholic beverages.
2. The proposed rules provide as follows:

Rule I DRIVE-UP WINDOWS (1) The holder of a license to sell alcoholic beverages for off-premises consumption may operate a drive-up window for the purpose of selling such alcoholic beverages upon the approval of the department and subject to the restrictions provided in Rule II.

(2) An application for the operation of a drive-up window is made on forms available from the liquor division. There is a processing fee of \$50 for the application if the applicant is the holder of a license permitting the sale of alcoholic beverages for off-premises consumption. A non-licensee may include the application for a drive-up window as part of the original license application, and no additional fee is charged.

Rule II OPERATION OF DRIVE-UP WINDOWS (1) The operation of a drive-up window for retail sales of alcoholic beverages is subject to the following requirements:

(a) The drive-up window must be included in the area licensed as the premises for the sale of alcoholic beverages.

(b) The drive-up window and the adjacent area must be well-lighted and subject to inspection at all times of operation.

(c) No order may be received or delivery made to any person under the age of 19 or to any intoxicated person.

(d) No part of a sidewalk, highway, street, or alley may be used for orders, sales, or delivery.

(e) Alcoholic beverages must be sold and delivered in the drive-up area in only the original, unopened package and may not be consumed in the drive-up area.

(f) The operation of the drive-up window is subject to all other statutes and rules generally governing the sale of alcoholic beverages for off-premises consumption.

(2) In determining whether or not to approve an application for a drive-up facility, the department considers whether the conditions of subsection (1) are likely to be met by the applicant. An application will not be approved if the department

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determines that operation of the drive-up facility will create a traffic hazard or hinder law enforcement activities or emergency services.

3. The proposed rules are in response to numerous requests the Department has received for permission to operate drive-up window facilities for retail sales of alcoholic beverages. In the past the Department has not encouraged such facilities. However, a review of the statutes indicates there is no statutory bar to drive-up facilities, and modern marketing techniques employ drive-up windows in many areas, such as banking and food establishments. The proposed rules are designed to insure that drive-up facilities fully comply with the existing statutes and rules related to sales of alcoholic beverages and are operated in a safe manner. The fee is charged for holders of existing licenses because of the need for the Department to review the application and determine if a drive-up facility should be approved. New license applicants are subject to a thorough investigation for the new license and hence are not required to pay an additional fee. The rules are based, in part, on existing statutory language found in Wyoming.


4. Interested parties may submit their data, views, or arguments concerning the proposed rules in writing no later than March 14, 1980, to:

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

5. If a person who is directly affected by the proposed rules wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Laurence Weinberg at the address given in paragraph 4 above no later than March 14, 1980.

6. If the Department receives requests for a public hearing on the proposed rules from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed rules; from the Revenue Oversight Committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be more than 25 based upon the number of persons potentially involved in the operation of drive-up facilities.

7. Authority of the Department to make the proposed rules is based on 16-1-303, MCA. The proposed rule implements 16-3-303, MCA; Title 16, chapter 3, part 3, MCA; and Title 16, chapter 4, MCA.


MARY L. CRAIG, Director
Department of Revenue

Certified to the Secretary of State 2-4-80

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE REPEAL) NOTICE OF PROPOSED REPEAL OF
OF NUMEROUS RULES related) NUMEROUS RULES related to
to income tax.) income tax.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On March 17, 1980, the Department of Revenue proposes to repeal numerous rules related to income tax.

2. The rules proposed for repeal and the pages of the Montana Administrative Code (now the Administrative Rules of Montana) where they can be found are as follows:

<u>Rule</u>	<u>Page</u>
42-2.8(1)-S800	42-62.1
42-2.8(1)-S810	42-63
42-2.8(1)-S850	42-63
42-2.8(1)-S880	42-64
42-2.8(1)-S8010	42-65
42-2.8(1)-S8070	42-67
42-2.8(1)-S8080	42-67
42-2.8(1)-S8110	42-68
42-2.8(1)-S8160 through 42-2.8(1)-S8240	42-69 through 42-72
42-2.8(1)-S8290 through 42-2.8(1)-S8305	42-72 through 42-74.1
42-2.8(1)-S8310	42-74.1
42-2.8(1)-S8350	42-76
42-2.8(1)-S8400 through 42-2.8(1)-S8430	42-77 through 42-78
42-2.8(1)-S8460	42-79
42-2.8(1)-S8470	42-79
42-2.8(1)-S8570 through 42-2.8(1)-S8600	42-83 through 42-84
42-2.8(1)-S8630	42-85
42-2.8(1)-S8640	42-85
42-2.8(1)-S8740	42-89
42-2.8(1)-S8770 through 42-2.8(1)-S8830	42-90 through 42-92
42-2.8(1)-S8940	42-92.3
42-2.8(1)-S8960 through 42-2.8(1)-S80010	42-92.4 through 42-92.6
42-2.8(1)-S80030 through 42-2.8(1)-S80080	42-92.6 through 42-92.7
42-2.8(1)-S80120	42-92.9
42-2.8(1)-S80130	42-92.9
42-2.8(1)-S80150	42-92.9
42-2.8(1)-S80170	42-92.10
42-2.8(1)-S80190	42-92.10
42-2.8(1)-S80210	42-92.11
42-2.8(1)-S80220	42-92.11
42-2.8(1)-S80240	42-92.12
42-2.8(1)-S80250	42-92.12
42-2.8(1)-S80270	42-92.12

<u>Rule</u>	<u>Page</u>
42-2.8(1)-S80300	42-92.14
42-2.8(1)-S80330	42-92.15
42-2.8(1)-S80390	42-92.16
42-2.8(1)-S80400	42-92.17
42-2.8(1)-S80440	42-92.18
42-2.8(1)-S80450	42-92.18
42-2.8(1)-S80480 through 42-2.8(1)-S80520	42-92.19 through 42-92.20
42-2.8(1)-S80541	42-92.21

3. The rules listed above are proposed for repeal as a result of the rules recodification project. The rules are obsolete, inconsistent with or contradictory of statutes, or redundant. Because of the large number of rules involved, a rule-by-rule breakdown of reasons for repeal is not included in this notice. Any person interested in a specific rule can obtain further information by contacting Laurence Weinberg at the address given in paragraph 4.


4. Interested parties may submit their data, views, or arguments concerning the proposed repeals in writing no later than March 15, 1980, to:

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

5. If a person who is directly affected by the proposed repeals wishes to submit his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to Laurence Weinberg at the address given in paragraph 4 no later than March 15, 1980.

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

7. Authority of the Department to make the proposed repeals is based on 15-1-201 and 15-30-305, MCA. The repeals implement 2-4-322, MCA, and the intent of Chapter 600, Laws of 1979.



MARY L. CRAIG, Director
Department of Revenue

Certified to the Secretary of State 2-4-80

3-2/14/80

MAR Notice No. 42-2-159

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE REPEAL) NOTICE OF PROPOSED REPEAL OF
OF NUMEROUS RULES related) NUMEROUS RULES related to
to corporation tax.) corporation tax.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On March 17, 1980, the Department of Revenue proposes to repeal numerous rules related to corporation tax.
2. The rules proposed for repeal and the pages of the Montana Administrative Code (now the Administrative Rules of Montana) where they can be found are as follows:

<u>Rule</u>	<u>Page</u>
42-2.6(1)-S600	42-30
42-2.6(1)-S620	42-31
42-2.6(1)-S630	42-31
42-2.6(1)-S660	42-32
42-2.6(1)-S6120	42-34
42-2.6(1)-S6140	42-34
42-2.6(1)-S6162	42-35.1
42-2.6(1)-S6210	42-37
42-2.6(1)-S6260	42-38
42-2.6(1)-S6510	42-42
42-2.6(1)-S6530	42-42
42-2.6(1)-S6550	42-43
42-2.6(1)-S6560	42-43
42-2.6(1)-S6590	42-44
42-2.6(1)-S6600	42-44
42-2.6(1)-S6620 through 42-2.6(1)-S6660	42-45 through 42-46
42-2.6(1)-S6680	42-46
42-2.6(1)-S6690	42-46
42-2.6(1)-S6710	42-47
42-2.6(1)-S6720	42-47
42-2.6(1)-S6740 through 42-2.6(1)-S6780	42-48 through 42-50
42-2.6(1)-S6820	42-51
42-2.6(1)-S6830	42-51
42-2.6(1)-S6860 through 42-2.6(1)-S6960	42-52 through 42-54.1
42-2.6(3)-S61650	42-54.5
42-2.6(3)-S61690	42-54.6
42-2.6(3)-S61700	42-54.6

3. The rules listed above are proposed for repeal as a result of the rules recodification project. The rules are obsolete, inconsistent with or contradictory of statutes, or redundant. Because of the large number of rules involved, a rule-by-rule

breakdown of reasons for repeal is not included in this notice. Any person interested in a specific rule can obtain further information by contacting Laurence Weinberg at the address given in paragraph 4.

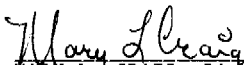
4. Interested parties may submit their data, views, or arguments concerning the proposed repeals in writing no later than March 15, 1980, to:

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

5. If a person who is directly affected by the proposed repeals wishes to submit his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to Laurence Weinberg at the address given in paragraph 4 no later than March 15, 1980.

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

7. Authority of the Department to make the proposed repeals is based on 15-1-201 and 15-31-501, MCA. The repeals implement 2-4-322, MCA, and the intent of Chapter 600, Laws of 1979.


MARY L. CRAIG, Director
Department of Revenue

Certified to the Secretary of State 2-4-80

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE REPEAL) NOTICE OF PROPOSED REPEAL OF
OF NUMEROUS RULES relating) NUMEROUS RULES relating to
to property tax.) property tax.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On March 17, 1980, the Department of Revenue proposes to repeal numerous rules relating to property tax.

2. The rules proposed for repeal and the pages of the Montana Administrative Code (now the Administrative Rules of Montana) where they can be found are as follows:

<u>Rule</u>	<u>Page</u>
42-2.22(2)-S22080	42-176
42-2.22(2)-S22130	42-176.1
42-2.22(10)-S22210	42-188
42-2.22(10)-S22220	42-189
42-2.22(14)-S22230	42-189
42-2.22(14)-S22240	42-189.1
42-2.22(14)-S22250	42-190
42-2.22(20)-S22380 through	42-190.8 through
42-2.22(20)-S22440	42-190.13
42-2.22(34)-S22710 through	42-190.26 through
42-2.22(34)-S22800	42-190.45
42-2.22(38)-S22810 through	42-190.45 through
42-2.22(38)-S22850	42-190.46
42-2.22(50)-S22970 through	42-190.54 through
42-2.22(50)-S221050	42-190.56

3. The rules listed above are proposed for repeal as a result of the rules recodification project.

Rules 42-2.22(2)-S22080 and S22130 relate assessed value of retail service stations and wholesale oil stations to market value. House Bill 70 during the 1977 Legislature eliminated assessed value and hence rendered these two rules obsolete.

Rules 42-2.22(10)-S22210 and S22220 relate to taxpayer appeals to the county and state boards of equalization. These boards no longer exist and have been replaced by the county and state tax appeal boards. The appeal procedure is covered by statute and the rules are obsolete.

Rules 42-2.22(14)-S22230, S22240, and S22250 relate to boat and snowmobile registration and licensing. The Department's responsibilities in this area were transferred to the Division of Motor Vehicles by Chapters 52 and 249, Laws of 1974. Consequently, the rules are obsolete.

Rules 42-2.22(20)-S22380 through S22440 relate to the assessment of bank shares. The 1979 Legislature revised the manner of taxing banks and other financial institutions by means of Chapter 634, Laws of 1979. This rendered the rules obsolete.

Rules 42-2.22(34)-S22710 through S22800 relate to the implementation of the Montana Economic Land Development Act (MELDA). As originally enacted the legislation provided for joint administration of the act by the Department of Community Affairs (DCA) and the Department of Revenue (DOR), Section 4, Chapter 549, Laws of 1975. In 1977, the Legislature amended MELDA and designated DCA as the sole state administering agency. In particular, the phrase "all taxation responsibilities relating to classifications for tax purposes shall be assigned to the department of revenue", 84-7504(17), R.C.M. 1947, was deleted. Section 84-7507, R.C.M. 1947, was also repealed in 1977 by Chapter 582, Laws of 1977. That section provided for classification of lands by the DOR. As a result of Chapter 582, Laws of 1977, the rules on MELDA are obsolete and may not be within the authority of the department.

Rules 42-2.22(38)-S22810 through S22850 relate to the assessment of building and loan associations and savings and loan associations. Due to the changes made by Chapter 634, Laws of 1979, in the taxation of such institutions, these rules are obsolete.

Rules 42-2.22(50)-S22970 through S221050 relate to the homestead tax relief under Chapter 457, Laws of 1977. This law was temporary and is no longer applicable. Consequently the rules should be repealed.

4. Interested parties may submit their data, views, or arguments concerning the proposed repeals in writing no later than March 15, 1980, to:


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

5. If a person who is directly affected by the proposed repeals wishes to submit his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to Laurence Weinberg at the address given in paragraph 4 no later than March 15, 1980.

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

greater than 25 based on the number of persons subject to the property tax.

7. Authority of the Department to make the proposed repeals is based on 15-1-201 and 15-23-108, MCA. The repeals implement 2-4-322, MCA, and the intent of Chapter 600, Laws of 1979.


MARY L. CRAIG, Director
Department of Revenue

Certified to the Secretary of State 2-4-80

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE)
REVISION OF RULES relating) NOTICE OF PROPOSED REVISION OF
to new industrial property.) RULES relating to new industrial property.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On March 17, 1980, the Department of Revenue proposes to revise the rules relating to new industrial property by repealing rule 42-2.22(6)-S22200 and by adopting new rules to replace the repealed rule.

2. Rule 42-2.22(6)-S22200 can be found on pages 42-180 through 42-188 of the Montana Administrative Code (now the Administrative Rules of Montana). The proposed new rules provide as follows:

RULE I TREATMENT OF AGRICULTURAL PROCESSING (1) The exclusion of property used in agriculture under 15-6-135(5), MCA, does not exclude property used in the processing of agricultural products but only excludes property used in the production of the agricultural commodities themselves. Consequently, agricultural processing property is eligible for treatment as new industrial property.

RULE II TREATMENT OF PROPERTY NOT USED AS PART OF THE INDUSTRIAL PLANT (1) In order to qualify as new industrial property, the property in question must be used as part of the industrial plant at all times during the 3-year exemption period. Land held for future use or for non-industrial use is excluded from classification as new industrial property. Only property used directly in manufacturing, fabricating, milling, processing, etc. may qualify. Property used in a supplementary fashion, such as a housing development in conjunction with an industrial plant, does not qualify.

(2) The raw material to be used or processed by a new industrial plant, as well as the end product, at any stage of treatment, is not considered to be new industrial property. Similarly, all materials, inventory, supplies, and merchandise held or used by a new industrial plant is not considered to be new industrial property.

RULE III TREATMENT OF AIR AND WATER POLLUTION CONTROL EQUIPMENT. (1) Air and water pollution control equipment, as defined in 15-6-135, MCA, is not considered to be new industrial property but is treated under the provisions of 15-6-135(1)(b) and (2), MCA.

(2) A new industry installing air and water pollution control equipment must make separate application for such equipment.

3-2/14/80

MAR Notice No. 42-2-162

ment in order to receive classification under 15-6-135(1)(b), MCA.

RULE IV TREATMENT OF MOTOR VEHICLES (1) Motor vehicles licensed for highway use are not considered to be new industrial property. The department will consider application for a motor vehicle to be classified as new industrial property if the vehicle is not licensed for highway use and is used as an integral part of the industrial operation.

RULE V PERIOD OF CLASSIFICATION AS NEW INDUSTRIAL PROPERTY

(1) The classification as new industrial property becomes operative as to all qualifying property on the first assessment date falling on or after the date of commencement of operations and continues for each taxable year thereafter for which the assessment date falls within the 3-year period beginning on the date of commencement of such operations.

(2) Once the 3-year period begins to run, starting on the date operations commence, the period runs to its expiration unaffected by additions of property to the industrial use, expansion of operations, changes in operations (other than changes that would disqualify the unit from classification as new industrial property), or cessation or curtailment of operations.

(3) Prior to and after the 3-year period of classification as new industrial property, the property in question is taxable as other similar property.

(4) The taxable year is considered to be the calendar year and the assessment date within any given calendar year is January 1 for all qualifying property other than migratory personal property. Migratory personal property coming into Montana after the regular assessment date has an assessment date on the date the property comes to rest and becomes a part of the general property within any county of the state, but not less than 30 days after entry into Montana.

RULE VI COMMENCEMENT OF OPERATIONS (1) The date of commencement of operations is the date when the new industrial plant first begins to function as an organized unit and for its primary purpose, even if the operation is only for limited production or upon a limited scale.

RULE VII CHANGES IN OPERATIONS (1) As a new industry adds to its plant and properties during the 3-year period provided for in 15-6-135, MCA, the additional property, if it otherwise qualifies, is also classified as new industrial property for the remainder of the period.

(2) Classification as new industrial property ceases upon sale; transfer; change of possession; or other change in ownership, possession, or control of such property, unless prior to such action, application is made by the transferee for continuation as new industrial property and the application is granted by the department. The loss of classification as new industrial property does not apply to transactions such as the

mortgaging of the property or otherwise using the property as security when there is no change in ownership or possession.

(3) If a qualified new industry ceases to operate as a new industry under the provisions of 15-6-135, MCA, the classification as new industrial property terminates.

(4) If a qualified new industry ceases to operate, either temporarily or permanently, the 3-year period continues until its normal expiration date, regardless of subsequent commencement of new operations. There is no tacking of periods. Following cessation of operation, an application for classification as new industrial property may not be granted unless the new operation is substantially different from the former operation.

RULE VIII OPINION LETTERS (1) Upon written request and prior to formal application under Rule IX, the department considers the status of a proposed operation with respect to treatment as new industrial property. The department after review of the potential applicants written submission issues an opinion letter as to classification of the property in question.

(2) This opinion is based solely on the written material submitted for review and is subject to revision upon review of the formal application.

RULE IX APPLICATION FOR SPECIAL CLASSIFICATION (1) A person desiring to have property classified as new industrial property should make written application for such classification to the department of revenue on or before May 1 of the year for which the classification is sought. The application is to contain a clear and concise statement of the facts that entitle the applicant's property to receive classification as new industrial property.

(2) The application should contain as a minimum the following information:

(a) the exact name of each applicant;

(b) the date of incorporation, organization, or formation of the applicant and the name of the state or other jurisdiction under the laws of which the applicant was incorporated, organized, or formed unless the applicants are individuals, and if the applicants are individuals then the current address of each such individual;

(c) if a foreign corporation, the date upon which qualified with the secretary of state of Montana;

(d) the principal place of business and principal business address of the applicant and the principal place of business and business address of the contemplated "new industry";

(e) the name of each county in which the new industrial plant is located or to be located;

(f) a complete list of all properties of the applicant within the state of Montana for which application is made, giving the legal description of all real property and describing with certainty the personal property and the location thereof, including the original cost and date of acquisition of personal property;

(g) a detailed description of the industrial activities or operation contemplated by the applicant;

(h) a complete list of the officers, directors, trustees, stockholders, investors, partners, managers, or others having control of, investment in, or substantial interests in the new industrial endeavor, together with the current address of each such person, firm, or corporation;

(i) the name and address of each person, firm, or corporation from which the applicant has or intends to acquire property for use in its industrial operation and for which application is made or for which the application if granted will afford classification;

(j) an exact description of the nature of the business, economic, or industrial operations or activities now conducted by the applicant, related persons or business units, or any controlling officers, directors, incorporators, partners, shareholders, investors, or any predecessor thereof;

(k) the date upon which it is contemplated that the operations of the new industrial undertaking of the applicant, for which application is made, will commence.

(2) The department may at any time call for such other or supplementary information or matter as it considers necessary.

(3) In addition, all applicants shall attach to the application and as an exhibit thereto, the following:

(a) a current assessment sheet on the form prescribed and used by the county assessor in each county in which such property is located or to be located, showing all of the properties in that county which are the subject of such application;

(b) an undertaking that the applicant will immediately furnish to the department of revenue and each affected county assessor a detailed written report of any change of a material nature in either its operations or the extent or nature of its properties at any time during the 3-year special classification period, should such classification be granted, or any other information or matter the department should, in writing, request.

(4) The application is to be signed by each applicant or in the case of a business entity, by a principal officer.

RULE X PROCESSING OF APPLICATION (1) Upon receipt of an application for classification as new industrial property, the department reviews the application. If from this review the department determines that the proposed operation will employ 100 or more individuals, either during construction or operation, then the department notifies all affected local governments and conducts public hearings on the question of adverse impact. The hearings are held in the affected locale. The department may schedule other hearings on the application if considered necessary.

(2) The department decision on the application is made in writing and sent to the applicant. An applicant who is dissatisfied with the department's decision may appeal to the state tax appeal board.

(3) The department's final decision on the application is sent to all affected county assessors.

RULE XI ADVERSE IMPACTS (1) A new industrial facility is considered to have an adverse impact if it is located in an area that does not have a government infrastructure of sufficient magnitude to readily absorb the new facility without significant expansion.

3. The revision of the rules relating to new industrial property is a result of the rules recodification project. The existing rule (42-2.22(6)-S22200) is in many places redundant with statute and contains a considerable portion of material that is inappropriate for a rule, such as expository language. The new rules preserve those portions of the old rule that are substantive. Subsection (1) of rule 42-2.22(6)-S22200 is redundant with legislative action or is expository and consequently unnecessary for the rule, with the exception of the provision related to agriculture found in subsection (1)(d). Subsections (2)(a) and (b) are redundant with statutes, while the text of subsection (2)(c) has been preserved but with the elimination of a substantial amount of text that is expository and not properly included in a rule. With some elimination of text and with rewriting, the contents of subsections (3), (4), and (5) are retained. The provisions of subsections (6) and (7) are obsolete and the material on processing of applications has been rewritten. Subsection (8), dealing with air pollution control equipment has been rewritten to include water pollution control equipment. The material of subsection (9), relating to adverse impacts, has been reorganized and rewritten.

In proposed Rule IX, the applicant is required to provide original cost data for personal property. This information is needed by the department and unlike information on real property is not available to the department from county records. Also, in Rule IX, subsection (3)(b), the applicant is required to inform the local officials of changes, as well as the department. Inasmuch as it is the local tax base that may be affected by changes, it is reasonable to have the local officials informed.

The purpose of the revision is to simplify the rules in the area of new industrial property and to eliminate text that is unnecessary.

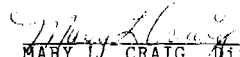
4. Interested parties may submit their data, views, or arguments concerning the proposed repeal and the proposed new rules in writing no later than March 15, 1980, to:

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

5. If a person who is directly affected by the proposed repeal or new rules wishes to submit his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to Laurence Weinberg at the address given in paragraph 4 no later than March 15, 1980.

6. If the Department receives requests for a public hearing from either 10% or 25, whichever is less, of the persons directly affected; from the Revenue Oversight Committee of the Legislature; from a governmental subdivision; or from an association having not less than 25 members who are directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been estimated to be greater than 25 based on the number of persons potentially subject to the provisions related to new industrial property.

7. Authority of the Department to make the proposed repeal and new rules is based on 15-1-201, MCA. The proposed revision implements the intent of Chapter 600, Laws of 1979, and the provisions of 15-6-135 and 15-6-201, MCA.


MARY L. CRAIG, Director
Department of Revenue

Certified to the Secretary of State 2-5-80

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

In the matter of the repeal of	)	NOTICE OF PROPOSED
rules 46-2.10(14)-S11000 and 46-	)	REPEAL OF RULES FOR
2.10(14)-S11250 specifying the	)	AFDC ELIGIBILITY AND
forms used for eligibility determ-	)	REGISTRATION FORMS.
ination and registration for AFDC	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On March 15, 1980, the Department of Social and Rehabilitation Services proposes to repeal rules 46-2.10(14)-S11000 and 46-2.10(14)-S11250 pertaining to the specifications of forms used for eligibility determination and registration for AFDC.

2. The rules proposed to be repealed are on pages 46-60.1 and 46-80.1 of the Administrative Rules of Montana.

3. The agency proposes to repeal these rules because some of the forms are obsolete and also because the form numbers change periodically which makes it necessary to amend the rules accordingly.

4. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to the Department of Social and Rehabilitation Services, Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601 no later than March 13, 1980.

5. If a person who is directly affected by the proposed repeal of rules 46-2.10(14)-S11000 and 46-2.10(14)-S11250 wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to the Department of Social and Rehabilitation Services, Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601, no later than March 13, 1980.

6. If the agency receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons directly affected; from the Administrative Code Committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 642 persons based on the 6,422 AFDC recipients in Montana.

7. The authority of the agency to repeal the rules is based on section 53-4-212 MCA.

Kath L. Allen
Director, Social and Rehabilitation Services

Certified to the Secretary of State February 5, 1980.

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

In the matter of the repeal of	)	NOTICE OF PROPOSED
rule 46-2.10(14)-S11260 pertaining	)	REPEAL OF A RULE
to registration requirements for	)	PERTAINING TO WIN
WIN program.	)	REGISTRATION REQUIREMENTS.
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On March 15, 1980, the Department of Social and Rehabilitation Services proposes to repeal rule 46-2.10(14)-S11260 pertaining to registration requirements for WIN program.

2. The rule proposed to be repealed is on page 46-80.1 of the Administrative Rules of Montana.

3. The agency proposes to repeal this rule as the major provisions of the rule are being combined with rule 46-2.10(14)-S11240 through recodification.

4. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to the Department of Social and Rehabilitation Services, Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601 no later than March 13, 1980.

5. If a person who is directly affected by the proposed repeal of rule 46-2.10(14)-S11260 wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to the Department of Social and Rehabilitation Services, Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601, no later than March 13, 1980.

6. If the agency receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons directly affected; from the Administrative Code Committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 642 persons based on the 6,422 AFDC recipients in Montana.

7. The authority of the agency to repeal the rule is based on section 53-4-212 MCA.

Kath F. Allen
Director, Social and Rehabilitation Services

Certified to the Secretary of State February 5, 1980.

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

In the matter of the repeal of	)	NOTICE OF PROPOSED
rule 46-2.10(14)-S11370 pertaining	)	REPEAL OF A RULE
to locating absent parents of	)	PERTAINING TO LOCATING
dependent children	)	AFDC PARENTS. NO PUBLIC
	)	HEARING CONTEMPLATED

TO: All Interested Persons

1. On March 15, 1980, the Department of Social and Rehabilitation Services proposes to repeal rule 46-2.10(14)-S11370 pertaining to locating absent parents of dependent children.

2. The rule proposed to be repealed is on pages 46-85.1 and 46-86 of the Administrative Rules of Montana.

3. The agency proposes to repeal this rule as the procedure described in the rule is no longer conducted by the department. The Child Support Enforcement Bureau of the Department of Revenue is now responsible for locating absent parents of dependent children.

4. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to the Department of Social and Rehabilitation Services, Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601 no later than March 13, 1980.

5. If a person who is directly affected by the proposed repeal of rule 46-2.10(14)-S11370 wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to the Department of Social and Rehabilitation Services, Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601, no later than March 13, 1980.

6. If the agency receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons directly affected; from the Administrative Code Committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 642 persons based on the 6,422 AFDC recipients in Montana.

7. The authority of the agency to repeal the rule is based on section 53-4-212 MCA.

Keith F. Call
Director, Social and Rehabilitation Services

Certified to the Secretary of State _____, 1980.

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

In the matter of the repeal of	)	NOTICE OF PROPOSED
rules 46-2.6(10)-S6610, 46-2.6(10)-	)	REPEAL OF RULES PERTAINING
S6630 and 46-2.6(10)-S6640	)	TO CHILD AND YOUTH DEVELOP-
pertaining to child and youth	)	MENT BUREAU'S RECORD
development bureau's record	)	KEEPING AND PROJECT FUNDS.
keeping and project funds	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On March 15, 1980, the Department of Social and Rehabilitation Services proposes to repeal rules 46-2.6(10)-S6610, 46-2.6(10)-S6630 and 46-2.6(10)-S6640 all pertaining to child and youth development bureau's record keeping and project funds.

2. The rules proposed to be repealed are on pages 46-56.7 and 46-56.8 of the Administrative Rules of Montana.

3. The agency proposes to repeal these rules as the providers of the services are bound contractually by the bureau; therefore making these rules redundant and unnecessary.

4. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to the Department of Social and Rehabilitation Services, Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601 no later than March 13, 1980.

5. If a person who is directly affected by the proposed repeal of rules 46-2.6(10)-S6610, 46-2.6(10)-S6630 and 46-2.6(10)-S6640 wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to the Department of Social and Rehabilitation Services, Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601, no later than March 13, 1980.

6. If the agency receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons directly affected; from the Administrative Code Committee of the Legislature; from a governmental sub-division or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 520 persons based on ten Big Brother/Big Sister Projects, four

group homes, a family teaching center, and eight 4C's programs.

7. The authority of the agency to repeal the rules is based on section 53-4-111 MCA.

Keith F. Colby
Director, Social and Rehabilitation Services

Certified to the Secretary of State February 5, 1980.

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

In the matter of the repeal of	)	NOTICE OF PROPOSED
rule 46-2.6(10)-S6580 pertaining	)	REPEAL OF A RULE PER-
to procedures for obtaining project	)	TAINING TO PROCEDURES
fund awards	)	FOR OBTAINING PROJECT
	)	FUND AWARDS. NO PUBLIC
	)	HEARING CONTEMPLATED

TO: All Interested Persons

1. On March 15, 1980, the Department of Social and Rehabilitation Services proposes to repeal rule 46-2.6(10)-S6580 pertaining to procedures for obtaining project fund awards.

2. The rule proposed to be repealed is on pages 46-56.5 and 46-56.6 of the Administrative Rules of Montana.

3. The agency proposes to repeal this rule because under Title XX funding, the "Notice of Grant Awards" has been replaced by "Purchase of Service Contracts" making the rule obsolete.

4. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to the Department of Social and Rehabilitation Services, Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601 no later than March 13, 1980.

5. If a person who is directly affected by the proposed repeal of rule 46-2.6(10)-S6580 wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit that request along with any written comments he has to the Department of Social and Rehabilitation Services, Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601, no later than March 13, 1980.

6. If the agency receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons directly affected; from the Administrative Code Committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 520 persons based on the ten Big Brother/Big Sister Projects, four group

homes, a family teaching center and eight 4C's programs.

7. The authority of the agency to repeal the rule is based on section 53-4-111 MCA.

Keith F. Allen
Director, Social and Rehabilitation Services

Certified to the Secretary of State February 5, 1980.

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

In the matter of the repeal of	)	NOTICE OF PROPOSED REPEAL
46-2.10(18)-S11447 and the adoption)	)	OF RULE 46-2.10(18)-S
of three new rules all pertaining	)	11447 AND THE PROPOSED
to personal care services in	)	ADOPTION OF RULES PER-
recipient's home	)	TAINING TO PERSONAL CARE
	)	SERVICES IN RECIPIENT'S
	)	HOME. NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On March 17, 1980, the Department of Social and Rehabilitation Services proposes to repeal rule 46-2.10(18)-S11447 pertaining to personal care services in a recipient's home and to adopt three new rules pertaining to personal care services in a recipient's home.

2. The rule proposed to be repealed is on page 46-94.7G of the Administrative Rules of Montana.

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

RULE I PERSONAL CARE SERVICE IN A RECIPIENT'S HOME,

DEFINITION (1) Personal care service in a recipient's home means medically oriented tasks which include basic personal hygiene and grooming (bathing, dressing, shaving), assistance with toileting, assistance with self-administered medications, assistance with food, nutrition, diet, (including the preparations of meals if incidental to medical need), and accompanying the patient to obtain medical diagnosis or treatment.

(2) It does not include basic homemaker/chore services, such as cleaning, dishwashing, repair or laundering of clothing, friendly visiting, or baby sitting.

RULE II PERSONAL CARE SERVICE, REQUIREMENTS

(1) Personal care service in a recipient's home must be prescribed by a physician in accordance with a plan of treatment.

(2) Personal care service must be supervised by a registered nurse.

(3) The personal care service provider cannot be a family member and must meet the following criteria:

(a) mental competency and the physical ability to perform required personal care services;

(b) ability to read and write;

(c) willingness to accept training and supervision of a registered nurse.

RULE III PERSONAL CARE SERVICE, REIMBURSEMENT

(1) Payment for personal care service shall be minimum wage plus 15 percent in lieu of fringe benefits.

(2) On a daily basis, payment shall not exceed 80 percent of the cost of nursing home per diem.

(3) Payment for registered nurse supervision shall be:

(a) Skilled nursing service rate established by a fee schedule when provided by a licensed home health agency under contract with the department; or

(b) \$7.50 per hour when provided by independent registered nurse

4. The proposed repeal and adoption of new rules are part of the department's plan to update all Medicaid rules and facilitates the department's recodification process. The revised reimbursement for personal care services in the recipient's home reflect an increase which the department can allow based upon its legislative guidelines.

5. Interested parties may submit their data, views or arguments concerning the proposed repeal and adoption in writing to the Office of Legal Affairs of the Department of Social and Rehabilitation Services, P. O. Box 4210, Helena, MT 59601, no later than March 14, 1980.

6. If a person who is directly affected by the proposed repeal and adoption wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601 no later than March 14, 1980.

7. If the agency receives requests for a public hearing on the proposed repeal and adoption from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed repeal and adoption; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 1,118 persons based on a department budget analysis that shows a total of 11,184 Medicaid recipients.

8. The authority of the agency to make the proposed repeal and adoptions are based on section 53-6-113 MCA, and the rule implements section 53-6-101 and 53-6-141 MCA.

Keith F. Cobb
Director, Social and Rehabilitation Services

Certified to the Secretary of State February 5, 1980.

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)-S11440(r) and the)	AMENDMENT OF RULE 46-
adoption of three rules pertaining)	2.10(18)-S11440(r)
to medical assistance, psychologi-)	AND PROPOSED ADOPTION
cal services)	OF RULES PERTAINING TO
)	MEDICAL ASSISTANCE,
)	PSYCHOLOGICAL SERVICES.
)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Interested Persons

1. On March 17, 1980, the Department of Social and Rehabilitation Services proposes to amend rule 46-2.10(18)-S11440(r) and adopt three rules all pertaining to medical assistance, psychological services.

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

~~{r}~~ Psychological services may be provided by a clinical psychologist licensed by the Montana State Board of Psychologists. Clinical psychological services are limited to a maximum of twenty-two ~~{22}~~ hourly visits, or the equivalent, in a fiscal year.

~~{s}~~ {r} Clinic Services: Clinic services are available only through those medical facilities that have a specific contract with the Medicaid program. A specific fee schedule is required and prior authorization for certain services must be delineated in the contract.

~~{*}~~ {s} Home Dialysis for Chronic Kidney Disease Patients: Payment for home dialysis related services including training at a Certified Home Dialysis Training Center and assistance of a "back-up" person in dialysing a patient at home can be provided by the medical program. The availability of Medicare funds, Vocational Rehabilitation funds, and any other resources will be coordinated on an individual case basis to supplements under Medicaid.

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

RULE I PSYCHOLOGICAL SERVICES Psychological services are those services provided by a licensed clinical psychologist, which are within the scope of the practices of his profession.

RULE II ADDITIONAL REQUIREMENTS FOR PSYCHOLOGICAL SERVICES

(1) Psychological services are limited to those allowed under 37-17-102(5) MCA.

(2) Group psychological services shall consist of one and one half (1½) hour sessions with no more than eight (8) individuals participating in the group.

(3) Psychological services are limited to twenty-two (22) hourly visits or the equivalent, per fiscal year.

(4) When an eligible child receives psychological services, and the psychologist consults with the parent(s) as part of the child's treatment, time spent with the parent(s) shall be billed to Medicaid under the child's name. The provider shall indicate on the claim that the child is the patient and state the child's diagnosis. He shall also indicate consultation was with the parent(s). Any treatment done in this manner shall be charged against the twenty-two (22) hours available to the child.

RULE III PSYCHOLOGICAL SERVICES, REIMBURSEMENT

Reimbursement for services shall be the lowest of customary charges which are reasonable, or

- (1) the amount payable by Medicare, or
- (2) thirty-two dollars and ten cents (\$32.10) for individual psychological services, or
- (3) nine dollars and sixty-three cents (\$9.63) for group psychological services.

4. The proposed amendment and adoption of these rules are part of the Department's plan to update all Medicaid rules to comply with current practice and to facilitate the Department's recodification process. The revised reimbursement for psychological services reflects the increase which the Department can allow based upon its legislative guidelines.

5. Interested parties may submit their data, views or arguments concerning the proposed amendment and adoptions in writing to the Office of Legal Affairs of the Department of Social and Rehabilitation Services, P. O. Box 4210, Helena, MT 59601, no later than March 13, 1980.

6. If a person who is directly affected by the proposed amendment and adoptions wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Office of Legal Affairs, P. O. Box 4210, Helena, MT 59601 no later than March 13, 1980.

7. If the agency receives requests for a public hearing on the proposed amendment and adoptions from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment and adoptions; from the Administrative Code Committee of the legislature; from a governmental sub-

division or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 1,118 persons based on a department budget analysis that shows a total to 11,184 Medicaid recipients.

8. The authority of the agency to make the proposed amendment and adoptions is based on Section 53-6-113 MCA, and the rule implements Section 53-6-101 and 53-6-141 MCA.

Kent F. Colby
Director, Social and Rehabilitation Services

Certified to the Secretary of State February 5, 1980.

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

In the matter of the adoption of) NOTICE OF PUBLIC
rules pertaining to the Aging Services) HEARING FOR ADOPTION
Bureau and Area Agencies and the repeal) OF RULES PERTAINING
of Rule 46-2.6(1)-S600 through 46-2.6) TO THE AGING SERVICES
(1)-S635.) BUREAU AND THE REPEAL
) OF RULES 46-2.6(1)
) -S600 THROUGH 46-2.6
) (1)-S635.

TO: All Interested Persons

1. On March 7, 1980 at 9:00 a.m., a public hearing will be held in the Auditorium of the State Department of Social and Rehabilitation Services, 111 Sanders Street, Helena, Montana, to consider the adoption of rules pertaining to the Aging Services Bureau and Area Agencies and the repeal of rules 46-2.6(1)-S600 through 46-2.6(1)-S635.

2. The rules proposed to be repealed can be found on pages 46-32.1 through 46-34g of the Administrative Rules of Montana.

3. The proposed rules provide as follows:

RULE I PURPOSE The purpose of the aging services bureau is to develop and administer the state plan; coordinate all activities in the state relating to the purposes of the act; serve as the advocate for all older persons in the state; direct area agencies and service providers in the development of comprehensive and coordinated service delivery systems throughout the state.

RULE II DEFINITIONS For purposes of this sub-chapter, the following definitions apply:

(1) "Act" means the Older Americans Act of 1965, as amended.

(2) "Administration on Aging" means the agency established in the office of the secretary, department of health and welfare, as part of the office of human development services which is responsible for administering the provisions of the act and whose address is North Building, 330 Independence Avenue, Southwest, Washington, D.C. 20201.

(3) "Federal Department" means the department of health and welfare.

(4) "Department" means the department of social and rehabilitation services.

(5) "Bureau" means the aging services bureau of the department of social and rehabilitation services.

(6) "Commissioner" means the commissioner on aging of

the administration on aging.

(7) "Area Agency" means the agency designated by the bureau in a planning and service area to develop and administer an area plan for a comprehensive and coordinated system of services for older persons.

(8) "Community Focal Point" means a place or mobile unit in a community or neighborhood designated by an area agency for the collocation and coordination of services to older persons.

(9) "Comprehensive and Coordinated System" means a program of interrelated social and nutrition services designed to meet the needs of older persons in a planning and service area.

(10) "Indian Tribal Organization" means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned or chartered by the governing body.

(11) "Indian Tribe" means any tribe, band, nation or other organized group or community of Indians which is recognized as eligible for the special programs and services provided by the federal government to Indians because of their status as Indians.

(12) "Manual" means the state manual of policy and procedures for operations of programs under the Older Americans Act for the bureau.

(13) "Mutipurpose Senior Center" means a community or neighborhood facility for the organization and provision of facilities for recreational and group activities for older persons and services including, but not limited to, health, social, nutritional, and educational services.

(14) "Planning and Service Area" means the geographic area served by an area agency.

(15) "Nonprofit Organization" means a corporation, organized under Title 35, Chapter 2 of the MCA, no part of the income or profit of which is distributable to its members, directors, or officers,

(16) "Older Person" means any person sixty years old or older.

(17) "Service Provider" means an individual, agency, or organization awarded a subgrant or contract from the bureau or an area agency to provide services under the state plan or an area plan.

(18) "Federal Fiscal Year" means the period beginning October 1 of one year and ending September 30 of the next year.

(19) "State Fiscal Year" means the period beginning July 1 of one year and ending June 30 of the next year.

(20) "State Plan" means the document submitted by the bureau to the administration on aging in order to receive grants from the state's allotments under the act.

(21) "Units of General Purpose Local Government" include, but are not limited to, counties and incorporated cities and towns and other government units as may be established by law pursuant to Title 7, Chapters 1, 2, and 3 of the MCA.

(22) "Area Plan" means the document submitted by an area agency to the bureau in order to receive subgrants or contracts from the bureau's grants under the act to comply with Chapters 2, 3, and 4 of the manual.

(23) "Social Services" means:

(a) access services such as:

(i) transporting older persons to and from community facilities and resources;

(ii) escorting to older persons unable to use conventional means of transportation;

(iii) outreach to identify hard-to-reach older persons and assist them in obtaining services;

(iv) informing older persons of the opportunities and services available and referring them to the proper service provider.

(b) community services such as education, information and referral, health, legal, advocacy, program development, counseling, health screening, residential repair and renovation, recreation and alteration, renovation, acquisition and construction of multipurpose senior centers;

(c) home services such as home health, homemaker, home chore;

(d) services in care providing facilities such as placement, counseling, complaint and grievance resolution.

(24) "Nutrition Services" means congregate and home delivered meals, nutrition education and shopping assistance.

(25) "Entity" means an individual, person or organization.

(26) "MCA" means the Montana Code Annotated.

(27) "District" means one of the multi-county districts established by Executive Order 2-71 and Executive Order 7-73.

RULE III DESIGNATION OF PLANNING AND SERVICE AREAS The bureau may designate as a planning and service area:

(1) any unit of general purpose local government;

(2) any district or combination of districts; or

(3) any Indian reservation.

RULE IV DESIGNATION OF AREA AGENCIES (1) The bureau may designate as an area agency in a planning and service area an entity which demonstrates its ability to:

(a) develop and administer an area plan for a comprehensive and coordinated system of services; and

(b) serve as the advocate and focal point for older persons in the planning and service area.

(2) Entity includes but is not limited to:

- (a) an established office on aging which operates within the planning and service area;
- (b) any office or agency of a unit of general purpose local government;
- (c) any combination of offices or units of general purpose local governments; or
- (d) any other public or private nonprofit agency, except any regional or local agency of the state.

RULE V BUREAU HEARING PROCEDURES (1) The bureau shall provide a hearing when requested according to the provision of 46.2.202 ARM to:

- (a) a designated area agency when the bureau;
 - (i) disapproves a plan or plan amendment submitted by the agency;
 - (ii) disapproves an area plan for failure to comply substantially with the requirements of the act or manual; or
 - (iii) withdraws the agency's designation.
 - (b) any unit of general purpose local government, district or combination of districts that is denied designation as a planning and service area.
- (2) The hearing will be conducted according to the provisions of 46.2.201 through 46.2.214 of the Administrative Rules of Montana.

RULE VI FUNCTIONS OF AREA AGENCY An area agency shall:

- (1) develop and administer an area plan for a comprehensive and coordinated delivery system in a planning and service area;
- (2) assess the kinds and levels of services needed by older persons in the planning and service area;
- (3) enter into subgrants or contracts to provide all services under the plan, except as provided under RULE XII (46.4.120);
- (4) provide technical assistance, monitor, and quarterly evaluate the performance of all service providers under the plan;
- (5) coordinate the administration of its plan with other federal, state and local resources;
- (6) establish an advisory council as required by RULE VII (46.4.111);
- (7) assure that older persons in the planning and service area have access to information and referral services;
- (8) divide the entire planning and service area into community service areas and designate community focal points;
- (9) provide outreach efforts to identify older persons and inform them of the availability of services under the plan; and
- (10) develop and publish a manual of methods it uses to establish priorities for services and provide a copy of the

manual to each service provider in the planning and service area.

RULE VII AREA AGENCY ADVISORY COUNCIL (1) An area agency shall establish an advisory council to advise the agency in:

- (a) development and administration of the area plan;
- (b) conducting public hearings;
- (c) representing the interests of older persons; and
- (d) reviewing and commenting on all community policies and programs which affect older persons.

(2) The advisory council shall be made-up of:

- (a) interested citizens, more than 50 percent of whom are older persons; and

- (b) local elected officials.

(3) The agency may use the advisory council to advise it in carrying out any of its functions.

(4) The area agency shall provide staff and assistance to the advisory council.

RULE VIII AREA PLAN CONTENT (1) An area plan shall provide for a comprehensive and coordinated delivery system.

(2) An area plan shall demonstrate how the area agency will meet functions required by Rule VI (46.4.108).

(3) An area plan shall provide that:

- (a) services are provided as provided in 46.4.120;

- (b) any existing state and local licensure requirements for the provision of services are met.

(4) An area plan shall provide that at least 50 percent of the area agency's allotment for social services shall be spent for access services, home services, and legal services, excluding amounts for administration.

(5) An area plan shall specify:

- (a) program objectives to implement all requirements regarding delivery of services;

- (b) objectives established by the bureau;

- (c) a resource allocation plan indicating the proposed use of all funds directly administered by the area agency;

- (d) an inventory of programs operated by other agencies in the planning and service area for services to older persons;

- (e) a description of community services areas and an identification of community focal points; and

- (f) methods the area agency uses to set services priorities.

RULE IX AREA PLAN REVIEW The area agency shall:

- (1) hold a public hearing on the area plan and any amendments to the area plan;

- (2) give at least fourteen days notice to older persons,

public officials and other interested parties of the times, dates and locations of the public hearing(s); and

- (3) submit the area plan and amendments to:
 - (a) the area advisory council for review and comment;
 - (b) the state grant clearinghouse in the governor's office of budget and program planning for review and comment;
 - (c) the bureau for approval.

RULE X AREA PLAN APPROVAL/DISAPPROVAL (1) The bureau shall approve an area plan or amendments which meet the requirements of the act.

(2) The bureau shall follow the procedures in RULE V (46.4.107) to terminate an area plan or area agency designation if the bureau:

- (a) finds that an area plan is unapprovable;
- (b) proposes to terminate the designation of an area agency; or
- (c) finds that the provisions or administration of an approved area plan no longer substantially comply with the requirements of the act.

RULE XI AREA PLAN: AMENDMENT; DEVELOPMENT An area agency shall:

- (1) amend the area plan if:
 - (a) a new or amended state or federal statute or regulation requires a new provision or conflicts with any existing plan provision;
 - (b) local law, organization, policy or agency operation changes and is no longer accurately reflected in the area plan;
 - (c) the area agency proposes to add, change, or delete any area plan provisions; or,
 - (d) the bureau requires further annual amendments;
- (2) receive subgrants or contracts only under an approved area plan; and
- (3) use its subgrants or contracts only for activities under an approved area plan.

RULE XII DIRECT PROVISION OF SERVICES BY AN AREA AGENCY

(1) The area agency shall use subgrants or contracts with service providers to provide all services under the act unless the bureau decides that direct provision of a service by the area agency is necessary to assure an adequate supply of the service.

(2) The area agency may directly provide information and referral, outreach, advocacy, program development, coordination, individual needs assessment and case management services if the bureau decides that the area agency can perform the services more effectively and efficiently than any other agency in the planning and service area.

(3) For all other services funded under the act, the bureau may allow the area agency to directly provide services in the planning and service area if no other agency can and will provide the service.

(4) The area agency may plan, coordinate and provide services funded under other programs if:

(a) it does not use funds under the act for those services; and

(b) it continues to meet all its area agency responsibilities.

RULE XIII AREA AGENCY FUNDS TERMINATION The bureau shall withhold further payments to an area agency when the bureau, after notice and opportunity for a hearing required in 46.4.107, finds that:

(1) the area agency does not meet the requirements of the act;

(2) the area plan or plan amendment is not approvable; or,

(3) there is failure in the provisions or administration of an approved area plan to comply with any provision of the act.

RULE XIV SERVICE CONTINUATION BY BUREAU (1) If the bureau terminates funding under RULE XIII (46.4.121), it shall:

(a) notify the administration on aging;

(b) provide a plan for the continuity of services in the planning and service area; and

(c) designate a new area agency in the planning and service area.

(2) The bureau may, for a period up to 180 days after its final notice to withdraw designation of an area agency:

(a) perform the responsibilities of the area agency; and

(b) assign the responsibilities of the area agency to another agency in the planning and service area.

RULE XV CONTRIBUTIONS FOR SERVICES (1) The area agency shall require each service provider under the area plan to:

(a) give each older person who receives a service, information about the cost of the service;

(b) give each older person an opportunity to contribute to part or all of the cost of the service;

(c) inform each older person that he may decide freely whether or not to contribute and how much;

(d) protect the privacy of each older person with respect to his contribution;

(e) have procedures to safeguard and account for all contributions;

(f) use all contributions to expand the services of the

provider under the act; and

(g) use all contributions for nutrition services to increase the number of meals served.

(2) The area agency shall permit each service provider to develop a contribution schedule for services based on:

(a) the income ranges of older persons in the community; and

(b) the provider's other sources of income.

(3) The area agency may not allow any service provider to deny an older person a service because the older person would not contribute for the service.

RULE XVI NUTRITION SERVICES: CONGREGATE NUTRITION

PROVIDERS (1) An area agency may award nutrition services funds only to a nutrition services provider which:

(a) provides congregate nutrition services;

(b) can provide home delivered nutrition services directly or by contract; and

(c) agrees to coordinate its activities with, and provide some meals at, the community focal point;

(d) meets the requirements of RULE XVII (46.4.129).

(2) An area agency shall award funds to a nutrition services provider which:

(a) was a nutrition project receiving funds under the former Title VII of the act on September 30, 1978; and

(b) has carried out its nutrition services activities with demonstrated effectiveness.

(3) The nutrition services provider shall:

(a) provide a hot or other appropriate meal in a congregate setting at least once a day, five or more days a week;

(b) locate congregate nutrition services as close as possible to the majority of eligible older persons who are all other persons and the spouse of the older person regardless of age; and

(c) give preference to community facilities when locating a congregate site.

RULE XVII NUTRITION SERVICES: FOOD REQUIREMENTS

(1) The nutrition services provider shall:

(a) follow procedures to preserve nutritional value and food safety in the purchase and preparation of food and delivery of meals;

(b) serve special meals to meet the health, religious or ethnic dietary needs of individual older persons, unless the area agency exempts the provider from this requirement when the foods and skills to provide these diets are unavailable in the planning and service area;

(c) use appropriate food containers and utensils for blind and handicapped older persons, when needed.

(2) Each meal served by the service provider shall

contain at least one-third of the current recommended dietary allowances as established by the food and nutrition board of the national academy of sciences, national research council.

(3) The bureau shall distribute all food, cash or a combination of food and cash received from the United States department of agriculture through the state department through area agencies to nutrition service providers based on each provider's proportion of the total number of meals served in the state under the act.

(4) A nutrition services provider shall:

(a) accept and use any United States department of agriculture food made available by the bureau, and;

(i) assure arrangements for the transportation, storage and use of the food.

(b) If it receives U.S.D.A. cash, the cash shall be spent only for buying food.

(5) A nutrition services provider shall:

(a) assist older persons to take advantage of benefits available to them under the food stamp program; and

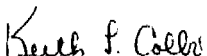
(b) coordinate its activities with agencies responsible for administering the food stamp program.

4. The department proposes to adopt the new rules and repeal the old rules because changes in federal regulations and the Older American Act make existing rules obsolete. Adoption of the proposed rules will bring the department in conformity with federal law.

5. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to the Office of Legal Affairs, P.O. Box 4210, Helena, MT 59601 no later than March 14, 1980.

6. The Office of Legal Affairs of the Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, Montana 59601, has been designated to preside over and conduct the hearing.

7. The authority of the agency to make the proposed rule is based upon Section 53-2-201(2)(c), MCA. The implementing authority is Section 53-5-101, MCA.



Director, Social and Rehabilitation Services

Certified to the Secretary of State February 5, 1980.

3-2/14/80

MAR Notice No. 46-2-219

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

In the matter of the repeal of 46-2.10) NOTICE OF PROPOSED
(14)-S11150 and the adoption of four) REPEAL OF RULE 46-
rules all pertaining to AFDC-unemployed) 2.10(14)-S11150 AND
parent.) THE PROPOSED
) ADOPTION OF RULES
) PERTAINING TO AFDC-
) UNEMPLOYED PARENT.
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Interested Persons

1. On March 17, 1980, the Department of Social and Rehabilitation Services proposed to repeal rule 46-2.10(14)-S11150 pertaining to AFDC and to adopt four new rules pertaining to AFDC-unemployed parent.

2. The rule proposed to be repealed is found on pages 46-70 through 46-71.2 of the Administrative Rules of Montana.

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

RULE I AFDC DEPRIVATION REQUIREMENTS (1) A dependent child must be deprived of the support of a parent or both parents due to:

- (a) death;
- (b) separation or divorce;
- (c) desertion;
- (d) parents not married to each other;
- (e) institutionalization;
- (f) military service of one parent;
- (g) physical or mental incapacity;
- (h) unemployed parent.

(2) Continued absence of a parent from the home, when the nature of the absence causes a disruption of family ties, constitutes the basic reason for deprivation of parental support.

(3) Family ties need not be disrupted when the deprivation reason is physical or mental incapacity of a parent, unemployed parent eligibility is met, and during the 90 day continuance after the return of an absent parent if the family is otherwise eligible for such payments.

RULE II UNEMPLOYED PARENT (1) An unemployed parent is any natural or adoptive parent who:

(a) is employed less than 100 hours a month or exceeds that standard if his/her work is intermittent and the excess is of a temporary nature as evidenced by the fact that he or she was under the 100-hour standard for the prior two months

and is expected to be under the standard during the next month;

(b) has six or more quarters of work within any thirteen calendar quarter period ending within one year prior to the application for assistance or within such 1-year period, received unemployment compensation law of a state or of the United States, or was qualified under the States unemployment compensation law.

(i) A "quarter of work" means a period (of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31) in which he or she received earned income of not less than \$50.

(ii) An individual shall be deemed "qualified" for unemployment compensation under the State's unemployment compensation law if he/she would have been eligible to receive such benefits upon filing application, or he/she performed work not covered by such law which, if it had been covered, would (together with any covered work he or she performed) have made him/her eligible to receive such benefits upon filing application.

(c) A parent must have been unemployed at least 30 days.

(d) An unemployed parent must apply for and accept any unemployment compensation benefits to which he or she is entitled. Such unemployment benefits are to be subtracted from the AFDC assistance to which he or she is entitled.

(e) Any parent who has not, without good cause, within a prior thirty (30) day period, refused a bona fide offer of employment or training for employment. The agency must make a determination that such offer was actually made. The parent must be given an opportunity to explain why he refused to accept such offer. The following factors must be resolved:

(i) There must have been a definite offer of wages meeting minimum wage requirements.

(ii) Questions regarding the parents is inability to engage in such employment for physical reasons or for lack of transportation to and from such employment.

(iii) Working conditions such as risk to health, safety, or lack of workmen's compensation protection.

(A) A parent must be currently registered with the Employment Security Commission and be available for work.

(B) A parent who is in a training program under the Employment Security Commission is considered unemployed.

(C) A parent unemployed because of a lawful strike may be eligible if he or she meets all other eligibility requirements.

(D) A parent unemployed because of conduct or circumstances which result or would result in disqualification for unemployment compensation under state law is disqualified for AFDC/UF assistance payments, except where such disqualification for unemployment compensation is a result of being unem-

ployed due to a lawful strike.

(E) A full-time student is not eligible for AFDC/UF payments since he or she is not considered available to accept full-time employment.

RULE III LIVING WITH A SPECIFIED RELATIVE (1) To be eligible for assistance in other than foster care situations, the child must be living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, niece, or other individual having a blood or legal relationship with the child, in a place of residence maintained as their own home. The above named relative with whom the child is living may be included in the grant as a caretaker relative. Spouses or any person named above will be considered as a specified relative, even after the marriage is terminated by death or divorce.

(a) Payment of AFDC may continue in behalf of dependent children in situations that temporarily deprive the child of the care of the payee receiving payments in their behalf or the situation makes it necessary for the child to be temporarily absent from the home of the approved payee. The regular payee may continue receiving payment (and have his/her needs met as a needy caretaker relative) for a temporary period of time not to exceed ninety (90) days if he or she continues to exercise responsibility for the care and control of the children, this includes making plans for the children, or if there is planning for the payee to later resume exercising responsibility for the care and control of the children.

(b) If it is not feasible to continue payments directly to the regular payee, then payments may be made to a person acting for the approved payee for a temporary period not to exceed ninety (90) days. The regular payee may continue to have his needs met in the assistance payment as a needy caretaker relative so long as his absence from the home is not due to his being institutionalized. No person may receive AFDC while in an institution.

(2) When a natural or adoptive parent is physically or mentally incapacitated his spouse may be included as a qualified recipient. However, the spouse also must be a natural or adoptive parent of the children included in the AFDC grant.

(a) A stepparent may only be included as a caretaker relative when both natural parents are absent from the home.

RULE IV AGE (1) A dependent child must be under the age of 18 or between the ages of 18 and 21 years regularly attending school, college, university, or vocational or technical training.

(2) There is no age requirement for the caretaker relative in an AFDC payment.

(3) The needs of an unborn child must be included, if other eligibility factors are met.

4. The proposed repeal and adoption of these rules are part of the department's overall plan to update all AFDC rules to comply with current practice and to facilitate the Department's recodification process. Also, the proposed rules implement the recent United States Supreme Court decision of Califano v. Westcott 47 LW 4817. In that case, the Court ruled that Section 407 of the Social Security Act (Dependent Children of Unemployed Fathers) is unconstitutional because of the discriminatory nature of its gender distinction. The Court did not invalidate Section 407. Instead, it extended benefits of the AFDC-Unemployed Fathers program to similarly situated Unemployed Mothers, and thereby removed the gender distinction.

5. Interested parties may submit their data, views or arguments concerning the proposed repeal and adoption in writing to the Office of Legal Affairs of the Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, Montana 59601, no later than March 14, 1980.

6. If a person who is directly affected by the proposed repeal and adoption wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit its request along with any written comments he has to the Office of Legal Affairs, P.O. Box 4210, Helena, Montana 59601, no later than March 14, 1980.

7. If the agency receives requests for a public hearing on the proposed repeal and adoption from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed repeal and adoption; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 640 persons based on a department budget analysis that shows a total of 6,400 AFDC recipients.

8. The authority of the agency to make the proposed repeal and adoptions are based on section 53-4-212 MCA, and the rule implements section 53-4-231 and 53-4-236 MCA.

Keith F. Colby
Director, Social and Rehabilitation Services

Certified to the Secretary of State February 5, 1980.

BEFORE THE OFFICE OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PUBLIC HEARING ON
amendment of Rule ARM	)	PROPOSED AMENDMENT OF RULE
48-2.18(18)-S18270 to	)	48-2.18(18)-S18270 PERTAINING
determine the composi-	)	TO THE COMPOSITION OF CHILD
tion of Child Study	)	STUDY TEAMS.
Teams)	

TO: All Interested Persons:

1. On March 14, 1980, at 10:00 A.M., a public hearing will be held in the Senate Chambers, Capitol Building, Helena, Montana 59601, to consider the amendment of Rule ARM 48-2.18(18)-S18270 pertaining to the composition of Child Study Teams. On October 22, 1979, a public hearing was held pertaining to Rule ARM 48-2.18(18)-S18270. Due to extensive changes made as a result of the hearing testimony, the rule is being submitted for a rehearing.

2. The proposed amendment replaces present rule 48-2.18(18)-S18270 found in the Administrative Rules of Montana. The proposed amendment would establish the persons who are to be members and participants of a Child Study Team.

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

~~48-2.18(18)-S18270--COMPOSITION-OF-A-CORE-CHILD-STUDY-TEAM
(1)--A-Child-Study-Team-shall-consist-of-a-regular-class-room-teacher,-principal-or-designee,-and-the-special-education-person-who-may-serve-the-child--Parents-shall-be-afforded-the-opportunity-to-participate-in-the-child-study-process---Generally--school-psychologists-and-speech-pathologists-will-complement-any-team-~~

~~(2)--In-addition-to-the-required-professional-members-on-a-particular--Child-Study-Team-utilization-of-other-expertise-is-recommended-and-required-in-many-instances---The-Child-Study-Team-may-determine-what-other-specialities-may-be-needed-to-complete-an-appropriate-evaluation-~~

~~(3)--Secondary-school-Core--Child-Study-Team-will-require-other-individuals-at-the-discretion-of-the-parents-or-agency-to-accommodate-a-particular-student's-needs--(i.e.,-vocational-rehabilitation-counselor,-psychologist,-nurse,-special-needs-counselor,-etc)-~~

48-2.18(18)-S18270 COMPOSITION OF A CHILD STUDY TEAM.

(1) The Board of Trustees of the local school district through its designee shall appoint the Child Study Team. The Child Study Team shall consist of:

(a) If the school district employs a principal or administrative staff, the school principal, designee or other representative of the school district administration.

(b) The child's regular teacher.

(1) If the child has more than one regular teacher, one of the regular teachers shall be appointed and a written status summary from all of the child's regular teachers shall be made available to the Child Study Team.

(ii) If the child is not enrolled in school, a regular teacher shall be appointed who teaches grades or subjects appropriate for the child's age.

(c) The child's special education teacher when the child is already receiving special education. If the child is not receiving special education, the special education teacher who will be most likely to serve the child in the event the child is placed in the district special education program shall be appointed.

(d) One or both of the child's parents. "Parent" includes any person as defined under 48-2.18(14)-S18100(1). If the parents refuse to participate, the school district shall have a record of its attempts to encourage participation such as:

(i) detailed records of telephone calls made or visits to the parents' home;

(ii) copies of correspondence sent to the parents and any responses received.

(e) The child, where appropriate.

(f) When the child is enrolled in a private school, a representative from the private school.

(i) If the representative cannot attend, the school district shall use other methods to insure participation by the private school including individual or conference telephone calls.

(ii) If the private school refuses to participate, the school district shall have a record of its attempts to encourage participation such as:

(A) detailed records of telephone calls made or visits to the private school,

(B) copies of correspondence sent to the private school and any responses received.

(g) Other individuals as required by 48-2.18(18)-S18270, ARM.

(2) Any Child Study Team member may invite the following people to participate on a consultative basis:

(a) other specialists when such specialists are needed to complete an appropriate evaluation,

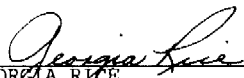
(b) individuals who will assist the Child Study Team member.

4. The Superintendent of Public Instruction is proposing this amendment to provide that school districts select the proper persons to conduct and participate in Child Study Team meetings.

5. Interested persons may present their data, views or arguments either orally or in writing at the hearing, or in the alternative, interested persons may submit their data, views or arguments to Shirley Miller, Director of Special Education, Office of Public Instruction, Helena, Montana 59601 no later than March 24, 1980.

6. The Special Education Unit of the Office of Public Instruction, Helena, Montana 59601 has been designated to preside over and conduct the hearing.

7. The authority of the agency to make the proposed amendment is based on Section 20-7-402(1)(c), (2) MCA. The implementing authority is Section 20-7-414(1), MCA.



GEORGIA RICE
Superintendent of Public Instruction

Certified to the Secretary of State Feb. 1, 1980.

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED
ADOPTION OF RULES establish-	)	ADOPTION OF RULES
ing policy for the conduct)	
of vocational education in	)	Policy for Vocational
Montana in accordance with	)	Education in Montana
the provisions of Section	)	NO PUBLIC HEARING
20-7-301, MCA 1979	)	CONTEMPLATED

TO ALL INTERESTED PERSONS

1. On March 28, 1980 the superintendent of public instruction proposes to adopt rules establishing policy for the conduct of vocational education in Montana in accordance with the provisions of Section 20-7-301, MCA, 1979.

2. The proposed rules provide as follows: definitions of terms, policies for governance and administration of vocational education; policies regarding the recruitment, selection and advancement of vocational education personnel; policies for the development and implementation of vocational education programs; policies for funding vocational education programs; policies for evaluation of vocational education programs; policies for postsecondary center governance and administration and policies for planning alterations and construction of facilities.

3. The rules are proposed to respond to the requirements of Section 20-7-301, MCA, 1979.

4. Interested parties may submit their data, views or arguments concerning the proposed rules in writing to Dr. Larry Key, Office of Public Instruction, State Capitol, Helena, Montana 59601 no later than March 13, 1980.

5. If the agency receives requests for a public hearing on the proposed rules from either 10 percent or 25 percent, whichever is less, of the persons who are directly affected by the proposed rule; from the administrative code committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 99 persons based on 169 administrators and approximately 825 board trustee members in affected districts.

6. The authority for making and implementing the rules follows each rule.

RULE 1. DEFINITIONS. Terms used in the policy statements on vocational education are defined as follows:

ACQUISITION COST Acquisition cost of an asset includes the net price paid the vendor, all transportation and install-

ation costs, and the cost of any adjustment or modification. Acquisition cost of land includes costs of removing unwanted buildings, grading and draining, installation of walks or roadways and landscaping and other carrying costs.

A(2) ADULT PROGRAM Vocational education for persons 16 years of age or older who have completed or left high school and who are not described in the definition of "postsecondary program," or persons who have already entered the labor market, or persons who are unemployed.

AMERICAN NATIVE, NATIVE ALASKAN A person having origins in any of the original people of North America, and who maintains cultural identification through tribal affiliation or community recognition.

ANCILLARY SERVICES Activities which contribute to the enhancement of quality in vocational education programs, including activities such as teacher training and curriculum development, but excluding administration (except in consumer and homemaking education under Section 150 of the Act.)

APPLICATION FEE A fee collected only one time from each applying student. The student application fee is considered part of tuition.

APPRENTICE COURSE A course devoted to teaching vocational and related information to individuals pursuing a formal apprenticeship training program and registered with a recognized state or federal apprenticeship agency.

ASIAN OR PACIFIC ISLANDER A person having origins in any of the original people of the Far East, Southeast Asia, the Indian sub-continent, or Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, Samoa, India and Vietnam.

BLACK, NOT OF HISPANIC ORIGIN A person having origins in any of the black racial groups of Africa.

CAPITAL EXPENDITURE Expenditures for the acquisition of fixed assets or additions to fixed assets (real and personal property). Real property expenditures for land, land improvements, buildings, building remodeling, building additions, building construction and personal property expenditures for machinery, equipment, furniture, fixtures, vehicles and tools.

CETA/WIN (MANPOWER) CLASSROOM TRAINING PROGRAM Classroom and/or classroom related manpower training programs designed to prepare youths or adults for employment training aimed at employment.

CONSUMER AND HOMEMAKING EDUCATION PROGRAMS Instructional programs, services, and activities at all educational levels for the occupations of homemaking including, but not limited to:

- (1) Consumer education;
- (2) Food nutrition;
- (3) Family living and parenthood education;
- (4) Child development and guidance;
- (5) Housing and homemanagement (including resource management and
- (6) Clothing and Textiles.

COOPERATIVE EDUCATION A program of vocational education for persons who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field, but these two experiences must be planned and supervised by the school and employers so that each contributes to the student's education and to his or her employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

COOPERATIVE PROGRAM STUDENT A student with a minimum of one hour per week, in addition to regular classes, devoted to discussion of working problems, assignments of special projects, etc.

CURRICULUM A series of courses or units, organized in sequential order, designed to lead the student toward the attainment of vocational aims and objectives.

DISADVANTAGED (1) Persons (other than handicapped persons) who:

- (a) Have academic or economic disadvantages; and
- (b) Require special services, assistance, or programs in order to enable them to succeed in vocational education programs.

(2) "Academic disadvantage" for the purposes of this definition of "disadvantaged" means that a person

- (a) Lacks reading and writing skills;
- (b) Lacks mathematical skills; or
- (c) Performs below grade level.

(3) "Economic disadvantage," for the purposes of this definition of "disadvantaged," means

- (a) Family income is at or below national poverty level;
- (b) Participant or parent(s) or guardian of the participant is unemployed;
- (c) Participant or parent of the participant is recipient of public assistance; or

(d) Participant is institutionalized or under state guardianship.

DISPLACED HOMEMAKERS Persons who had been homemakers for a substantial number of years but who now, because of dissolution of marriage, must seek employment; or persons who are single heads of households and who lack adequate job skills; or persons who are currently homemakers and unemployed or underemployed and experiencing difficulty in obtaining or upgrading employment.

ENERGY EDUCATION PROGRAM A program for training of miners, supervisors, technicians (particularly safety personnel) and environmentalists in the field of coal mining and coal mining technology. Programs may be conducted at the postsecondary institutions only. Programs may also include training of individuals needed for the installation of solar energy equipment, including training necessary for the installation of glass paneled solar collectors and of wind energy generators, and for the installation of other related applications of solar energy.

EVALUATION A procedure for determining the effectiveness of the program.

EXECUTIVE OFFICER OF VOCATIONAL EDUCATION The superintendent of public instruction is the executive officer, the legally designated state official directly responsible for the development of policies for vocational education.

EXEMPLARY PROGRAM A program designed to enable educational agencies to explore, develop and demonstrate new and innovative ways to plan, implement and conduct vocational education programs, including

(1) Programs designed to develop high quality vocational education programs for urban centers with high concentrations of economically disadvantaged individuals, unskilled workers, and unemployed individuals;

(2) Programs designed to develop training opportunities for programs in sparsely populated rural areas and for individuals migrating from farms to urban areas;

(3) Programs of effective vocational education for individuals with limited English-speaking ability;

(4) Establishment of cooperative arrangements between public education and manpower agencies, designed to correlate vocational education opportunities with current and projected needs of the labor market; and

(5) Programs designed to broaden occupational aspirations and opportunities for youth, with special emphasis given to youth who have academic, socioeconomic, or other handicaps, including

(a) Programs and projects designed to familiarize secondary school students with the broad range of occupations for which special skills are required, and the requisites for careers in such occupations; and

(b) Programs and projects to facilitate the participation of employers and labor organizations in postsecondary vocational education. Priority will be given to programs designed to reduce sex stereotyping in vocational education.

FULL-TIME EQUIVALENT (Recommended guide for 1979-80 school year.)

(1) Student - Two hundred and fifty (250) classroom contact hours per quarter and seven hundred and fifty (750) classroom contact hours per year.

(2) Administrator - Twelve (12) months of contracted employment.

(3) Instructional Staff - Eight hundred sixty (860) hours of actual student classroom contact hours per year.

(4) Other Professional - One hundred eighty-one (181) days of contracted employment.

(5) Support Staff - Forty (40) hours per week for a twelve (12) month period.

(6) Productivity FTE ratio:

$$\text{FTE} = \frac{\# \text{ of students} \times \text{inst. classroom hours per week}}{375}$$

The 375 factor is derived by multiplying the average class size (15) times the average instructional staff hours in front of a class (25). $15 \times 25 = 375$.

The above formula applies to all instructors unless it violates pre-established standards required by state or national accrediting agencies.

FULL-TIME VOCATIONAL EDUCATION TEACHER An instructor carrying a vocational teaching assignment that contains at least the minimum number of hours considered by the superintendent of public instruction or local educational agency to be the recognized full-time load of a person engaged for a normal work day and week in the program.

FUND 21/CETA STUDENT Fund 21 Student

(1) Student pays tuition or

(2) CETA or another agency pays tuition.

(3) Program instruction is paid in total from Fund 21 budget. The total number of contact hours generated under this example shall be counted as Fund 21 generated contact hours. Eighty-dollar office of public instruction tuition shall be collected.

Fund 21/CETA Student

(1) CETA pays tuition and a percentage of the total expense of program instruction. The percent of program instruction paid by CETA does not generate Fund 21 contact hours. Only the percent of program instruction paid from Fund 21 shall generate Fund 21 contact hours.

Example:

CETA pays \$80 office of public instruction tuition.

CETA pays 50% of program instruction cost.

Fund 21 pays 50% of program instruction cost.

Fifty percent of the total generated contact hours shall be considered Fund 21 generated contact hours and counted as such. Eighty-dollar office of public instruction tuition shall be collected.

Total CETA Student or Program:

(1) CETA pays the total additional expense of program instruction for an individual student or for the total program. Fund 21 student contact hours are not generated under this example. No office of public instruction tuition shall be collected.

FUND 21 INSTRUCTIONAL SLOTS Instructional slots funded by Fund 21 budget shall be filled on a first come, first served basis by those students who have an application on file.

GUIDANCE AND COUNSELING PROGRAMS Includes counseling, information on placement, appraisal, followup and research.

HANDICAPPED (1) A person who is:

(a) Mentally retarded;

(b) Hard of hearing;

(c) Deaf; (d) Speech impaired;

(e) Visually handicapped;

(f) Seriously emotionally disturbed;

(g) Crippled (orthopaedically impaired); or

(h) Other health impaired person, including a person who suffers from learning disabilities to the extent the disability is a health impairment; and

(2) A person who, by reason of the above:

(a) Requires special education and related services, and

(b) Cannot succeed in the regular vocational education program without special educational assistance; or

(c) Requires a modified vocational educational program.

HISPANIC A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

INDUSTRIAL ARTS EDUCATION PROGRAM Those education programs:

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(1) which pertain to the body of related subject matter, or related courses, organized for the development of understanding about all aspects of industry and technology, as experimenting, designing, constructing, evaluating and using tools, machines, materials and processes; and

(2) which assist individuals in making informed and meaningful occupational choices or which prepare them for entry into advanced trade and industrial or technical education programs.

INSTRUCTIONAL STAFF Individuals employed for the primary purpose of performing instructional activities in job skill preparation. Only those individuals who devote 50% or more of their time to instruction in specific job skills instruction or training should be reported. Both part-time and full-time staff members should be reported.

LEFT BEFORE COMPLETION A student who had been enrolled in a program of vocational education and left the school and program voluntarily before formally completing it because he/she acquired sufficient entry-level job skills to work in the field, and who took a job related to that training or left for personal reasons.

LIMITED ENGLISH SPEAKING (1) Individuals who were not born in the United States or whose native language is a language other than English, and

(2) Individuals who come from environments where a language other than English is dominant, as further defined by the Commissioner under regulations authority by the Bilingual Education Act, Title VII, Elementary and Secondary Education Act of 1965, as amended and by reasons thereof, have difficulty speaking and understanding instruction in the English language.

LOCAL EDUCATION AGENCY Consists of the local board of trustees responsible for local policy and administration including the district superintendent and staff and the vocational technical center director.

LOCAL ADVISORY COMMITTEE A group of persons, usually outside the education profession, selected for the purpose of offering advice and counsel regarding vocational education to the educational institution.

MAJOR EQUIPMENT Fixed or movable articles, particularly designed and essential for use in a vocation, or training for a vocation, which cost \$300 or more per unit. (Not applicable to construction projects.)

MAJOR OCCUPATIONAL HEADING (1) Agriculture
(2) Consumer Home Economics

- (3) Distributive
- (4) Health
- (5) Home Economics Occupational Preparation
- (6) Industrial Arts
- (7) Office
- (8) Technical
- (9) Trade and Industry

Under these occupational headings there are many specific occupational or vocational fields of training.

MANPOWER TRAINING Specialized federal training programs designed to lower the state or local unemployment level or to increase the number of employable persons through training programs.

MINOR EQUIPMENT Those fixed or movable articles particularly designed for and essential to the performance of work in a vocation, or training for a vocation, which cost less than \$300 per unit. (Not applicable to construction costs.)

MONTANA ADVISORY COUNCIL FOR VOCATIONAL EDUCATION A council which is separate from and independent of the office of public instruction and which is appointed by the superintendent of public instruction. The advisory council shall advise the superintendent of public instruction on long-range planning, on the development of a state plan and on policy matters arising from administration of the state plan. It shall also provide technical assistance to local advisory councils when requested, assist the superintendent in the development of state evaluation procedures, consult with other agencies to determine manpower needs of the state and monitor evaluations.

MONTANA VIEW (VITAL INFORMATION FOR EDUCATION AND WORK) A career guidance system which contains microfilmed information on education and work.

OCCUPATIONAL SKILLS Instruction directly preparing persons for employment in a specific occupation or a cluster of closely-related occupations in an occupational field.

OCCUPATIONAL TITLE The common name by which a position is identified. The generally accepted source of nomenclature is the Dictionary of Occupational Titles, published by the department of labor.

OPEN-ENTRY/EXIT PROGRAM A program which allows students to enter at any time as the specific program allows, and to exit upon achieving acceptable competency.

PART-TIME VOCATIONAL EDUCATION TEACHER An instructor carrying a vocational teaching assignment of less than the

minimum number of hours considered by the superintendent of public instruction or local educational agency to be the recognized full-time load of a person engaged for a normal work day and week in that program.

PERSONAL PROPERTY It retains its original shape and appearance with use; it is nonexpendable; that is, if the article is damaged or some of its parts are lost or worn out, it is usually more feasible to repair it rather than replace it with an entirely new unit; it represents an investment of money which makes it feasible and advisable to capitalize the item; and it does not lose its identity through incorporation into a different or more complex unit or substance.

POSTSECONDARY CENTER DIRECTOR The administrator at the local district level responsible for day to day administration and management of the local vo-tech center. Responsibilities include budgeting, staffing, curriculum and facility improvement and expansion under the supervision of the local district superintendent and the board of trustees.

POSTSECONDARY DISTRICT SUPERINTENDENT The district superintendent is the chief administrator in the district who works with the board of trustees and the superintendent of public instruction toward a joint effort of local/state governance and standardization of the postsecondary center system.

POSTSECONDARY EDUCATIONAL INSTITUTION A nonprofit institution legally authorized to provide postsecondary education within a state for persons sixteen years or older, who have graduated from or left elementary or secondary school.

POSTSECONDARY PROGRAM Vocational education for persons who have completed or left high school and who are enrolled in organized programs of study for which credit is given toward a vocational certificate or associate or other degree, but which programs are not designed as baccalaureate or higher degree programs.

POSTSECONDARY PROGRAM EXPANSION Program expansion is accomplished in two ways:

(1) The program is expanded by offering more student training stations in the program.

(2) The program is expanded by redesigning or expanding the curriculum or training options in the particular program. Program expansion must receive prior written approval from local and state agencies.

POSTSECONDARY STUDENT ACTIVITY FEE A fee established by student election to provide funds for student activities at the postsecondary center and which is not a part of the center's operational budget and shall be accounted for locally.

POSTSECONDARY VOCATIONAL TECHNICAL CENTER A school used principally for the provision of education to persons who qualify as postsecondary vocational-technical students. The centers are designated by the superintendent of public instruction upon direction by the state legislature.

PREPARATORY INSTRUCTION Vocational education instruction for persons who are available for study in preparation for entering the labor market. Classes must be part of an approved program and all students receiving vocational instruction in preparatory classes under the state plan must be conducted in the day or evening, but in all cases must be part of a total program of study intended to prepare the student to enter the labor market in the vocation for which the instruction is given.

PROGRAM ASSIGNMENT Persons classified as instructional staff are unduplicated and only counted once. Dual or multiple assignment should be recorded in the program where the most clock hours of instruction occur. This definition relates to staff accounting and not budgeting.

PROGRAM CHARGES A definition employing the concept of students receiving goods or services that are deemed necessary for their use in the program on an individual cost reimbursement basis. The sole purpose for collecting such charges would be for control purposes of items needed by the student that would have to be purchased regardless. Monies collected shall not supplement program budgets.

PROGRAM COMPLETER A student who has completed a planned sequence of courses, services, or activities designed to meet an occupational objective.

PROGRAM OPTIONS Concentrated training in a specific occupational skill which is part of an approved vocational program. The concentrated training options shall be designated on the student's program completion certificate.

PROGRAM WAITING LIST A list compiled by an institution to record the students waiting to enroll in a program. Students can only be placed on a program list after they have completed a center enrollment application and the application is on file at the center. Centers shall not maintain more "fee paid student applications" on their waiting list than the total number of student stations available in the program.

REMEDIAL Planned diagnostic and/or helpful systematic activities for individuals currently enrolled who have deficiencies in basic skills area.

SECONDARY PROGRAM Vocational education for persons in high school (span of grades usually beginning with grade 9 and ending with grade 12.)

SEX BIAS Behaviors resulting from the assumption that one sex is superior to the other.

SEX DISCRIMINATION Any action which limits or denies a person or a group of persons opportunities, privileges, roles, or rewards on the basis of their sex.

SEX STEREOTYPING Attributing behaviors, abilities, interests, values and roles to a person or group of persons on the basis of their sex.

SHORT-TERM PREPARATORY Classes organized to present short, intensive instruction in the skills or knowledge essential to employment at the entry level in a specific vocation.

SPECIAL DISADVANTAGED Special programs for disadvantaged persons in areas of the state which have high concentrations of youth unemployment or school dropouts.

SPECIAL NEEDS Applies to persons who meet the requirements under the law for one of the three categories--handicapped, disadvantaged, and limited English-speaking--who require special programs, modification of programs, or supplemental services to help them succeed in a vocational education program.

STATE DIRECTOR OF VOCATIONAL EDUCATION The state director of vocational education is the state administrator of all secondary and postsecondary vocational programs.

SUPPORT SERVICE PROGRAMS Skill assessment, employment counseling, job placement and follow up services for:

(1) persons who had been solely homemakers for a substantial number of years but who now, because of dissolution of marriage, must seek employment;

(2) persons who are single heads of households and who lack adequate job skills;

(3) persons who are currently homemakers and part-time workers but who wish to secure a full-time job;

(4) women (men) who are now in jobs which have been traditionally considered job areas for females (males) and who wish to seek employment in job areas that have not been traditionally considered job areas for females (males); and

(5) women (men) who enter programs designed to prepare individuals for employment in jobs which have been traditionally limited to men (women).

SYLLABUS A summary or outline kept on file at the school which outlines the main points of a course of study for each vocational course offered.

TRANSIENT STUDENT Students who are in attendance less than three months.

TUITION Payment for instruction with the amount determined by the superintendent of public instruction.

UNDUPLICATED COUNT The process of reporting an individual student only once, regardless of the number of programs in which he or she is enrolled during the year. Students who were enrolled in more than one program during the year, or who transferred from one program to another, should be reported only once. Assign that student to the program closest to the student's occupational objective. If the student has two or more occupational objectives, then assign to the one program with the greatest number of hours in instruction.

VOCATIONAL COUNSELOR A vocationally and professionally trained person assisting individuals to understand their capabilities and interests, to choose a suitable vocation, and to prepare for employment and to make successful progress in employment. Five principle functions are: placement, follow-up, information, testing and counseling.

VOCATIONAL EDUCATION Organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree; for purposes of this paragraph, the term "organized education program" means only:

- (1) Instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training; and
- (2) The acquisition, maintenance, and repair of instructional supplies, teaching aids and equipment.

The term "vocational education" does not mean the construction, acquisition, or initial equipping of buildings, or the acquisition or rental of land.

VOCATIONAL EDUCATION ADMINISTRATIVE IMPLEMENTATION PROCEDURES A series of procedures established by the state director of vocational education to bring into focus and to carry out the policies of the superintendent of public instruction.

VOCATIONAL EDUCATION COURSE An organization of vocational education subject matter and related learning experiences providing for the instruction of students on a regular or systematic basis.

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VOCATIONAL EDUCATION FUNDS All federal and state funds disbursed by the superintendent of public instruction for vocational education in Montana, and local funds used for matching and maintenance of effort purposes as provided by law.

VOCATIONAL EDUCATION PERSONNEL All state and local personnel whose part or full-time salary is paid from funds appropriated for vocational education.

VOCATIONAL EDUCATION PROGRAMS A planned sequence of courses leading to the development of skills and knowledge required for entry into a specific vocation and developed and conducted in consultation with potential employers and others having skills in and substantive knowledge of the vocation. A program combines and coordinates related instruction of field, shop, laboratory, cooperative work or other vocational experience which is of sufficient duration to develop competencies for employment. Consumer homemaking programs as established in the Montana state plan for vocational education shall also be included under this definition.

VOCATIONAL INSTRUCTION Instruction which is designed to prepare individuals for employment in a specific occupation or cluster of closely related occupations in an occupational field, and which is especially and particularly suited to the needs of those engaged in or preparing to engage in such occupation or occupations. Such instruction may include:

- (1) Classroom instruction;
- (2) Classroom related field, shop and laboratory work;
- (3) Programs providing occupational work experiences, including cooperative education and related instructional aspects of apprenticeship programs;
- (4) Remedial programs which are designed to enable individuals to profit from instruction related to the occupation or occupations for which they are being trained by correcting whatever educational deficiencies or handicaps prevent them from benefitting from such instruction; and
- (5) Activities of vocational student organizations which are an integral part of the vocational instruction.

VOCATIONAL OBJECTIVE The occupational outcome of training and other preparation as stated by an individual student. It is usually stated in terms of a specific job title.

VOCATIONAL POLICY superintendent of public instruction policies for vocational education are philosophical statements that set forth the broad, general intent and purpose of the superintendent and provide the necessary direction for development of administrative guidelines and procedures.

VOCATIONAL STUDENT ORGANIZATION An organization of students in vocational programs which serves members by providing opportunities for leadership, citizenship and character development. The organization enhances the vocational instructional program by providing motivation for personal achievement and appreciation of life roles. Activities are considered an integral part of the program and are carried out at local, state and national levels in affiliation with such organizations as future farmers of america, future homemakers of america, distributive education clubs of america, office education association or vocational industrial clubs of america.

WHITE, NOT OF HISPANIC ORIGIN A person having origins in any of the original peoples of Europe, North Africa or the Middle East.

WORK STUDY (VOCATIONAL) Programs administered to any youth who:

(1) Has been accepted for enrollment as a fulltime student in a vocational education program which meets the standards prescribed by the superintendent of public instruction and the local educational agency for vocational education programs assisted under this act, or in the case of a student already enrolled in such a program, is in good standing and in fulltime attendance.

(2) Is in need of the earnings from such employment to commence or continue the student's vocational education program; and

(3) Is at least 15 years of age and less than 21 years of age. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-302.1(7), MCA.)

RULE 2 COMPREHENSIVE STATE PLAN There shall be a comprehensive state plan for vocational education in Montana; the superintendent of public instruction shall be the sole agent to disburse federal and state vocational funds and to plan, coordinate, govern and provide leadership for the state vocational education system. The superintendent of public instruction recognizes the need for coordination with other governing agencies.

(1) The state director and the staff of the department of vocational and occupational education shall prepare the Montana state plan for vocational education in consultation with the state planning committee and the Montana advisory council for vocational education. The plan shall be prepared in accordance with policies and instructions of the superintendent of public instruction and with the United States Office of Education.

(2) The superintendent of public instruction shall review the Montana state plan for vocational education and certify that public hearings were held to permit people in the state a voice in its preparation.

(3) The superintendent of public instruction shall approve the state plan. The approved plan shall be the basis for operation and administration of vocational education.

(4) The state plan shall be forwarded to the attorney general and to the Montana advisory council for vocational education for certification and then shall be sent to the commissioner of education, United States Office of Education, for approval.

(5) Preparation of any other state plan for vocational education shall not be authorized.

(6) All state and federal funds appropriated or designated for vocational education shall, in accordance with the state law, be deposited with the state treasurer who shall disburse such funds at the direction of the superintendent of public instruction. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-301(1), MCA.)

RULE 3 STATE DIRECTOR OF VOCATIONAL EDUCATION The state director of vocational education shall be responsible for implementing all policies adopted by the superintendent of public instruction for the administration of vocational education.

(1) The state director of vocational education is the appointed state administrator for vocational education.

(2) Appeal from actions or decisions of the state director shall be made to the superintendent of public instruction and requests for hearings must be in writing and submitted not less than fifteen (15) working days prior to a scheduled state vocational education meeting. Appeals are to be directed to the state director who shall schedule the hearing and notify the appellant of the time and place of the hearing. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-302.1, MCA.)

RULE 4 EMPLOYMENT OF STAFF The state director of vocational education shall have the authority to employ the necessary staff to assure the superintendent of public instruction that policies are adhered to and that state program consultants are available to serve the educational institutions of Montana which are offering vocational education programs.

(1) The state director of vocational education shall implement a staff plan for a department of vocational education in the office of public instruction for the purposes of assuring the superintendent of public instruction that policies are adhered to and that knowledgeable program consultants are available.

(2) The state director of vocational education shall follow the procedure of recruitment of professional personnel as outlined in Section 501, Article V of the Affirmative Action Plan adopted by the superintendent of public instruction. These procedures shall not be retroactive to employees on staff prior to the date of adoption. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-302.1(3), MCA.)

RULE 5 DUTIES OF STAFF The state director of vocational education shall be responsible for promoting and improving vocational education programs offered in the educational institutions of the state.

(1) The state staff shall visit educational institutions to consult with administrators, supervisors and teachers concerning individual vocational programs in order to resolve problems, plan programs or improve programs.

(2) The state staff shall conduct seminars, workshops, conferences and other activities to promote and improve vocational education programs. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-301.2(6), MCA.)

RULE 6 ACCOUNTABILITY The state director of vocational education will determine that vocational education activities within the state are being conducted according to federal and state rules and regulations.

(1) The state director and staff will determine, through visitation, evaluation, audit or reporting procedures, that all approved programs in the state are being conducted according to state and federal laws, rules and regulations.

(2) The state director and staff shall seek the assistance of the Montana advisory council for vocational education in reviewing state and federal laws, rules and regulations. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-302.1(6); 20-7-302.1(8); 20-7-302.1(16), MCA.)

RULE 7 MONTANA ADVISORY COUNCIL The state director of vocational education shall solicit the advice and counsel of the Montana advisory council for vocational education pertain-

ing to the evaluation and improvement of vocational education.

(1) The state director or designated representative shall meet regularly with the executive director of the advisory council in order to coordinate their activities and exchange information.

(2) The state director or designated representative shall attend meetings of the advisory council and shall provide the council with information concerning vocational education to assist the council in performing its duties.

(3) Members of the Montana advisory council for vocational education shall be invited to serve on evaluation teams. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-302.1(16), MCA.)

RULE 8 PUBLIC INFORMATION The state director of vocational education shall keep the superintendent of public instruction and the public informed of both the progress and the problems of vocational education in Montana.

(1) The state director and staff shall develop a system to collect, analyze, interpret and communicate vocational education information.

(2) The state director shall keep the superintendent of public instruction informed of programs, problems, needs or proposed directions for vocational education.

(3) The state director and staff shall provide timely information to the public through approved newsletters or public communication channels. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-302.1(11) and (12), MCA.)

RULE 9 CONDUCT OF VOCATIONAL EDUCATION IN LOCAL DISTRICTS

Vocational education programs in local school districts shall be under the guidance of a properly certified administrator, supervisor or instructor who has the responsibility to insure that local programs are of high quality.

(1) Approved vocational programs shall be in compliance with all federal and state requirements, directives and laws.

(2) If a local administrator, supervisor or instructor fails to fulfill his/her responsibility, vocational education funding may be withdrawn by the superintendent of public instruction. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-303, MCA.)

RULE 10 CONSISTENCY IN POLICY AND PROCEDURE

Policies and procedures adopted for vocational education in postsecondary or secondary schools shall be consistent with procedures approved by the superintendent of public instruction. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-303, MCA.)

RULE 11 ADMINISTRATION OF EMPLOYMENT AND TRAINING FUNDS

Employment and training funds distributed through the office of the superintendent of public instruction for use by educational

institutions shall be administered in cooperation with local education institutions and/or other state agencies. The superintendent of public instruction recognizes that students from indian reservations and/or other groups within the state of Montana may need special consideration.

(1) All negotiations for establishment of employment and training slots or programs at the five postsecondary vocational technical centers shall be between the awarding agency and the superintendent of public instruction.

(2) Employment and training slots or programs established by negotiations between the awarding agency and the superintendent of public instruction will be similar at each of the centers.

(3) Any employment and training programs proposed for local education agencies (secondary public schools) must be reviewed and approved by the superintendent of public instruction.

(4) It shall be the responsibility of the state director to resolve conflicts of authority or interest and to insure that services are not needlessly duplicated. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-301(14), MCA.)

RULE 12 RECRUITMENT, SELECTION, EMPLOYMENT AND ADVANCEMENT OF PERSONNEL Recruitment, selection, employment and advancement of vocational education personnel shall be consistent with current approved institution and/or agency affirmative action plans.

(1) Any educational institution requesting funds for vocational programs must have an approved affirmative action plan. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-312(1h), MCA.)

RULE 13 OCCUPATIONAL AND PROFESSIONAL CERTIFICATION. Vocational education instructional and administrative personnel shall satisfy minimum occupational and professional certification standards established by the superintendent of public instruction and shall meet applicable recertification standards if any part of their salaries are to be paid from funds appropriated for vocational education. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-301(6), MCA.)

RULE 14 DEVELOPMENT AND MAINTENANCE OF PERSONNEL COMPETENCIES The development of vocational instructors' instructional competencies and the maintenance and improvement of their occupational skills shall be the shared responsibility of the individual, the local educational institution, the teacher training institutions and the state director of vocational education.

(1) The State Director may initiate the following activities:

(a) Programs, seminars, conferences and workshops to

develop or improve instructional and administrative competencies of vocational personnel.

(b) Programs or systems that will provide for periodically sending vocational education personnel back to business or industry to keep them abreast of current practices.

(c) Recommendations to the superintendent of public instruction for courses and workshops submitted for funding by the teacher training institutions for the development and improvement of instructional competencies.

(d) Programs of preservice and inservice education for instruction, supervisory, administrative, teacher training and support personnel in vocational education. (Sec. 20-7-301, MCA; IMP, 20-7-302.1(16), MCA.)

RULE 15 APPROVAL OF PROGRAMS Vocational education programs must have approval of the superintendent of public instruction prior to receipt of funds.

(1) The state director of vocational education shall recommend to the superintendent of public instruction which programs should be approved, based on established criteria and consistent with state and federal law.

(2) All programs shall have a vocational objective. Program subject matter must consist of the knowledge and skills required for the student's successful performance in the vocation. Program titles must refer to vocational objectives and relate to office of education codes.

(3) All significant curriculum changes must be approved by the state director of vocational education. Change requests are accomplished by submitting both the current and revised curricula, with a cover letter indicating the reason(s) for the change and the date that the change is to be effective. A syllabus for each approved vocational course in a program which the institution is offering must be on file.

(4) All programs having a licensure agency must meet requirements of that agency and must prepare the student to be licensed or certified by the statutory licensing board or agency of Montana, the federal government, or by any organization with widely accepted certification authority when state licensure is not required.

(5) All preparatory instruction funded by the superintendent of public instruction must be in accordance with approved programs. All such courses, seminars, practicums, etc., must be offered only as part of an approved program unless special approval is granted.

(6) Requests for approval of preparatory programs for secondary students must be submitted at least four (4) months in advance of the starting date of the program. Postsecondary preparatory programs may be submitted at any time but must operate within the center budget approved by the superintendent of public instruction.

(7) Requests for adult and youth vocational courses may

be submitted at any time, but must be approved prior to proposed starting date.
(Sec. 20-7-301, MCA; IMP, Sec. 20-7-301(7), MCA.)

RULE 16 DETERMINATION OF PROGRAMS TO BE OFFERED. Vocational education program offerings shall be determined on the basis of identifiable student interest and need, vocational advisory committee recommendations employment statistics and current occupational surveys.

(1) Programs to meet virtually any vocational training need may be developed for purposes of funding: agriculture, consumer homemaking, wage earning homemaking, distribution and marketing, business and office, technical, industrial, health occupations, prevocational adult vocational, guidance and counseling, research, exemplary, curriculum development, special needs, disadvantaged or handicapped, and teacher training.

(2) In any two year program, the sequence of the curriculum should be such that students will develop some basic marketable skills during the first year.

(3) In order for state staff members to review programs being operated in local institutions, each institution must maintain current files and records such as course syllabi, cooperative training plans, curricula and course descriptions as approved, inventories of all equipment purchased with vocational funds, annual application, revisions, and supporting schedules, audits, follow-up data, and enrollment reports.
(Sec. 20-7-301, MCA; IMP, Sec. 20-7-301(7), MCA.)

RULE 17 VOCATIONAL PROGRAM DESIGN Vocational education programs shall be designed to prepare individuals for employment or for advancement in recognized or new and emerging occupations, or to prepare individuals for enrollment in advanced vocational education programs.

(1) Prevocational programs may be designed which prepare individuals to enter a more advanced vocational education program.

(2) Special vocational programs may be designed to provide training for disadvantaged and handicapped students, but when feasible, such students should be enrolled in regular programs with special training provided.

(3) Evidence that a program will not prepare students for employment may cause the program to be disapproved (with the exclusion of consumer homemaking).

(4) A program shall not discriminate on the basis of race, sex, age, disability, creed or national origin in enrollment procedures, counseling, classroom instruction, completion requirements or job placement.

(Sec. 20-7-301, MCA; IMP, Sec. 20-7-301(7), MCA.)

RULE 18 LOCAL ADVISORY COUNCILS Institutions offering vocational education programs shall have a local advisory coun-

cil composed of representatives from management, labor, and citizens-at-large to consult with and advise school administrators on matters pertaining to the development and improvement of vocational education.

(1) The local advisory council is required to meet at least once per year; minutes of all meetings must be on file at the local institution.

(2) The local advisory council is to assist school administrators in determining programs to be offered, establishing priorities for building programs for vocational education facilities, and to review factors affecting all vocational programs. Local advisory councils shall have representation of racial and ethnic minorities found in the region the council serves. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-302(1)(h), MCA.)

RULE 19 PROGRAM ADVISORY COMMITTEES Each vocational education program shall have a program advisory committee composed of, but not limited to, representatives from management and labor to consult with administrators and teachers on program matters.

(1) A program advisory committee must be appointed for each vocational education program. Members should represent management, labor, and other interested groups and should consult with teachers and administrators on program matters such as curriculum, courses, equipment, facilities, evaluation, job skills and placement. The program advisory committee is required to meet at least once per year and minutes of all meetings must be on file at the local institution. It is recommended that advisory committees meet quarterly.

(2) Requests for program approval or requests for changes in a program should be accompanied by recommendations from the program advisory committee.

(3) Program advisory committees for a new program must be functional before the program is started and must have input into curriculum development for the new program. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-312 (1)(h), MCA,)

RULE 20 STATE VOCATIONAL EDUCATION INFORMATION SYSTEM Institutions offering vocational education programs and/or courses shall provide information to the state director for a state educational information system.

(1) Reporting forms developed by the state director and approved by the superintendent of public instruction shall be furnished to the local institution.

(2) Institutions shall report on a timely basis to enable the state director to make and prepare required state and federal reports.

(3) Failure of institutions to submit required information may result in loss of funding. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-302.1(4), MCA; 20-7-312(i)(h), MCA.)

RULE 21 OCCUPATIONAL INFORMATION, GUIDANCE AND PLACEMENT SERVICES IN POSTSECONDARY INSTITUTIONS Postsecondary institutions offering vocational education programs and/or courses

shall provide occupational information, guidance and placement services for their students regardless of the student's sex, race, creed national origin, handicap or disability.

(1) Vocational-technical centers shall provide library and media center services when possible.

(2) Vocational-technical centers shall provide related communication and mathematical instruction for students when such instruction is necessary for students to meet the requirements of a postsecondary center program.

(3) Vocational-technical centers shall provide students the opportunity to grow in co-curricular areas by encouraging student governments, intramural sports, a newspaper, clubs and similar student activities.

(4) Vocational-technical centers shall offer counseling and support services programs to students enrolled in occupational programs non-traditional to their sex and to displaced homemakers who are returning to school.

(5) Vocational-technical centers shall have at least one qualified vocational guidance counselor. (Sec. 20-7-301, MCA; IMP, 20-7-312(1)(h), MCA.)

RULE 22 COOPERATION IN PLANNING Local and state institutions offering vocational education shall plan cooperatively with labor, industry and other concerned governmental or civic agencies.

(1) The state director and staff shall encourage cooperation at all levels and between all agencies.

(2) The state director shall make every effort to avoid unnecessary duplication when recommending programs for approval. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-312 (1)(h), MCA.)

RULE 23 ANTIDISCRIMINATORY SERVICE TO ELIGIBLE POPULATIONS

Vocational education programs shall be designed to serve individuals of secondary school age or older, regardless of sex, race, age, creed or national origin, including those who have educational, socioeconomic, or physical disadvantages and handicaps, displaced homemakers or those who have been identified to have cultural differences with special needs. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-301(7), MCA.)

RULE 24 ADEQUATE FUNDING The superintendent of public instruction and the state director of vocational education shall work toward assuring adequate funding of Montana's vocational education programs from all levels of government (federal, state and local).

(1) The state director shall conduct cost studies to determine funding requirements for vocational programs.

(2) The state director shall be prepared to provide to the superintendent of public instruction, governor and state

legislature a complete analysis of vocational education program budgets.

(3) The state director shall disseminate the program funding requirements to the educational institutions of Montana.

(4) Distribution of funds shall be in accordance with the state plan.

(Sec. 20-7-301, MCA; IMP, Sec. 20-7-301(8)(9)(10), MCA.)

RULE 25 RESPONSIBILITY FOR DISBURSEMENT OF STATE AND FEDERAL FUNDS. The superintendent of public instruction shall be responsible for the disbursement of state and federal funds for vocational education.

(1) The superintendent of public instruction is responsible for the disbursement of state and federal funds for vocational education in accordance with state law.

(2) All funds appropriated for vocational education by the state legislature or received from federal sources shall be deposited in the state treasury in accordance with state law.

(3) Vocational funds shall be allocated to local institutions on an equitable and objective basis. A method used for allocation of funds shall be developed by the state director, reviewed by local administration and approved by the superintendent of public instruction.

(4) Special vocational needs funds shall be granted to local institutions on an annual grant application basis. The superintendent of public instruction shall approve or disapprove all grant applications in accordance with procedures established by the director of vocational education and approved by the superintendent. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-301(8)(9)(10), MCA.)

RULE 26 CRITERIA FOR ALLOCATION OF FUNDS In determining the allocation of vocational education funds to local educational institutions, the superintendent of public instruction shall consider such factors as: identified needs of vocational education for the population within the local district, region, state and the nation: as measured by needs assessments; the comparability of program offerings with the state's long range vocational education objectives; the excess cost of program offerings, local and state ability to support the program and any need for program duplication.

(1) In determining the basis for allocation of funds, the superintendent of public instruction shall consider applicable federal legislation, state plan funding formula and other appropriate factors.

(2) Funding for vocational programs shall follow the state fiscal year and USOE fiscal requirements.

(3) Each institution requesting funds for a vocational program must submit an annual application. Approved programs shall be the only programs eligible for the funding.

(4) Postsecondary centers will receive consideration for production cost differential for funding. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-301(8)(9)(10), MCA.)

RULE 27 APPROVED ELEMENTS OF COSTS The expenditures by an institution of any funds received under the provisions headed "Vocational Education" shall be limited to those elements of costs approved by the superintendent of public instruction.

(1) The state director shall compile a list of "elements of cost" for which vocational education funds may be used. The list shall be official only after superintendent of public instruction's approval.

(2) Each institution must maintain a current inventory of equipment initially costing \$300 or more which was purchased, leased or rented with federal/state vocational funds.

(3) All such equipment must be marked or otherwise identified in order to make it easily distinguishable from equipment purchased, leased or rented with funds other than vocational education funds. (Manpower purchased equipment in excess of \$200 and all Federal excess property must also be maintained.)

(4) Vocational education equipment acquired by a school with vocational funds appropriated by the Legislature may not be sold, leased, rented, diverted, or put to any other use without prior written permission from the superintendent of public instruction.

(5) Whenever vocational education school facilities or items of major equipment in which the superintendent of public instruction has participated in funding are sold or no longer used for vocational purposes, the superintendent of public instruction is to be credited with the proportional share of the value of such facilities or equipment. The value shall be determined on the basis of the sale price or the fair market value.

(6) Equipment purchased with vocational education funds may be used for trade-in credit on the purchase of other approved vocational equipment. If equipment is sold, it must be sold to the highest bidder and the proceeds are to be handled as per (5) above.

(7) Records of expenditures for vocational programs administered by local education institutions and/or public institutions, are subject to audit by the state director's vocational staff or state and/or federal auditors. Such records shall be retained on file for a period of five (5) years.

(8) Local education institutions and/or public institutions receiving vocational funds shall comply with all applicable state and federal statutes, with provisions of the State Plan, with policies and regulations of the superintendent of public instruction and other auditing authorities. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-301(8), MCA.)

RULE 28 STUDENT FEES (This section applies to postsecondary vocational-technical center students only.)

Unless provided by state statute, the superintendent of public instruction shall be responsible for and have the power to establish student enrollment fees and the rules governing the collection and expenditure of such fees.

(1) A student application fee shall be collected only once from each student. This fee of \$10.00 will serve to support the costs of processing the student application and permanent file. The student application fee shall decrease the superintendent of public instruction tuition by the amount of \$10.00 for the quarter during which the application fee is collected. Therefore, it must be considered as part of the tuition required by the superintendent of public instruction.

The centers shall not maintain more "fee paid students (applications)" on their waiting list than the total number of student stations in current programs.

It is understood that the "fee paid students" shall receive communication from the institutions as necessary to keep them informed of the status of their applications. Any other students wishing to be considered for a program shall complete an application which must be on file at the center. No program guarantees shall be made to any student until a fee is collected and an application processed. Montana resident students shall be accepted for training on a first come, first served basis.

(2) Charges deemed necessary by the institution in providing students with essentials, personal service, and/or items required for programs will be charged as needed.

(3) No waivers and/or deferments of fees and/or tuition are authorized without written approval from the state director of vocational education.

(4) There is no late registration fee.

(5) All fees, tuition, and program charges will be collected on a quarterly basis.

(6) Tuition is set by the superintendent of public instruction and collected on a quarterly basis.

(7) Tuition shall be charged to all residents of the state of Montana by the governing board of any postsecondary vocational-technical center.

(8) The superintendent of public instruction will establish tuition rates. Open-entry/exit students registering for less than half a quarter of instruction shall not be required to pay the full tuition, but shall be required to pay the \$10.00 student application fee an amount established by the superintendent of public instruction.

(9) The residence of a student shall be determined in accordance with Section 75-7713.

(10) The annual out-of-state tuition for nonresident

students attending Montana postsecondary vocational-technical centers shall be assessed at a rate established by the superintendent of public instruction, payable in advance of the quarter the nonresident student attends.

(11) Part-time nonresident students (less than 20 hours per week) shall pay one-half of the tuition paid by the full-time nonresident student.

(12) The application fee is non-refundable.

(13) Refunding of out-of-state tuition shall be at rates established by the superintendent of public instruction.

(14) Program charges are not to be refunded if the student has received services and/or items.

(15) Vocational technical centers which are not accredited by a nationally recognized agency or association shall refund unused fees and charges to veterans and other eligible persons according to provisions of veterans administration regulation. Provisional accreditation shall be considered as accredited.

(16) The application fee and tuition will be deposited with the state treasurer to be used as part of the institutional budget.

(17) Program charges are expended on a cost reimbursement basis and shall not be used as part of the institutional budget.

(18) The state director shall review proposed income and expenditure of fees, tuition and program charges prior to the beginning of each fiscal year. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-301(12), MCA.)

RULE 29 UNIFORM ACCOUNTING AND REPORTING SYSTEM The state director shall develop and implement a uniform accounting and reporting system which will clearly identify receipts, disbursements and balances of all funds used to finance vocational education.

(1) The state director will make a quarterly financial report to the superintendent of public instruction on vocational funds expended and vocational funds available.

(2) Each institution shall be held accountable for all funds received through the superintendent of public instruction for vocational education programming.

(3) Accounting and reporting forms and procedures will be made available to local institutions.

(4) Local institutions will be required to complete and submit reports at times established by the state director. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-302.1(10), MCA.)

RULE 30 PROGRAM EVALUATION Evaluation shall be an integral part of Montana's vocational education system.

(1) The state director of vocational education shall evaluate each vocational program approved by the superintendent of public instruction. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-301(1)(2)(3)(11); 20-7-302.1(15), MCA.)

RULE 31 CONDUCT OF EVALUATION There shall be provisions for periodic and continuous evaluation at both state and local levels.

(1) Program evaluation shall be conducted periodically and may consist of self-evaluations, reviews of ongoing programs, on-site committee evaluations, and similar evaluation activities.

(2) Each fiscal year, secondary and postsecondary programs shall be evaluated by the state director and staff; every program must be evaluated once in a five year period.

(3) State staff members shall visit institutions in order to obtain appropriate information. Institutions shall provide whatever data is required, arrange for written materials to be made available, and otherwise expedite the work of the person making the visit. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-301(11), MCA.)

RULE 32 ROLES OF STATE DIRECTOR AND MONTANA ADVISORY COUNCIL IN EVALUATION The state director of vocational education and the Montana advisory council for vocational education shall cooperate in evaluating vocational education.

(1) The state director shall solicit program evaluation advice and help from the Montana advisory council for vocational education. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-301(15), MCA; 20-7-301.1(15), MCA.)

RULE 33 UNIFORM GOVERNANCE AND ADMINISTRATIVE SYSTEM FOR POSTSECONDARY CENTERS There shall be a uniform governance and administrative system for the five postsecondary centers in Montana.

(1) The superintendent of public instruction, district boards of trustees and district superintendents shall meet at least twice (2) yearly to review, evaluate and adjust, when necessary, the governing policies for the operations of the five postsecondary centers.

(2) The superintendent of public instruction, district boards of trustees and district superintendents shall standardize the postsecondary system which will include, but is not limited to the following: budgeting and accounting, staff patterns, calendar and catalog, programs and curriculum offerings.

(3) The executive officer for vocational education shall develop criteria for receiving, reviewing and transmitting recommendations on postsecondary vocational technical center operations and budget requests to the legislature.

(4) The state director of vocational education shall meet with the board of trustees chairperson, district superintendent and center director of the postsecondary center at least twice each year to discuss recommended changes in the state superintendent's policies and procedures.

(5) The state director of vocational education and post-

secondary center directors shall meet at least every other month to solidify the local/state administrative effort toward a standardized administrative system at the five postsecondary centers.

(6) Each postsecondary center district shall have a policy for local center administration. All documents submitted to the state superintendent's office shall have met the procedures as established by the local district trustees.

(7) Any budget expenditure change which is the result of action taken by the district board of trustees, on a previously state approved budget expenditure, shall be reported to the state director as soon as possible.

(8) Local administration shall be responsible for:

- (a) hiring of staff
- (b) administration of personnel consistent with district policy
- (c) recommending budgets and curriculum changes or additions

(d) recommending facility additions or improvements.

(9) The board of trustees operating a postsecondary vocational technical center shall develop campus and program plans for individual postsecondary vocational technical center buildings. The funds request for new construction, maintenance, remodeling and renovation of such facilities will be submitted by the local board of trustees to the superintendent of public instruction for consideration by the legislature.

(10) All major facility alterations, expansion, and/or new construction must be first approved by the local school board, then by the superintendent of public instruction before the start of said activity.

(11) When major facility alterations, expansion, and/or new construction has been approved by the local board and the superintendent of public instruction, it is then the responsibility of the state director of vocational education and the center director to develop a time and cost schedule on the activity and continue to work toward the completion of said activity. (Sec. 20-7-301, MCA; IMP, Sec. 20-7-302.1 (7)(10); 20-7-312(1), MCA.)

GEORGIA RICE, Superintendent
OFFICE OF PUBLIC INSTRUCTION

By:



ALVE THOMAS
Deputy Superintendent
Authorized Representative

Certified to the Secretary of State February 5, 1980.

3-2/14/80

MAR Notice No. 48-2-23

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the ADOPTION) NOTICE OF PROPOSED ADOPTION
OF A RULE regarding certifi-) OF A RULE regarding certifi-
cation of fire department) cation of fire department
instructors) instructors
)
) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On March 15, 1980, the Board of Public Education proposes to adopt a rule regarding certification of fire department instructors.

2. The proposed rule provides as follows: Rule I
FIRE DEPARTMENT INSTRUCTOR CERTIFICATION (1) Fire department instructors, prior to certification by the state, must meet the following minimum requirements established by the Montana fire services training school:

(a) New volunteer fire department instructors will be required

(i) to have completed the IFSTA basic ten abridged units, or ten unabridged units, or NFPA 1001--certified fire-fighter III; and

(ii) to have successfully completed advanced course (fire officer V--methods and techniques of instruction).

(b) Currently qualified volunteer fire department instructors will continue to instruct, but each instructor is urged to accomplish items (a)(i) and (ii) above.

(c) Current paid fire department instructors will be required to meet items (a)(i) and (ii) above by July 1, 1981 to continue to receive certification from this office.

(d) Advanced instructor certification will require the following:

(i) successfully complete the advance class subject area;

(ii) currently be a prior instructor who has been certified in the IFSTA basic ten units (unabridged version); and

(iii) receive additional instruction for the advanced subject and utilize the approved outlines, tests, and tests provided by the Montana fire services training school.

(iv) advanced instructor certification is subject to be declined if sufficient qualifications are not evident or provided to the Montana fire services training school.

3. The rule is proposed for adoption to create a system of uniform statewide certification standards.

4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to Marjorie W. King, Chairman of the Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, no later than March 13, 1980. 2-4-302(4).

MAR Notice No. 48-3-21

3-2/14/80

5. If a person who is directly affected by the proposed rule 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 Marjorie W. King, Chairman of the Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, no later than March 13, 1980. 2-4-302(4).

6. If the agency receives requests for a public hearing on the proposed rule from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed rule; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 35 persons based on the 350 certified instructors in the state.

7. The authority of this agency to adopt the proposed rule is based on section 20-31-102, MCA, and the rule implements section 20-31-103, MCA.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the ADOPTION)	NOTICE OF PROPOSED ADOPTION
OF A RULE regarding course)	OF A RULE regarding certi-
certification)	cation of fire service training
)	courses
)	
)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On March 15, 1980, the Board of Public Education proposes to adopt a rule regarding certification of fire service training courses.

2. The proposed rule provides as follows: Rule II
COURSE CERTIFICATION (1) Fire service training courses must be approved by the Montana fire services training school in accordance with this section to be certified. Certificates for satisfactory completion of certified fire service training courses must be based on the following requirements established by the Montana fire services training school.

(2) The following rule shall apply in regards to the issuance of the volunteer abridged and paid unabridged certificates.

(3) Only examinations which the Montana fire services training school approves and grades will be certified by this office for each subject area.

(4) Only classes where certified instructors have provided instruction or administered the examination will be eligible for certificates. The state administered EMT examination is exempt from this requirement.

(5) Only classes taught by instructors of the Montana fire services training school or certified advanced instructors after January 1, 1979 will be considered.

(6) Only classes meeting current hour requirements for advanced classes will be considered.

(7) Only classes which are in the current advanced class list offered by the Montana fire services training school will be considered.

(8) Classes taught by other instructors will not receive consideration unless:

(a) to receive prior approval the following information must be submitted to the Montana fire services training school:

(i) instructor's name and position,

(ii) class outline (if available),

(iii) class subject,

(iv) class test (if utilized),

(v) number of hours of instruction, and

(vi) class location, dates and times (if possible).

(a) All classes taught by the Montana state forestry, state fire marshal's office are approved.

3. The rule is proposed for adoption to provide uniform statewide standards for fire service training courses.

4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to Marjorie W. King, Chairman of the Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, no later than March 13, 1980. 2-4-302(4).

5. If a person who is directly affected by the proposed rule 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 Marjorie W. King, Chairman of the Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, no later than March 13, 1980. 2-4-302(4).

6. If the agency receives requests for a public hearing on the proposed rule from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed rule; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 900 persons based on the 9,000 firefighters in the state.

7. The authority of this agency to adopt the proposed rule is based on section 20-31-102, MCA, and the rule implements section 20-31-103, MCA.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the ADOPTION) NOTICE OF PROPOSED ADOPTION OF
OF A RULE regarding certifi-) A RULE regarding certification
cation of firefighters) of firefighters
)
) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On March 15, 1980, the Board of Public Education proposes to adopt a rule regarding certification of firefighters.

2. The proposed rule provides as follows: (Rule III)
CERTIFICATION OF FIREFIGHTER I, CERTIFIED FIREFIGHTER II, AND ADVANCED CERTIFIED FIREFIGHTER III (1) The participation in the program is strictly on a volunteer basis, and in no way shall this program be required of any paid or volunteer fire department by the Montana fire services training school. This does not in any manner circumvent the local authority requiring the members of said department to participate within the program.

(2) The program shall adhere to NFPA 1001 "Firefighter Professional Qualifications 1974." Chapter 2 of said publication will in no way be enforced by the Montana fire services training school, and is left to the discretion of the local jurisdiction.

(3) Administration of this program by the Montana fire services training school shall conform to these guidelines as approved by the board of public education.

(4) Implementation as to completion of the performance of objectives as required for each level shall be directly supervised by each authority having jurisdiction.

(5) Final competency evaluation for each level (i.e. firefighter I, certified firefighter II, and advanced certified firefighter III) both written and practical areas shall only be given by a staff member of the Montana fire services training school.

(6) Each individual firefighter will be required to show competency and demonstrate 1 year of fire service experience for each level (i.e. firefighter I--1 year, certified firefighter II--2 years, advanced certified firefighter III--3 years) to receive a Montana fire services training school certificate. Final competency evaluation for each level may be accomplished prior to the required time period, but the Montana fire services training school certificate will not be issued until each individual level requirement is fulfilled as to length of time required.

(7) Any member of a paid or volunteer fire department who has a total of 3 years of service may request a final competency evaluation for all 3 levels of professional firefighter qualifications utilizing the required procedures.

(8) Request for final competency evaluation made to the Montana fire services training school shall come from the fire chief or training officer of each respective organization.

(9) Interpretation of the final competency evaluation results shall provide a weight of 60% for manipulative skills and 40% for cognitive skills. An overall evaluation of 70% is the minimal acceptable level of competency.

(10) Re-evaluation, if necessary shall not be provided by the Montana fire services training school until 30 days after the previous evaluation. This re-evaluation will only be required on the section which is unsatisfactory, while some individuals may be required to be re-evaluated on both the written and practical portions to attain the 70% competency level.

(11) All current certified instructors will be authorized to supervise instruction for all 3 levels of the firefighter program.

(12) No numerical score will be provided to participating individual(s) or department. Only a pass-fail report will be given.

(13) No fee will be charged for administration of the examination.


3. The rule is proposed for adoption to provide uniform statewide certification standards for firefighters.

4. Interested parties may submit their data, views or arguments concerning the proposed rule in writing to Marjorie W. King, Chairman of the Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, no later than March 13, 1980. 2-4-302(4).

5. If a person who is directly affected by the proposed rule 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 Marjorie W. King, Chairman of the Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, no later than March 13, 1980. 2-4-302(4).

6. If the agency receives requests for a public hearing on the proposed rule from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed rule; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 900 persons based on the 9,000 firefighters in the state.

7. The authority of this agency to adopt the proposed rule is based on section 20-31-102, MCA, and the rule implements section 20-31-103, MCA.


MARJORIE W. KING, CHAIRMAN
BOARD OF PUBLIC EDUCATION

BY 
Assistant to the Board

BEFORE THE FISH AND GAME COMMISSION
OF THE STATE OF MONTANA

In the matter of the repeal	)	NOTICE OF REPEAL OF
of Rule 12-2.10(2)-S1060	)	RULE 12-2.10(2)-S1060
relating to opening dates of	)	OPENING DATES OF GENERAL
general big game seasons	)	BIG GAME SEASONS

TO: All Interested Persons.

1. On October 11, the Montana Fish and Game Commission published notice of a public hearing on the proposed repeal of a rule relating to opening dates of general big game seasons at page 1148 of 1979 Montana Administrative Register issue No. 19, and notice of extension of time for comment and date of action on the proposed repeal at page 1454 of 1979 Montana Administrative Register issue No. 22.

2. The agency has repealed the rule as proposed.

3. Comments received and responses by the commission are summarized as follows:

COMMENTS FROM COOPERATORS:

(1) Fort Yellowstone Outdoors Association supported repeal in favor of a more flexible means of setting opening dates: because of possibility of earlier snow in mountain areas; that opening the season later in the eastern part of the state will bring better hunter-landowner relations; and that scarcity of game might require shorter seasons such that when the season is dry and game is scarce, a shorter season would be more favorable for landowners and game survival rates.

Response: Accepted.

(2) Gallatin Wildlife Association generally supported repeal as conditions vary greatly between the eastern and western areas of the state.

Response: Accepted.

(3) Montana Wool Growers Association had no opposition to repeal as their main concern is the length of seasons for hunting.

(4) Edward Grady, Canyon Creek, favored repeal of the opening date rule. He feels the ARM rule is outdated and opening dates should be set according to specific area needs and landowner recommendations.

Response: Accepted.

(5) Michael J. Hess, Anaconda, opposed repeal of the rule where the purpose might be to stagger opening dates. His reasons are that it would concentrate more hunters in certain parts of the state that would cause unnecessary travel and expenditure of energy in a time when all should conserve.

Response: Rejected. The purpose of the repeal is to provide greater flexibility for setting opening dates on an annual or biannual basis as part of the regular season setting procedure. The rule as written does not provide that

flexibility, rather the commission is limited in the options available to it as sportsman desires, landowner concerns, and management requirements change through time. For example, if sportsmen of the state desired to hunt during the Thanksgiving weekend in 1980, and landowners expressed their concern over the length of the big game season and asked that it be 5 weeks or less, the present rule would not give the commission the flexibility to meet both groups' requests; i.e., to grant the sportsmen's request would result in a season from October 19, 1980 through November 29, 1980 (6 weeks), or to grant landowners' request would result in a season from October 19, 1980 through November 22, 1980 (5 weeks). While the commission is not planning a split opening for big game hunting seasons at this time, that is an option which is foreclosed by the present rule.

(6) Daryl Proud, Dayton, objected to the repeal of the opening date rule as it would give out-of-state hunters advantage for getting to both openings.

Response: Rejected. The purpose of changing the rule is not to benefit either out-of-state or in-state hunters but rather to provide greater flexibility for management of the wildlife resource.

(7) Skyline Sportsmen's Association does not support the idea of repeal for the purpose of split opening. Opening week is already the most crowded time of the season and it will place greater congregations of people at places that are open. The Deer Lodge drawing is cited as an example of congregation of individuals at an open area.

Response: Rejected. See (5) above.

(8) Noxon Rod & Gun Club unanimously opposed repeal of the established opening dates for big game hunting season; saw no solid reason for change; and further felt that a split opening day would add more hunting pressure to their area and similar areas - hunting pressure which is already heavy during opening week.

Response: Rejected. See (5) above.

(9) Harlem Rod & Gun Club voiced general opposition to repeal because of migration of hunters from the western part of the state into eastern Montana and then a reversal when seasons open in the western part of the state.

Response: Rejected. See (5) above.

(10) Montana Stockgrowers Association objected to the repeal of the uniform opening date regulation. The association has long advocated a uniform opening date for the reasons that it fans hunters out all over the state on opening day rather than concentrations in one area for one week and another area for another week.

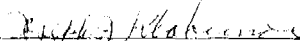
Response: Rejected. See (5) above.

COMMENTS FROM DEPARTMENT:

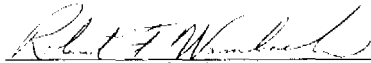
(11) Region 2 supported repeal of the rule and asked that the opening dates be set as far in advance as possible.

(12) Region 3 recommended retaining flexibility to open the season each year late enough to hunt over Thanksgiving and to set the season at least one year in advance to accommodate those hunters who must plan vacations a year in advance.

(13) The remainder of the regions had no comment at this time.


Joseph J. Klabunde, Chairman
Montana Fish & Game Commission

Attest:


Robert F. Wambach, Secretary
Montana Fish & Game Commission

Certified to the Secretary of State February 1, 1980

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

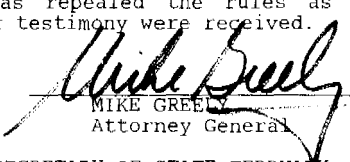
In the matter of the repeal	)	NOTICE OF THE REPEAL OF
of rules 23-2.2(2)-P210,	)	RULES 23-2.2(2)-P210,
23-2.2(2)-P220, 23-2.2(2)-	)	23-2.2(2)-P220, 23-2.2(2)-
P240, 23-2.2(2)-P250 and	)	P240, 23-2.2(2)-P250 and
23-2.2(2)-P260 concerning	)	23-2.2(2)-P260.
procedures upon driver's)	
license denial, suspension)	
revocation, or cancellation)	

TO: All Interested Persons

1. On December 27, 1979, the Department of Justice published notice of a proposed repeal of rules 23-2.2(2)-P210, 23-2.2(2)-P220, 23-2.2(2)-P240, 23-2.2(2)-P250 and 23-2.2(2)-P260 concerning procedures to be followed by the Motor Vehicles Division when a driver's license is suspended or a probationary license is issued at page 1579 of the 1979 Montana Administrative Register, issue number 24.

2. The agency has repealed the rules as proposed.

3. No comments or testimony were received.


MIKE GREELY

Attorney General

CERTIFIED TO THE SECRETARY OF STATE FEBRUARY 5, 1980.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the repeal	)	NOTICE OF THE REPEAL OF
of rules 23-2.2(2)-P270,	)	RULES 23-2.2(2)-P270,
23-2.2(2)-P280 and 23-2.2(2)-	)	23-2.2(2)-P280, and
P2000, procedural rules for	)	23-2.2(2)-P2000.
the State Fire Marshal)	

TO: All Interested Persons

1. On December 27, 1979, the Department of Justice published notice of a proposed repeal of rules 23-2.2(2)-P270, 23-2.2(2)-P280 and 23-2.2(2)-P2000 concerning procedural rules of the State Fire Marshal at page 1580 of the 1979 Montana Administrative Register, issue number 24.

2. The agency has repealed the rules as proposed.

3. No comments or testimony were received.


MIKE GREELY

Attorney General

CERTIFIED TO THE SECRETARY OF STATE FEBRUARY 5, 1980.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

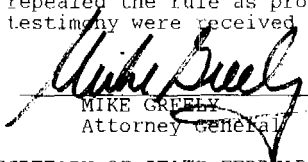
In the matter of the repeal	)	NOTICE OF THE REPEAL
of rules 23-2.6(1)-S600,	)	OF RULES 23-2.6(1)-S600
23-2.6A(1)-S600, 23-2.6AI(1)-	)	23-2.6A(1)-S600, 23-2.6AI
S600, 23-2.6AI(2)-S610,	)	(1)-S600, 23-2.6AI(2)-
23-2.6AI(2)-S6050, 23-2.6AI	)	S610, 23-2.6AI(2)-S6050
(2)-S6060, 23-2.6AI(6)-S6130	)	23-2.6AI(2)-S6060, 23-2.
and 23-2.6AI(6)-S6150,	)	6AI(6)-S6130, 23-2.6AI(6)-
concerning driver licensing	)	S6150
and driver improvement.)	

TO: All Interested Persons

1. On December 27, 1979, the Department of Justice published notice of a proposed repeal of rules 23-2.6(1)-S600, 23-2.6A(1)-S600, 23-2.6AI(1)-S600, 23-2.6AI(2)-S610, 23-2.6AI(2)-S6050, 23-2.6AI(2)-S6060, 23-2.6AI(6)-S6130 and 23-2.6AI(6)-S6150 concerning driver licensing and driver improvement at pages 1581 and 1582 of the 1979 Montana Administrative Register, issue number 24.

2. The agency has repealed the rule as proposed.

3. No comments or testimony were received.


MIKE GREELY
Attorney General

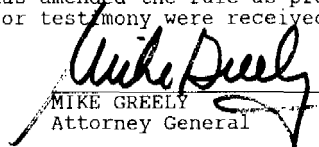
CERTIFIED TO THE SECRETARY OF STATE FEBRUARY 5, 1980.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF THE
of Rule 23-2.6AI(2)-S620 provid-	)	AMENDMENT OF RULE
ing for county treasurers to act	)	23-2.6AI(2)-S620
as agents for the collection of)	
driver's license fees)	

TO: All Interested Persons.

1. On December 27, 1979, the Department of Justice published notice of a proposed amendment to rule 23-2.6AI(2)-S620 concerning county treasurers as agents for the collection of driver's license fees at pages 1589 and 1590 of the 1979 Montana Administrative Register, issue number 24.
2. The agency has amended the rule as proposed.
3. No comments or testimony were received.


MIKE GREELY
Attorney General

CERTIFIED TO THE SECRETARY OF STATE FEBRUARY 5, 1980.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA


In the matter of the amendment	)	NOTICE OF AMENDMENT
of Rule 23-2.6A1(2)-S630 provid-	)	OF RULE 23-2.6A1(2)-
ing standards for examining and	)	S630
licensing drivers)	

TO: All Interested Persons.

1. On December 27, 1979, the Department of Justice published notice of a proposed amendment to rule 23-2.6A1(2)-S630 concerning standards for examining and licensing drivers at pages 1591 through 1594 of the 1979 Montana Administrative Register, issue number 24.

2. The agency has amended the rule with minor editorial changes but substantially as proposed.

3. Minor changes in language were effected after oral notice of grammatical deficiencies by the staff of the Administrative Code Committee.


MIKE GREELY
Attorney General

CERTIFIED TO THE SECRETARY OF STATE FEBRUARY 5, 1980.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the) NOTICE OF THE AMENDMENT
amendment of rule 23-2.6AI(6)-) OF RULE 23-2.6AI(6)-S6180
S6180 concerning the driver)
rehabilitation/habitual)
offender point system)

TO: All Interested Persons

1. On December 27, 1979, the Department of Justice published notice of a proposed amendment to rule 23-2.6AI(6)-S6180 concerning driver rehabilitation/habitual offender point system at pages 1595 through 1614 of the 1979 Montana Administrative Register, issue number 24.

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

23-2.6AI(6)-S6180 DRIVER ~~improvement~~ REHABILITATION/
HABITUAL-OFFENDER POINT SYSTEMS-AND-DRIVER-IMPROVEMENT
PROGRAM (1) The following point values are established for
Driver ~~improvement~~ Rehabilitation Program/Habitual-offender
Act purposes, and ~~resultant~~ discretionary actions pursuant
to section 61-5-206(1)(b) are specified for the Driver
improvement Program:

<u>Viol-</u>	<u>DRIVER</u>	<u>H+</u>	<u>H+</u>	
<u>CODE</u>	<u>POINT</u>	<u>POINTS</u>	<u>WITH</u>	<u>DESCRIPTION OF OFFENSE</u>

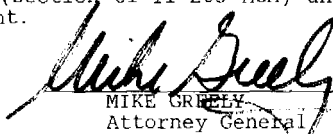
***[Remainder of text of Rule is same as in proposal for amendment.]

3. Oral comments were received from staff of the Administrative Code Committee questioning a) the rulemaking authority cited in paragraph 7 of the Notice of Proposed Amendment and b) reference to the Habitual Offender Act point system in rule text.

a) The Department agrees that an important focus of this rule is the identification of individuals whose driver's licenses are subject to suspension and who therefore meets one of the eligibility criteria for the Driver Rehabilitation Program. The History notation following the adopted rule will include reference to rulemaking authority granted under Driver Rehabilitation statutes (section 61-2-302(1) MCA) as well as a corresponding reference to implementation of section 62-2-302(2) MCA.

Reference in the History notation to authority pursuant to section 44-1-103 MCA is retained. The rule explains the procedure followed by the agency in exercising its discretion to suspend licenses pursuant to section 61-5-206(1) MCA.

b) Reference to Habitual Offender Points which occurred in the rule both prior to and as proposed to be amended is deleted. The Habitual Offender point system is detailed in statutes (section 61-11-203 MCA) and repetition here would be redundant.


MIKE GREELY
Attorney General

CERTIFIED TO THE SECRETARY OF STATE FEBRUARY 5, 1980

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF THE ADOPTION
adoption of a rule stating	)	OF A RULE
the consequences of payment	)	(Dishonored Checks)
of the driver's license fee)	
with a bad check)	

TO: All Interested Persons:

1. On December 27, 1979, the Department of Justice published notice of a proposed adoption of a rule concerning the consequences of payment of the driver's license fee with a bad check at pages 1583 and 1584 of the 1979 Montana Administrative Register, issue number 24.

2. The agency has adopted the rule as proposed.

3. No comments or testimony were received.



MIKE GREELY
Attorney General

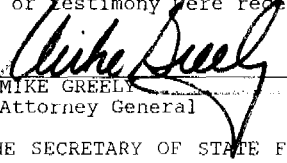
CERTIFIED TO THE SECRETARY OF STATE FEBRUARY 5, 1980.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF THE
of rules for procedures upon	)	ADOPTION OF RULES
driver's license denial,	)	(Procedure upon
suspension, revocation, or	)	Driver's License
cancellation.	)	Denial, Suspension,
	)	Revocation, or
	)	Cancellation)

TO: All Interested Persons.

1. On December 27, 1979, the Department of Justice published notice of a proposed adoption of rules concerning the procedures subsequent to the denial, suspension, revocation, or cancellation of a driver's license at pages 1577 and 1578 of the 1979 Montana Administrative Register, issue number 24.
2. The agency has adopted the rules as proposed.
3. No comments or testimony were received.



MIKE GREELY
Attorney General

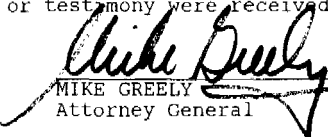
CERTIFIED TO THE SECRETARY OF STATE FEBRUARY 5, 1980.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption) NOTICE OF THE ADOPTION
of rules concerning a driver) OF RULES (Driver Rehab-
rehabilitation program) ilitation Program)

TO: All Interested Persons.

1. On December 27, 1979, the Department of Justice published notice of a proposed adoption of rules concerning a driver rehabilitation program at pages 1585 and 1586 of the 1979 Montana Administrative Register, issue number 24.
2. The agency has adopted the rules as proposed.
3. No comments or testimony were received.


MIKE GREELY
Attorney General

CERTIFIED TO THE SECRETARY OF STATE FEBRUARY 5, 1980

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF THE
of a rule concerning the	)	ADOPTION OF A RULE
issuance of probationary	)	(Probationary
licenses	)	Licenses)

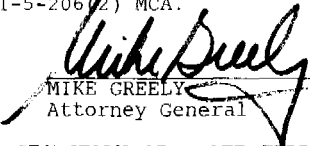
TO: All Interested Persons.

1. On December 27, 1979, the Department of Justice published notice of a proposed adoption of a rule concerning the issuance of probationary licenses at pages 1587 and 1588 of the 1979 Montana Administrative Register, issue number 24.

2. The agency has adopted the rule with minor editorial changes but substantially as proposed.

3. Oral comments were received from staff of the Administrative Code Committee questioning the rulemaking authority cited in paragraph 7 of the Notice of Proposed Adoption. The Department agrees that an important focus of this rule is the procedure which the agency follows in staying a suspension or revocation pursuant to the Driver Rehabilitation Program. Therefore, the History notation following the adopted rule will include reference to rulemaking authority granted under Driver Rehabilitation statutes (section 61-2-302(1) MCA) as well as a corresponding reference to implementation of section 61-2-302(3) MCA.

Reference in the History notation to rulemaking authority pursuant to section 44-1-103 MCA is retained. The rule explains the procedure followed by the agency in exercising its discretion to issue probationary licenses pursuant to section 61-5-206(2) MCA.


MIKE GREELY
Attorney General

CERTIFIED TO THE SECRETARY OF STATE FEBRUARY 5, 1980.

BEFORE THE BOARD OF LIVESTOCK
STATE OF MONTANA

In the matter of the adop-) NOTICE OF THE ADOPTION OF
tion of rules relating to) RULES 32-2.6A(26)-S6051 AND
brucellosis control.) 32-2.6A(26)-S6052

TO: All Interested Persons

1. On December 27, 1979 the Department of Livestock published notice of the proposed adoption of rules 32-2.6A(26)-S6051 HANDLING OF PROGENY OF REACTOR DAMS and 32-2.6A(26)-S6052 REPORTING OF DEATH LOSS concerning brucellosis control at page 1617 of the 1979 Montana Administrative Register, Issue No. 24.

2. The agency has adopted the rules as proposed.
3. No comments or testimony were received.

In the matter of the repeal) NOTICE OF THE REPEAL OF ARM
of ARM 32-2.6A(26)-S6100) 32-2.6A(26)-S6100 AND 32-2.6A
and 32-2.6A(26)-S6110 and) (26)-S6110 AND THE ADOPTION
the adoption of new rules) OF NEW RULES 32-2.6A(26)-S6101
relating to brucellosis-free) AND 32-2.6A(26)-S6111
bovine herds and validated)
brucellosis-free porcine)
herds.)

1. On December 27, 1979 the Department of Livestock published notice of the proposed repeal of rules 32-2.6A(26)-S6100 CERTIFIED BRUCELLOSIS-FREE BOVINE HERDS and 32-2.6A(26)-S6110 VALIDATED BRUCELLOSIS-FREE PORCINE HERDS and the adoption of rules 32-2.6A(26)-S6101 CERTIFIED BRUCELLOSIS-FREE BOVINE HERDS and 32-2.6A(26)-S6111 VALIDATED BRUCELLOSIS-FREE PORCINE HERDS concerning brucellosis control at page 1619 of the 1979 Montana Administrative Register, Issue No. 24.

2. The agency has repealed the rules proposed to be repealed and adopted the new rules as proposed.
3. No comments or testimony were received.

In the matter of the amend-) NOTICE OF THE AMENDMENT OF ARM
ment of ARM 32-2.6A(106)-) 32-2.6A(106)-S6520
S6520 relating to the vac-)
cination of rams for ram)
epididymitis.)

1. On December 27, 1979 the Department of Livestock published notice of the proposed amendment to rule 32-2.6A(106)-S6520 TERMS USED concerning ram epididymitis vaccination at page 1621 of the 1979 Montana Administrative Register, Issue No. 24.

2. The agency has amended the rule as proposed.

3. No comments or testimony were received.

In the matter of the repeal) NOTICE OF THE REPEAL OF ARM
of ARM 32-2.6A(24)-S6015 and) 32-2.6A(24)-S6015 AND THE
the adoption of a new rule) ADOPTION OF RULE 32-2.6A(24)-
relating to swine identifi-) S6016
cation codes.)

1. On December 27, 1979 the Department of Livestock published notice of the proposed repeal of rule 32-2.6A(24)-S6015 SWINE IDENTIFICATION CODE: ASSIGNMENT OF CODES and the proposed adoption of rule 32-2.6A(24)-S6016 SWINE IDENTIFICATION CODE: ASSIGNMENT OF CODES concerning swine identification at page 1623 of the 1979 Montana Administrative Register, Issue No. 24.

2. The agency has repealed the rule as proposed and adopted the new rule as proposed.

3. No comments or testimony were received.

In the matter of the amend-) NOTICE OF THE AMENDMENT OF ARM
ment of ARM 32-2.6A(102)-) 32-2.6A(102)-S6460, 32-2.6A(102)-
S6460, 32-2.6A(102)-S6470,) S6470, 32-2.6A(102)-S6480, AND
32-2.6A(102)-S6480, and) 32-2.6A(102)-S6490
32-2.6A(102)-S6490 relating)
to rabies control)

1. On December 27, 1979 the Department of Livestock published notice of the proposed amendment of rules 32-2.6A(102)-S6460 RABIES QUARANTINE, 32-2.6A(102)-S6470 ISOLATION OF RABID OR SUSPECTED RABID ANIMALS, 32-2.6A(102)-S6480 ISOLATION OF BITING ANIMALS, and 32-2.6A(102)-S6490 ANIMAL CONTACTS concerning rabies control at page 1625 of the Montana Administrative Register, Issue No. 24.

2. The agency has amended the rules as proposed.

3. No comments or testimony were received.


ROBERT G. BARTHELMESS
Chairman, Board of Livestock

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

Certified to the Secretary of State February 5, 1980.

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

IN THE MATTER of Adoption of)	NOTICE OF ADOPTION OF NEW
Rules for Compensation for)	RULES FOR COMPENSATION FOR
Consumer Intervenors in the)	CONSUMER INTERVENORS IN
Public Utility Regulatory)	PURPA-RELATED PROCEEDINGS.
Policies Act (PURPA)-Related)	
Proceedings.)	

TO: All Interested Persons

1. On December 13, 1979, the Montana Public Service Commission proposed adoption of new rules for compensation for consumer intervenors in PURPA-related proceedings, at page 1510 of the 1979 Montana Administrative Register, issue number 23.

2. The Commission has adopted the rules with the following changes:

Rule 1. (38-2.14(22)-S14940) PRELIMINARY DETERMINATION OF ELIGIBILITY (1) An intervenor who wishes to be eligible for an award of costs of participation in a PURPA-related electric utility proceeding must, within ~~14~~ 20 days of the first notice of the contested case or rulemaking hearing in a given proceeding, make application to the Commission for such purpose. Such application shall be brief in nature and shall:

(a) State the consumer interest represented by the intervenor; ~~as distinguished from those represented by the Montana Consumer-Counsel; the relevance of the hearings to that interest and why participation is needed for a full and fair determination of the issues;~~

(b) Distinguish the interests represented from those represented by other intervenors;

(c) Certify that the intervenor requested representation by the Montana Consumer Counsel and that the request was denied;

(d) The relevance of the interest to the issues in the proceeding;

(e) State why participation is needed for a full and fair determination of the issues;

~~(b)~~ (f) Outline the general nature of the consumer's intervenor's expected participation, other funding sources available and the anticipated budget;

~~(e)~~ (g) Include an affidavit stating that, but for an award of fees and costs, participation will be a significant financial hardship to the consumer intervenors; and

~~(d)~~ (h) Be served upon all affected utilities and other known parties and intervenors to the proceeding.

Comment: (1): The addition of "electric utility" was suggested by the Montana Power Company to clarify the intent of PURPA that reimbursement rules apply only to proceedings involving electric rate structure. The deadline was expanded to 20 days to allow intervenors more time to file requests. The addition of the contested case or rulemaking clarifies the intent that the deadline does not run from the date of prehearing conference or other preliminary meetings.

At the suggestion of the Montana Power Company, the provisions in Rule I(a) are listed separately in Rule I(b), (d) and (e).

(c): The Commission accepts this change advocated by the Montana Power Company, as supported by the following statement: While the constitution requires the Montana Consumer Counsel to represent consumer interests, some consumer interests may be inconsistent with others and thus the Montana Consumer Counsel would be unable to represent all consumer interests; however, because of the existence of the office and the fact that it is funded by an assessment against utilities, it seems appropriate that the intervenor be required to, at a minimum, inquire.

(d): Gramatical change.

(2) Hardship, as used in this ~~section~~ Rule, may be established by demonstrating that the intervenor does not have sufficient resources available to participate effectively in the proceeding without such an award. ~~or, in the case of a group or organization by showing that the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.~~

Comment: This provision was changed based on the following comment by the Montana Power Company: The reason for creating a different standard for an intervening organization (as contrasted with an intervening individual) is not apparent; as drafted, the purpose of the standard regarding organizations is not clear.

~~(2)~~ (3) Affected utilities, parties and other intervenors shall have the right to file an objection to any application for eligibility within 14 days of its filing.

~~(3)~~ (4) The Commission shall make a determination of the eligibility of an intervenor to receive an award under these rules within 28 days of receipt of an application. A negative determination of eligibility precludes an award of fees and costs at the conclusion of the proceeding. An affirmative determination of eligibility does not assure the intervenor of an award; the intervenor must, in addition, meet the other requirements of these rules.

(5) The Commission may condition its determination of eligibility upon a requirement that intervenors with the same or similar interest share a common legal representative and common expert witnesses. The Commission may, in its determination of eligibility, set a ceiling on the costs which may be awarded to eligible intervenors.

Rule 11. (38-2.14(22)-S14950) AWARD OF COSTS (1) At the time of issuance of a Final Order in any PURPA-related proceeding, the Commission shall award ~~costs of participation to~~ any intervenor who has fulfilled the requirements of this Rule: the reasonable costs of participation incurred by such intervenor. Except in generic proceedings, the costs shall be paid by the electric utility initiating or having rates determined in the proceeding. In the case of generic proceedings, These

the costs shall be assessed against each electric utility affected by the proceeding, in proportion to each such utilities' in the event that more than one utility is affected, each utility's share of the assessment shall be determined by multiplying the total award by a ratio of that utility's total 1978 Montana Commission jurisdictional retail Kwh sales during the most recent calendar year reported to the Commission. in Montana by the total 1978 retail Kwh sales in Montana of all the affected utilities in the proceeding.

Comment: These are clarifying amendments suggested by the Montana Power Company.

(2) No change.

(3) No change.

Rule III. (38-2.14(22)-S14960) PROCEDURES (1) No change.

(2) Any consumer who has not been awarded costs in the Commission's Order may petition the Commission for an order awarding such costs. The Commission shall dispose of such petition within 20 days by entering an Order either granting or denying the petition. If the petition is granted, the consumer shall then follow the procedures set forth in Rule 3(1) III(1).

(3) Payment of costs under this Rule shall be made by the affected utility or utilities within 30 days of the date on which a Commission Order issues under Rule 3(1). If costs are not paid within 30 days of said Order, the consumer intervenor may initiate procedures to enforce the Order pursuant to Section 122(a)(2) of PURPA.

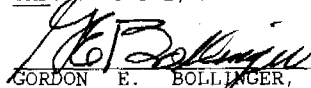
Rule IV. (38-2.14(22)-S14970) ACCOUNTING TREATMENT

(1) All monies paid to consumer intervenors by an affected utility under this Rule will be considered allowed as a regulatory expense in the rate case in which the testimony is presented and the affected utility's (utilities') revenue requirement and rates will be adjusted accordingly.

(2) In the event that the testimony is presented in a docket in which revenue requirements are not an issue, a rate increase, pursuant to proper notice, may be ordered to cover the monies paid by the affected utility to intervenors if the Commission determines that the size of the award warrants immediate rate relief.

Comment: These changes reflect comments by the Montana Power Company and the Montana-Dakota Utility Company, to clarify the intent of the rule that generally utilities should be reimbursed for costs incurred under this rule at the time those costs are incurred. The treatment in (2) was made discretionary because it appeared likely to the Commission that intervenor participation in proceedings where revenue requirements are not an issue would not involve substantial expense.

3. The authority of the Commission to adopt these rules is 2-4-303 and 69-3-103, MCA, IMP. 69-3-102, MCA.


GORDON E. BOLLINGER, Chairman

CERTIFIED TO THE SECRETARY OF STATE February 5, 1980.
Montana Administrative Register 3-2/14/80

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

In the Matter of the amendment) NOTICE OF AMENDMENT OF ARM
of ARM 40-3.82(6)-S8260 con-) 40-3.82(6)-S8260 APPLICATIONS
cerning applications.)

TO: All Interested Persons:

1. On December 27, 1979, the Board of Plumbers published a notice of proposed amendment of ARM 40-3.82(6)-S8260 concerning applications as pages 1629 through 1632, 1979 Montana Administrative Register, Issue number 24.

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

3. No comments or testimony were received.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF SANITARIANS

In the matter of the amendment) NOTICE OF AMENDMENT OF ARM
of ARM 40-3.100(6)-S10070 sub-) 40-3.100(6)-S10070 (1)(a)
section (1)(a) concerning) APPLICATIONS
Applications)


TO: All Interested Persons:

1. On December 27, 1979, the Board of Sanitarians published a notice of proposed amendment of ARM 40-3.100(6)-S10070 (1)(a) concerning applications at pages 1633 and 1634, 1979 Montana Administrative Register, issue number 24.

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

3. No comments or testimony were received.

BY:


ED CARNEY, DIRECTOR
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, February 5, 1980.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

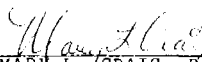
IN THE MATTER OF THE	)	NOTICE OF ADOPTION OF RULES
ADOPTION OF RULES	)	Establishing Fees for Child
Establishing Fees for Child	)	Support Enforcement Services
Support Enforcement Services)	
for Persons Who are Not)	
Recipients of Public)	
Assistance.)	

TO: All Interested Persons.

1. On December 27, 1979, the Department of Revenue published notice of the proposed adoption of rules establishing fees for child support enforcement services at page 1645 and 1646 of the 1979 Montana Administrative Register, issue no. 24.

2. The Department has adopted Rule I (42-2.5(1)-S180), Rule II (42-2.5(1)-S190), and Rule III (42-2.5(1)-S200).

3. The Department received four phone inquiries and one written comment. Although several of the callers requested information on the procedure to request a hearing, no written requests for a hearing were received. The callers also expressed the view that no initiation fee should be charged to applicants not receiving public assistance. The Department believes that the \$20 fee is reasonable and is designed to cover the costs incurred by the Department in processing a request for services. The Department has provided by rule for a 3-month period, following termination from public assistance, during which time no initiation fee is charged. The relevant statute (40-5-203, MCA) also permits the department to waive or defer the fee "upon a showing of necessity". Such cases would be handled on a case-by-case basis. The Department also received a letter questioning the need for child support enforcement services in general. The letter did not relate to the specifics of the rules and hence the Department does not consider a response to be required as part of this notice. The subject matter of the letter can only be addressed by the legislature.


MARK L. CRAIG, Director
Department of Revenue

Certified to the Secretary of State 2-5-80

SOCIAL AND
REHABILITATION SERVICES

EMERGENCY RULES TO AMEND AND ADOPT

Statement of reasons for emergency.

In view of the very rapidly rising costs of gasoline and other energy resources, the Department finds that it must take immediate steps to assure that Medicaid recipients are provided with necessary transportation to and from providers of medical services. Organization and individuals who previously took Medicaid recipients to nonemergency medical appointments are unable or refuse to provide this transportation. The Department's present rule only provides \$13.50 for per diem and \$.09 a mile for travel. The Department finds that there is an imminent peril to public health, safety or welfare due to the inability of some Medicaid recipients to receive proper medical care. The Department is in the process of drafting permanent rules governing transportation and per diem. However, this process will take a minimum of two months which could leave some Medicaid recipients without proper medical care. This emergency rule takes precedent over ARM 46-2.10(18)-S11440(1)(o). The remainder of 46-2.10(18)-S11440 will remain the same. It should be noted that due to the ongoing recodification of the Administrative Rules of Montana and other amendments being made to this rule the numbering system of the subsections will be incomplete.

The rule amended is as follows:

46-2.10(18)-S11440 MEDICAL ASSISTANCE, SERVICES PROVIDED, AMOUNT, DURATION (1) Remains the same except for subsection (o) which is as follows:

- (o) Delete in its entirety.
- (i) Delete in its entirety.
- (ii) Delete in its entirety.
- (iii) Delete in its entirety.

No other changes in the remainder of the rule.

(History: Section 53-6-113 MCA; IMP, Sec. 53-6-141 MCA; NEW, Eff. 11/4/74; EMERG, AMD, Eff. 7/1/75; AMD, Eff. 8/12/75; AMD, Eff. 5/6/76; AMD, Eff. 7/5/76; AMD, Eff. 12/24/77; AMD, Eff. 2/25/78; AMD, Eff. 8/25/78; AMD, 1978 MAR p. 1363, Eff. 9/15/78; EMERG, AMD, 1979 MAR p. 1405, Eff. 11/16/79.)

The rules to be adopted are as follows:

RULE 1 TRANSPORTATION AND PER DIEM (1) Transportation and per diem are those services necessary to secure medically necessary examinations and treatment covered by the Medicaid Program. They do not include ambulance service or specialized transportation service for the handicapped. Transportation and per diem are available for a recipient and a necessary attendant. When the medical service involves a donor, trans-

portation and per diem for the donor may also be covered under the recipient's eligibility.

(a) Transportation may be provided by a common carrier or by a private vehicle.

(b) Per diem includes meals and lodging.

RULE II ADDITIONAL REQUIREMENTS (1) Transportation and per diem shall be allowed when medically necessary for a recipient to obtain nonemergency services which are not reasonably available locally.

(2) In-state transportation and per diem shall be prior authorized by the local county welfare director.

(3) Out-of-state transportation and per diem shall be prior authorized by the Medical Assistance Bureau and is not allowed if the needed services are reasonably available in the State.

(4) Recipient shall not be directly reimbursed for transportation and/or per diem.

(5) Transportation shall be by the least expensive available means suitable to the recipient's medical needs.

(6) Transportation and/or per diem are available only to get individuals to acceptable Medicaid providers of their choice who are generally available and commonly used by other residents of the community.

(7) Payments shall be made for transportation and per diem for an attendant when it is demonstrated that the recipient's condition or age requires the care of an attendant.

(8) Reimbursement for transportation and per diem to secure medical services not included under the Medicaid program shall not be allowed.

(9) When a recipient requires attendant care to obtain and return from hospitalization outside his own community, attendant per diem will be allowed during the hospitalization up to the maximum amount of one return round trip.

(10) When a recipient dies enroute to or during treatment outside of his community, the cost of the recipient's transportation to the medical service is allowed. The cost of returning a deceased recipient is not allowed.

RULE III TRANSPORTATION AND PER DIEM, REIMBURSEMENT

(1) Reimbursement for common carrier will be paid on the basis of usual and customary charges.

(2) Reimbursement for transportation by private vehicle will be at the current state rate for state employees.

(3) Reimbursement for per diem shall be actual expenses incurred up to a maximum of \$17.00 per day for each person.

RULE IV SPECIALIZED NONEMERGENCY TRANSPORTATION

(1) Specialized nonemergency transportation means transportation service by a provider with a class B Public Service

Commission license allowing the provider to transport physically handicapped individuals.

RULE V ADDITIONAL REQUIREMENTS FOR SPECIALIZED NONEMERGENCY TRANSPORTATION (1) The service shall be available under the Medicaid Program only when it is necessary to obtain medical services covered by the Medicaid Program.

(a) Individuals receiving this service must have a handicap or physical limitation that precludes their use of usual forms of transportation in order to obtain medical services.

(b) The service may not be used for emergency medical transportation.

(c) All services must be prior authorized by the local county director.

RULE VI SPECIALIZED NONEMERGENCY MEDICAL TRANSPORTATION, REIMBURSEMENT (1) Reimbursement for specialized nonemergency medical transportation shall not exceed the lowest of the provider's rates as approved by the Public Service Commission or the rates allowed by the Specialized Nonemergency Medical Transportation Fee Schedule.

(2) Specialized Nonemergency Medical Transportation Fee Schedule

(a) Transportation under
sixteen (16) miles.....\$ 8.00 one way
\$14.00 round trip

Transportation over
sixteen (16) miles.....\$.50 per mile

Waiting time for
transportation over sixteen
(16) miles.....\$ 4.00 per hour
Computed in
15 minute in-
crements or
fraction thereof

Waiting time for
under sixteen (16) miles.....No payment

When one way transportation is over
sixteen (16) miles and the unloaded
miles exceeds ten percent (10%) of
the loaded miles, the miles from the
departure point to the pick-up point
plus the miles from the delivery
point to the departure point shall
be paid for at the rate of.....\$.25 per mile

(b) There shall be no charge for usual passenger baggage which is not cargo.

(c) Children under six years of age accompanied by an adult paying passenger shall be carried free.

The authority of the department to adopt the proposed rules is section 53-6-113 MCA and the rules implement sections 53-6-101 and 53-6-141 MCA.

Karl P. Olsen

Director, Social and Rehabilitation Services

Certified to the Secretary of State January 28, 1980.

Ineffective May 25, 1980

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

In the matter of the amendment of) NOTICE OF THE
Rule 46-2.18(34)-S18170 (46.7.1302)) AMENDMENT OF RULE
pertaining to state economic need) 46-2.18(34)-S18170
policies

TO: All Interested Persons

1. On December 13, 1979, the Department of Social and Rehabilitation Services published notice of a proposed amendment to Rule 46-2.18(34)-S18170 (46.7.1302) pertaining to state economic need policies at page 1545 of the 1979 Montana Administrative Register, issue number 23.

2. The agency has amended the rule as proposed.

3. The authority of this agency to amend the proposed rule is based on Section 53-7-102 MCA, and the rule implements Section 53-7-202 MCA.

4. No comments or testimony were received.

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

In the matter of the amendment of) NOTICE OF THE
Rule 46-2.14(114)-S141110 pertaining) AMENDMENT OF RULE
to kidney dialysis, transplant program) 46-2.14(114)-S141110

TO: All Interested Persons

1. On December 27, 1979, the Department of Social and Rehabilitation Services published notice of a proposed amendment to Rule 46-2.14(114)-S141110 pertaining to kidney dialysis, transplant program at page 1647 of the 1979 Montana Administrative Register, issue number 24.

2. The agency has amended the rule as proposed.

3. The authority of this agency to amend the proposed rule is based on Section 53-2-201 MCA, and the rule implements Section 53-6-202 MCA.

4. No comments or testimony were received.

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

In the matter of the adoption of) NOTICE OF ADOPTION OF
Rule 46-2.14(110)-S141101 (46.6.) RULE 46-2.14(110)-S
1311) pertaining to the extended) 141101 (46.6.1311)
employment program, financial need)
requirement

TO: All Interested Persons

1. On December 27, 1979, the Department of Social and Rehabilitation Services published notice of a proposed adoption to a new rule, 46-2.14(110)-S141101 (46.6.1311) pertaining to the extended employment program, financial need requirement at page 1650 of the 1979 Montana Administrative Register, issue number 24.

2. The agency has adopted the rule as proposed.

3. No comments or testimony were received.

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

In the matter of the adoptions of) NOTICE OF ADOPTIONS OF
Rule 46-2.14(74)-S14751 (46.6.514)) RULES 46-2.14(74)-S14751
and 46-2.14(74)-S14752 (46.6.515)) (46.6.514) AND 46-2.14
pertaining to rehabilitative) (74)-S14752 (46.6.515)
services, nature and scope of)
services)

TO: All Interested Persons

1. On December 27, 1979, the Department of Social and Rehabilitation Services published notice of the proposed adoptions of new rules, 46-2.14(74)-S14751 (46.6.514) and 46-2.14(74)-S14752 (46.6.515) pertaining to rehabilitative services, nature and scope of services at page 1652 of the 1979 Montana Administrative Register, issue number 24.

2. The agency has adopted the rules as proposed.

3. No comments or testimony were received.

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

In the matter of the amendment) NOTICE OF AMENDMENT
of Rule 46-2.14(91)-S14875) OF RULE 46-2.14(91)-
(46.6.101) pertaining to determina-) S14875 (46.6.101)
tion of rehabilitation, potential)
and eligibility, general provi-)
sions)

TO: All Interested Persons

1. On December 27, 1979, the Department of Social and Rehabilitation Services published notice of the proposed amendment to Rule 46-2.14(91)-S14875 (46.6.101) pertaining to determination of rehabilitation, potential and eligibility, general provisions at page 1654 of the 1979 Montana Administrative Register, issue number 24.

2. The agency has amended the rule as proposed with the following minor change:

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

3. No comments or testimony were received.

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

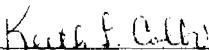
In the matter of the amendment of) NOTICE OF AMENDMENT
Rule 46-2.14(76)-S14755 pertaining to) OF RULE 46-2.14(76)-
selection for services, order of) S14755 (46.6.201)
selection)

TO: All Interested Persons

1. On December 27, 1979, the Department of Social and Rehabilitation Services published notice of the proposed amendment to Rule 46-2.14(76)-S14755 (46.6.201) pertaining to selection for services, order of selection at page 1657 of the 1979 Montana Administrative Register, issue number 24.

2. The agency has amended the rule as proposed.

3. No comments or testimony were received.



Director, Social and Rehabilitation Services

Certified to the Secretary of State February 5, 1980.
Montana Administrative Register 3-2/14/80

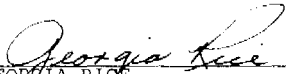
BEFORE THE OFFICE OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF THE AMENDMENT OF
amendment of Rules ARM	)	RULES ARM 48-2.18(30)-S18500
48-2.18(30)-S18500 and	)	AND 48-2.18(30)-S18510.
48-2.18(30)-S18510 re-)	
vising the allowable cost))	
schedule for special)	
education programs)	

TO: All Interested Persons:

1. On September 27, 1979, the Superintendent of Public Instruction published notice of a proposed amendment to rules ARM 48-2.18(30)-S18500 and 48-2.18(30)-S18510 concerning the allowable cost schedule for special education programs at page 1115 of the 1979 Montana Administrative Register, issue number 18.
2. The Superintendent has amended the rules as proposed.
3. No comments or testimony were received.

BY:



GEORGIA RICE
Superintendent of Public Instruction

Certified to the Secretary of State Dec 1, 1980.

VOLUME NO. 38

OPINION NO. 63

ALCOHOL - Prosecution for driving under the influence third offense, sentence for conviction of driving under the influence;

MOTOR VEHICLES - Prosecution for driving under the influence third offense, sentence for conviction of driving under the influence;

MONTANA CODE ANNOTATED - Sections 61-8-401, 61-8-714.

HELD: Only those prior convictions which have occurred within five years of a current DWI offense may be counted in determining whether the current prosecution is for a third offense.

18 January 1980

Richard A. Simonton
Dawson County Attorney
Hagenston Building
Glendive, Montana 59330

Dear Mr. Simonton:

You have requested my opinion regarding the following question:

During what period of time must previous convictions for driving under the influence of alcohol (DWI) have occurred before they may be counted in determining whether a current DWI prosecution is one for a third offense pursuant to 61-8-714, MCA?

Section 61-8-401, MCA, makes it unlawful for any person who is under the influence of alcohol to drive or to be in actual physical control of a motor vehicle upon the highways of this State. Criminal penalties for violations of this statute are set forth at section 61-8-714, MCA:

(1) Every person who is convicted of a violation of 61-8-401 shall be punished by a fine of not less than \$100 or more than \$500. On a second conviction, he shall be punished by a fine of not less than \$300 or more than \$500 to which may be added, in the discretion of the court, imprisonment for a term not more than 30 days. On the

third or subsequent conviction, he shall be punished by imprisonment for a term of not less than 30 days or more than 1 year, to which may be added, in the discretion of the court, a fine of not less than \$500 or more than \$1,000. Notwithstanding any provision to the contrary providing for suspension of execution of a sentence imposed under this subsection, the imposition or execution of the first 10 days of the jail sentence imposed for a third or subsequent offense that occurred within 5 years of the first offense may not be deferred or suspended.

* * *

As can readily be seen, the severity of the sanction is dependent upon the number of previous convictions for the same offense. Section 61-8-714(3), MCA, requires that in order to be counted for purposes of computing the number of convictions, "previous" convictions must fall within a particular time frame:

* * * An offender is considered to have been previously convicted for the purpose of this section if less than 5 years have elapsed between the commission of the present offense and a previous conviction.

That section appears ambiguous as to whether, in order to prosecute and punish a third offense, both "previous" convictions must have occurred within five years of the current offense.

Ambiguous statutes must be construed in accordance with the cardinal rule of statutory construction concerning legislative intent. In determining legislative intent, the language of the statute must be taken as a whole. Haker v. Southwestern Ry. Co., ___ Mont. ___, 578 P.2d 724 (1978); State v. Stewart, 53 Mont. 18, 161 P.309 (1916). Thus, the later portion of the statute can be interpreted by referring to a prior subsection.

Section 61-8-714(1) is clear and unambiguous. The first ten days of a sentence may not be suspended for a third offense that occurred within five years of the first offense. If the apparently ambiguous subsection (3) were read as requiring less than that required by subsection (1), a conflict would arise. Every part of a statute should be construed

with reference to the whole to avoid conflict and give effect to every provision. State v. Bawden, 51 Mont. 357, 152 P. 761 (1915).

Construing the statute to require all three offenses to occur within a five year period is in accord with the universally recognized precept that penal statutes must be strictly construed. State ex rel. Juhl v. District Court, 107 Mont. 309, 315, 84 P.2d 979 (1938).

The language employed in the title of the statute is often helpful in determining the intent of the Legislature and thus the meaning of the language of the statute. Barney v. Bd. of R.R. Commissioners, 93 Mont. 115, 128, 17 P.2d 82 (1932).

Chapter 56, Laws of Montana (1979), amended section 61-8-714, MCA, by adding the entire language of subsection (3) relating to the computation of previous convictions. Its title reads as follows:

An act to amend section 61-8-714, MCA, by defining conviction, as used in that section, as a final conviction or a forfeiture of bail or collateral deposited to secure the defendant's appearance, which forfeiture has not been vacated and which conviction or forfeiture occurred within five years of the commission of the present offense. [Emphasis supplied].

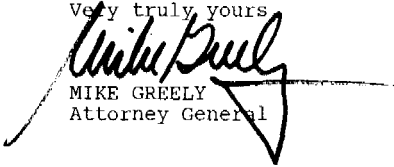
When viewed in this context, the intent of the Legislature -- and therefore the meaning of the statute -- becomes clear. The purpose of the amendment to section 61-8-714, MCA, is to supply a comprehensive definition of the term "conviction" for the purposes of applying the penalties of that section.

The use of the conjunctive "and" in the underlined clause of the title indicates that any DWI conviction which was secured more than five years previous to the commission of the current offense cannot meet the definition of a "conviction" in section 61-8-714, MCA. It therefore is not recognized for purposes of applying that section.

THEREFORE, IT IS MY OPINION:

Only those prior convictions which have occurred within five years of a current DWI offense may be counted in determining whether the current prosecution is for a third offense.

Very truly yours,



MIKE GREELY
Attorney General

3-2/14/80

Montana Administrative Register

VOLUME NO. 38

OPINION NO. 64

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING -
Application of Montana Plumbers Licensing Act on Malmstrom
Air Force Base;
LICENSES, OCCUPATIONAL AND PROFESSIONAL - Application of
Montana Plumbers Licensing Act on Malmstrom Air Force Base;
PLUMBERS AND PLUMBING - Application of Montana Plumbers
Licensing Act on Malmstrom Air Force Base;
MONTANA CODE ANNOTATED - Sections 2-2-202 and 37-69-324.

HELD: The Plumbers Licensing Act may be enforced on
Malmstrom Air Force Base, as to non-federal enti-
ties, so long as application of the state law does
not interfere with the United States Government's
use of the property for military purposes.

28 January 1980

Ed Carney, Director
Department of Professional and
Occupational Licensing
42½ North Last Chance Gulch
Lalonde Building
Helena, Montana 59601

Dear Mr. Carney:

You have requested my opinion concerning the following
question:

Whether the Montana Plumbers Licensing Act may be
enforced as to plumbing work done within the
exterior boundaries of Malmstrom Air Force Base by
civilian contractors or subcontractors or their
employees.

Where the federal government obtains territory by purchase
with the consent of the state pursuant to Article I, § 8,
cl. 17 of the United States Constitution, the state may
reserve concurrent jurisdiction over it, provided that the
reserved jurisdiction is not inconsistent or in interference
with the purpose for which the federal government acquired
the property. James v. Dravo Contracting Co., 302 U.S. 134
146 (1937).

The United States purchased the land on which Malmstrom Air
Force Base is located from private property owners. State
ex rel. Parker v. District Court, 147 Mont. 151, 410 P.2d
459, 460 (1966). Since no Montana statute specifically
grants this terrain to the federal government, the Montana
Supreme Court found in State ex rel. Parker that the general
session statute applies to this transfer. That statute,
section 2-2-202, MCA, provides in pertinent part:
Montana Administrative Register 3-2/14/80

Pursuant to Article I, section 8, paragraph 17, of the constitution of the United States, consent to purchase is hereby given and exclusive jurisdiction ceded to the United States over and with respect to any lands within the limits of this state which shall be acquired by the complete purchase by the United States for any of the purposes described in said paragraph of the constitution of the United States, said jurisdiction to continue as long as said lands are held and occupied by the United States for said purposes; reserving, however, to this state the right to serve and execute civil or criminal process lawfully issued by the courts of the state within the limits of the territory over which jurisdiction is ceded in any suits or transactions for or on account of any rights obtained, obligations incurred, or crimes committed in this state, within or without such territory; ***

In State v. Rindal, 146 Mont. 64, 404 P.2d 327 (1965), the Montana Supreme Court held that this statute reserved criminal jurisdiction over land purchased by the federal government to the State of Montana. This reservation of criminal jurisdiction by the State of Montana has been found to be consistent and not in interference with the operations for which the United States acquired the land on which Malmstrom Air Force Base is located. State ex rel. Parker, supra.

Violation of the Montana Plumbers Licensing Act is a misdemeanor. Section 37-69-324, MCA.

THEREFORE, IT IS MY OPINION:

The Plumbers Licensing Act may be enforced on Malmstrom Air Force Base, as to non-federal entities, so long as application of the state law does not interfere with the United States Government's use of the property for military purposes.

Very truly yours,


MIKE GREELY
Attorney General

3-2/14/80

Montana Administrative Register

VOLUME NO. 38

OPINION NO. 65

ELECTIONS - Voter registration forms available for public inspection,
ELECTIONS - Precinct registers available for public inspection,
RIGHT TO KNOW - Public inspection of election records,
COUNTY OFFICERS AND EMPLOYEES - Election administrator; duties,
MONTANA CONSTITUTION - Article II, Section 9,
MONTANA CODE ANNOTATED - Sections 13-1-109, 13-1-303, 13-2-114, and 13-15-301.

- HELD: 1. Original voter registration forms are available for public inspection.
2. Precinct registers are available for public inspections following the canvass of election returns.

29 January 1980

J. Fred Bourdeau, Esq.
Cascade County Attorney
Cascade County Courthouse
Great Falls, Montana 59401

Dear Mr. Bourdeau:

You have requested an opinion on the following questions:

1. Are original signed voter registration forms public records available for inspection?
2. Are precinct registers public records available for inspection after the election returns are canvassed?

It is my opinion that the documents in question must be made available for public inspection. Section 13-1-109, MCA, provides:

Election records open to the public. Unless specifically provided otherwise, all records pertaining to elector registration and elections are public records. They shall be open for inspection during regular office hours.

The provision is a new section passed by the 1979 Legislature as part of a comprehensive update and recodification of state election laws. Laws of Montana (1979), ch. 571. It is consistent with the right to know provision of the Montana Constitution, Article II, section 9.

Section 13-2-112, MCA, requires an election administrator to file the original signed registration form for each elector alphabetically in a separate file for each precinct. The registration form is to be assigned a number, which may be the elector's social security number. "If social security numbers are used, they may not be printed on lists of registered voters or released as public information." Section 13-2-114(1), MCA. Therefore, an original signed registration form is available for public inspection unless the elector's social security number appears on it.

If social security numbers are used as registration numbers, information concerning registered electors may still be available from lists which may not include the social security numbers. Section 13-2-115(1), MCA, requires an election administrator to prepare and have printed lists of all registered electors in each precinct immediately after registration is closed. "Extra copies of the lists shall be retained by the election administrator and furnished to an elector upon request." Section 13-2-115(2), MCA. Before each election, the election administrator must prepare a precinct register for each precinct for use by the election judges. The precinct register, in addition to listing the names and addresses of registered electors, contains a space for the signature of each elector. Section 13-2-116(1), MCA. On election day, each elector must sign the precinct register before receiving a ballot. Section 13-13-114, MCA. After the election, the election judges must deliver the precinct register, enclosed in a securely fastened package, to the election administrator who must file the package and keep it unopened until the county board of canvassers meets to canvass the returns. The board opens the package. Section 13-15-301(1), MCA.

Immediately after the returns are canvassed, the election administrator shall file the pollbooks, election records, and the papers delivered to the board of canvassers with the unopened packages of ballots and ballot stubs.

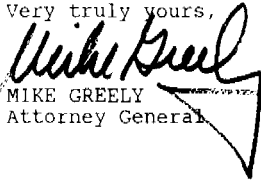
Section 13-15-301(2), MCA.

This section does not specifically provide that those records are not to be opened to the public following the canvass. The administrator is instructed to file them. The only records that are not available for public inspection are the ballots and ballot stubs that are sealed pursuant to section 13-1-303, MCA.

THEREFORE, IT IS MY OPINION:

1. The original signed voter registration form is available for public inspection unless the elector's social security number appears on it.
2. Precinct registers are public records available for inspection after the election returns are canvassed.

Very truly yours,



MIKE GREELY
Attorney General