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RESERVE

**MONTANA
ADMINISTRATIVE
REGISTER**

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MAR 12 1981
OF MONTANA**

1981 ISSUE NO. 5
PAGES 184-208



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, 59620.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA
AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions: Administrative Rules of Montana (ARM) is a loose-leaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR) is a soft back, bound publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statute and rules by the attorney general (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding register.

Use of the Administrative Rules of Montana (ARM):

- | | |
|-------------------------------|--|
| Known Subject Matter | 1. Consult General Index, Montana Code Annotated to determine department or board associated with subject matter or statute number. |
| Department | 2. Refer to Chapter Table of Contents, Title 1 through 46, page i, Volume i, ARM, to determine title number of department's or board's rules.
3. Locate volume and title. |
| Subject Matter and Title | 4. Refer to topical index, end of title, to locate rule number and catchphrase. |
| Title Number and Department | 5. Refer to table of contents, page 1 of title. Locate page number of chapter. |
| Title Number and Chapter | 6. Go to table of contents of chapter, locate rule number by reading catchphrase (short phrase describing rule.) |
| Statute Number and Department | 7. Go to cross reference table at end of each title which lists each MCA section number and corresponding rules. |
| Rule in ARM | 8. Go to rule. Update by checking registers for past 3-4 months for notice of proposed or adopted amendments of rules listed in table of contents of MAR. |

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 5

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NOTICE: The July 1977 through June 1980 Montana Administrative
Registers have been placed on microfiche. For infor-
mation, please contact the Secretary of State, Room 202,
Capitol Building, Helena, Montana, 59620.

BEFORE THE WORKERS' COMPENSATION COURT
OF THE STATE OF MONTANA

In the matter of the)
amendment of procedural) NOTICE OF PROPOSED
rules.) AMENDMENT OF ARM 2.52.225
) (No public hearing
) contemplated)

TO: All interested Persons

1. On April 13, 1981 the Workers' Compensation Court proposes to amend the procedural rules of the Court.

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

~~2.52.225 APPEALS REGARDING CRIME VICTIMS' COMPENSATION, OCCUPATIONAL DISEASE CLAIMS, AND SUBROGATION TO WORKERS' COMPENSATION COURT UNDER TITLE 39, CHAPTERS 71 AND 72; AND TITLE 53, CHAPTER 9~~

(1) An appeal from a final decision of the Division of Workers' Compensation regarding a crime victim's compensation claim, an occupational disease claim, or an order of the Division regarding subrogation pursuant to 39-71-414(5)-MCA, under Title 39, Chapters 71 and 72; and Title 53, Chapter 9, MCA shall be filed with the Court by filing a petition for appeal with the Court within 30 days after service of the final decision of the Division. ARM 2.52.201(2) applies to the filing of a petition.

Subsections (2) through (8) unchanged.

3. The rationale for amending this rule is to augment the existing rule which sets forth the procedure for filing an appeal regarding crime victims' compensation, occupational disease claims and subrogation to include any appeal from a final decision of the Division of Workers' Compensation.

4. Interested parties may submit their data, views or arguments concerning this change in writing to the Workers' Compensation Court, 1422 Cedar-Airport Way, P. O. Box 4127, Helena, Montana, 59604, by April 9, 1981.

5. The authority of the Court to make the proposed change in its rules is based on and implements 2-4-201 MCA.


WILLIAM E. HUNT, JUDGE

CERTIFIED TO THE SECRETARY OF STATE

March 2, 1981
DATE

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF PUBLIC HEARING ON
of Rule 10.64.319 Fuel Tank--) PROPOSED AMENDMENT OF RULE
Exceptions) 10.64.319 FUEL TANK--EXCEPTIONS
)
) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On April 13, 1981, the board of public education proposes to amend Rule 10.64.319 relating to fuel tank exceptions on school buses.

2. The proposed amendment replaces present rule 10.64.319 found in the Administrative Rules of Montana. The proposed amendment would incorporate the National Fire Protection Association's Pamphlet #58.

3. The rule as proposed to be amended provides in summary that:

10.64.319 FUEL TANK--EXCEPTIONS (1) remains the same

(2) remains the same

(3) remains the same

(4) remains the same

(5) The board of public education hereby adopts and incorporates herein by reference the National Fire Protection Association's Pamphlet #58 of the National Fire Code 1979. Pamphlet #58 of the National Fire Code 1979 is a uniform fire code setting forth the safety procedures for liquefied petroleum gases, storage and handling. A copy of Pamphlet #58 of the National Fire Code 1979 may be obtained from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.

(6) Liquefied petroleum gas installations shall be made in the manner prescribed in the National Fire Protection Association, Inc. Pamphlet #58, LIQUEFIED PETROLEUM CASES, 1979. The installation shall also comply with the following:

(a) The propane or natural gas tanks must be permanently mounted on the bus and may be mounted on the right or left side. In instances in which gasoline or diesel buses are being retrofitted for liquid petroleum gas operation, existing unused fuel storage tanks may be retained in position.

(b) The bottom of the tank can be no lower than the center of the rear axle.

(c) A rock shield must be provided to protect fittings, gauges, and accessories from flying rocks and other projectiles. The shield shall be 1/16 inch steel plate or 1/16 inch expanded steel screen with no holes larger than 1/4 inch across.

(d) The tank must have a release valve which is vented to the rear and top of the bus.

(e) The gas line must be attached to the tank in a manner that will prevent it from becoming separated.

(f) Only high pressure gas lines can be used.

4. This rule is proposed to be amended to provide guidelines for school districts to follow when buying a new bus or converting an older bus for use of liquefied petroleum fuel and for the Montana Highway Patrol's use when inspecting school buses with liquefied petroleum fuel systems.

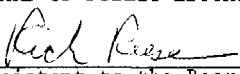
5. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Chairman Marjorie W. King, Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, no later than April 10, 1981.

6. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Chairman Marjorie W. King, Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, no later than April 10, 1981.

7. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 19 persons based on 188 school district superintendents in Montana.

8. The authority of the Board to amend the rule is based on Sections 20-2-121 and 20-10-111, MCA and the rule implements Section 20-10-111, MCA.


MARJORIE W. KING, CHAIRMAN
BOARD OF PUBLIC EDUCATION

BY: 
Assistant to the Board

Certified to the Secretary of State February 17, 1981

-187-
BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment)	NOTICE OF PROPOSED AMENDMENT
of Rule 10.57.403, regarding)	OF RULE 10.57.403
the Class 3 Administrative)	
Certificate.)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On April 13, 1981, the board of public education proposes to amend Rule 10.57.403, Class 3 Administrative Certificate.
2. The rule as proposed to be amended provides as follows:
10.57.403 CLASS 3 ADMINISTRATIVE CERTIFICATE (1) Term:
5 years - renewable.
 - (2) Basic education: Master's degree in administration or a related instructional field.
 - (3) Experience: 3 years teaching or the equivalent.
 - (4) Renewal: Verification of one year of successful experience or the equivalent in the area of endorsement.
 - (5) Reinstatement: 6 quarter (4 semester) credits or one year experience or the equivalent earned within the 5-year period preceding application. (See guidelines for reinstatement of certificates allowed to lapse 15 years or more.)
 - (6) Superintendent endorsement: Eligibility for the class quarter (16 semester) credits or the equivalent in education, including the following:
 - (a) at least 12 graduate quarter (8 semester) credits, or the equivalent, in elementary education if the applicant does not qualify for elementary endorsement on the class 1 or 2 teaching certificate; or, at least 12 graduate quarter (8 semester) credits, or the equivalent, in secondary education if the applicant does not qualify for secondary endorsement on the class 1 or 2 teaching certificate; and,
 - (b) one or more graduate courses, or the equivalent, in each of the following: school finance, general school administration, school curriculum, and school supervision, and, effective July 1, 1983, school law; and,
 - (c) a course in guidance or counseling, or the equivalent.
 - (7) Elementary principal endorsement: Eligibility for the class 1 or class 2 teaching certificate with elementary endorsement; and, at least 15 quarter (10 semester) credits, or the equivalent, in education, including the following:
 - (a) at least 8 graduate quarter (6 semester) credits, or the equivalent in elementary education; and,
 - (b) one or more graduate courses, or the equivalent, in general school administration, and elementary school administration, and effective July 1, 1983, school law; and,
 - (c) at least one graduate course, or the equivalent, in elementary school curriculum or school supervision; and,
 - (d) a course in guidance or counseling, or the equivalent.

5-3/12/81

MAR Notice No. 10-3-28

(8) Secondary principal endorsement: Eligibility for the class 1 or class 2 teaching certificate with secondary endorsement; and at least 15 quarter (10 semester) credits, or the equivalent in education, including the following:

(a) at least 8 graduate quarter (6 semester) credits, or the equivalent in secondary education; and,

(b) one or more graduate courses, or the equivalent, in general school administration, and secondary school administration, and, effective July 1, 1983, school law; and,

(c) at least one graduate course, or the equivalent, in secondary school curriculum or school supervision; and,

(d) a course in guidance or counseling, or the equivalent.

(9) Supervisor endorsement: This administrative endorsement is issued in specific fields such as math, music, special education, and guidance and counseling, or in general areas such as elementary education, secondary education and curriculum development. This endorsement may be issued to applicants who submit acceptable evidence of successful completion, at an accredited institution of higher learning, of a master's degree or the appropriate professional programs for the general area endorsement. The applicant must meet eligibility requirements for a class 1 or class 2 teaching certificate endorsed in the field of specialization. The professional training required for this endorsement must include a graduate course in school law (effective July 1, 1983) and 15 graduate quarter (10 semester) credits in supervision, curriculum and methods in the fields to be endorsed. The recommendation of the appropriate official(s) is required.

3. The rule is proposed to be amended to ensure that administrators have a background in school law before assuming their duties in the school districts of Montana. The proposed amendment is noticed early to allow administrative personnel working on this certificate ample time to fulfill this requirement.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Chairman Marjorie W. King, Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, at any time prior to April 10, 1981.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Chairman Marjorie W. King, Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, no later than April 10, 1981.

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

of those persons directly affected has been determined to be 135 persons based on 1,352 class 3 administrative certificate holders.

7. The authority of the agency to make the proposed amendment is based on Sections 20-4-102, 20-4-106, and 20-4-108, MCA and the rule implements Sections 20-4-106 and 20-4-108, MCA.

Marjorie W. King

MARJORIE W. KING, CHAIRMAN
BOARD OF PUBLIC EDUCATION

BY:

Rich Bean

Assistant to the Board

Certified to the Secretary of State March 2, 1981

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption) NOTICE OF ADOPTION OF CHAPTER
of Chapter 52, Procedural Rules) 52, PROCEDURAL RULES
)
) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On April 13, 1981, the Board of Public Education proposes to adopt Chapter 52, Procedural Rules.
2. The rules proposed to be adopted provide as follows:

Chapter 52, Procedural Rules

RULE I. MODEL PROCEDURAL RULES (1) The board of public education hereby adopts and incorporates the attorney general's model rules as stated in ARM 1.3.201 through ARM 1.3.234 together with the addition set forth in Rule II. below.

RULE II. ADDITIONS FOR CASES INVOLVING REQUESTS FOR REVOCATION OR SUSPENSION OF TEACHER CERTIFICATES (1) ARM 1.3.212 through ARM 1.3.226 are amended for cases involving requests for revocation or suspension of teacher certificates to include ARM Title 10, Chapter 57, Sub-Chapter 6, Procedures to Guide the Hearing of Requests for Revocation or Suspension of Teacher Certificates.

3. These rules are proposed for adoption to comply with requirements of the Secretary of State and the Administrative Procedures Act.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Chairman Marjorie W. King, Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, at any time prior to April 10, 1981.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Chairman Marjorie W. King, Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59620, no later than April 10, 1981.

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

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7. The authority of the agency to make the proposed amendment is based on Section 2-4-201, 20-2-121, 20-4-102 MCA; and 20-4-110 MCA, and the rule implements 20-4-110, MCA.

Marjorie W. King
MARJORIE W. KING, CHAIRMAN
BOARD OF PUBLIC EDUCATION

BY: *Rich [unclear]*
Assistant to the Board

Certified to the Secretary of State March 2, 1981.

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BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the transfer)	NOTICE OF CORRECTION OF
of a Superintendent of Public)	CLERICAL ERROR AND TRANSFER
Instruction's Rule No. 10.7.102)	OF SUPERINTENDENT OF PUBLIC
to Board of Public Education)	INSTRUCTION RULE NO. 10.7.102
Chapter 64, Sub-Chapter 7,)	TO BOARD OF PUBLIC EDUCATION.
Transportation Service Areas,)	
rule 10.64.701)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. The "Criteria for Establishing Transportation Areas" was adopted by the state board of education in February 1953. When the board of public education and the office of public instruction came under the Administrative Procedures Act in 1977 the rule was inadvertently grandfathered into the office of public instruction's transportation rules rather than those of the board of public education. The board of public education proposes to correct that error through this notice.

2. The rule to be transferred provides as follows:

10.7.102 CRITERIA FOR ESTABLISHING TRANSPORTATION AREAS

(1) Relationship to School Law. The criteria must fit into the framework of school law for the administration of public schools, such as transfer of pupils, payment of tuition and other principles of school administration.

(a) County and school district boundaries do not apply: school bus areas when several of the following criteria apply:

(i) pupils live closer to a school in an adjoining school district or county.

(ii) geographical features such as mountains, or rivers make attendance in the home district impractical.

(iii) road conditions should have a great deal of consideration if there is a big difference in the type of roads available for school transportation.

(iv) the natural trading center might have some bearing in some instances.

(v) very often, parents wish small children to attend the same school as older children.

(vi) a majority opinion of the parents of the children concerned.

(vii) convenience and safety of children.

(viii) type of training required by pupils.

(b) The opinion of the board of trustees where the pupil or pupils reside should have consideration in case of continued controversy.

(c) In the case of further controversy, the problem should be submitted to the voters of the school district at the annual election and the majority opinion of the voters should have consideration.

(d) Costs should enter into the decision. The area should be set up in a manner which will provide transportation to adequate school facilities at a minimum cost. The area should be assigned to the school bus route which can do the job at a minimum cost. (History: Sec. 20-3-106, (18) MCA; IMP, Sec. 20-10-112 MCA; Eff. 2/26/53; ARM Pub. 11/26/77)

3. The authority of the board of public education to transfer the rule is based on Section 20-2-121, MCA, and the rule implements Section 20-10-111(d), MCA.

Marjorie W. King

MARJORIE, W. KING, CHAIRMAN
BOARD OF PUBLIC EDUCATION

BY:

Rich Reese
Assistant to the Board

Certified to the Secretary of State March 2, 1981.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF PROPOSED AMENDMENT
of Rule 10.57.501 regarding) OF RULE 10.57.501, CERTIFI-
certification of school psych-) CATION OF SCHOOL PSYCHOLO-
ologists.) GISTS
))
) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On April 13, 1980, the board of public education proposes to adopt a rule for the certification of school psychologists, to consider the amendment of Rule 10.57.501 relating to the Class 6 Specialist Certification for school psychologists.

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

10.57.501 SCHOOL PSYCHOLOGISTS, SOCIAL WORKERS, NURSES AND SPEECH AND HEARING THERAPISTS (1) Professionals such as school psychologists, social workers, nurses and speech and hearing therapists who are teaching in a classroom must have a teaching certificate appropriate for the level(s) and area(s) taught:

(2) Speech and hearing therapists engaged in school services in the public schools of Montana who issued grades or credits in the pupil's school program must be certified under the regularly established teacher certification requirements in addition to the certification requirements of the American Speech and Hearing Association. For related school services which do not involve credits or promotion, the superintendent of public instruction will recognize speech and hearing therapists licensed by the American Speech and Hearing Association on the basis of professional association standards on file in the office of the superintendent of public instruction.

(3) School psychologists. A professional serving as a school psychologist in the public schools must be certified with a specialist certificate.

(4) Class 6 (specialist) certificate. School psychologists.

(a) Term: 5 years, renewable.

(b) Basic education. Master's degree or fifth year program in school psychology or equivalent related areas to include the following minimums.

(i) Must have 20 quarter credits in general education/psychology (graduate or undergraduate) training to include:

(aa) guidance

(ab) human growth and development

(ac) general psychology

(ad) educational psychology

(ae) learning theory

(ii) Educational program. The following specific courses are required as undergraduate or graduate:

(aa) exceptional children (must include special education)

(ab) curriculum development

(ac) diagnosis and remediation of reading

- (ad) educational evaluation
- (iii) Psychological methods and techniques. The following are specific minimum requirements:
- (aa) individual intelligence testing - graduate
 - (ab) group intelligence and achievement testing - graduate
 - (ac) personality assessment - graduate
 - (ad) interviewing and counseling - graduate
 - (ae) behavior modification - graduate
 - (af) school psychology practicum/internship (a minimum of 6 quarter hours of graduate credit or appropriate waiver)
 - (ag) administration, role and function of school psychology.

(c) Renewal. Verification of one year of successful specialist experience or the equivalent, plus presentation of acceptable evidence of 6 additional graduate quarter credits of academic or equivalent inservice coursework.

(d) Reinstatement and recent training. For reinstatement of lapsed certificates or initial certification for applicants with training more than 5 but less than 15 years old, a Class 6 certificate cannot be issued until the required number of graduate credits are presented. Credits presented must have been earned within the five-year period preceeding the date of application on the basis of 12 quarter credits for the first 5 years plus 6 quarter credits for each additional 5-year period since certification or original training. (Specific courses may be required for initial certification.) The applicant may, however, practice under a Class 5 provisional (specialist) certificate for one (1) year while completing the credit deficiency. For provisional certification a plan of intent outlining the specific courses required must be submitted to teacher certification in the office of public instruction. The plan of intent, a part of the application form which may be obtained from the office of public instruction, must be signed by the applicant, the college certification official where the coursework will be completed (if applicable) and a representative of the employing school district. A Class 5 is issued for one (1) year and is not renewable except for citizenship. (Non-citizen applicants should contact the office of public instruction for policies and procedures.)

(e) Renewal and reinstatement credits must supplement, strengthen and update the specialist preparation and must be graduate credit.

(5) Psychologists who have been approved for funding by the special education unit of the office of public instruction by December 31, 1980, and have had at least half-time employment during a school year between September 1, 1975, and May 31, 1981, can continue to serve as a school psychologist until 1984, when they must be certified with a Class 6 certificate.

(6) Psychologists who have been approved for funding by the special education unit of the office of public instruction by December 31, 1980, and have practiced continuously in Montana since September 1, 1975, under the Montana special education rules and regulations may receive Class 6 certification without additional training, upon application, commencing January 1, 1981.

Those people who have received their certification under this provision must obtain credits for certificate renewal in their areas of deficiency.

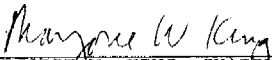
3. The rules are proposed to be amended to provide requirements for the issuance of specialist certificates for school psychologists.

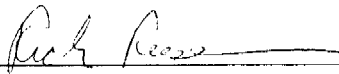
4. Interested persons may submit their data, views or arguments to Chairman Marjorie W. King, Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, no later than April 10, 1981.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Chairman Marjorie W. King, Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, no later than April 10, 1981.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 16 persons based on 160 school psychologists in Montana.

7. The authority of the agency to make the proposed amendment is based on Sections 20-2-121; IMP, Sections 20-4-102, 20-4-103, and 20-4-106, MCA.


MARJORIE W. KING, CHAIRMAN
BOARD OF PUBLIC EDUCATION

BY: 
Assistant to the Board

Certified to the Secretary of State March 2, 1981.

STATE OF MONTANA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF HORSE RACING

IN THE MATTER of the proposed)	NOTICE OF HEARING ON THE PROPOSED
Amendments of ARM 40.20.501)	AMENDMENTS OF ARM 40.20.501
subsection (23) concerning)	(23) DEFINITIONS; 40.20.601
definitions; 40.20.601 con-)	GENERAL PROVISIONS; 40.20.610
cerning general provisions;)	(3) STEWARDS; 40.20.611 TIMERS;
40.20.610 subsection (3) con-)	40.20.705 JOCKEYS; 40.20.801
cerning stewards; 40.20.611)	GENERAL REQUIREMENTS; 40.20.1608
concerning timers; 40.20.705)	THE MUTUEL SYSTEM; 40.20.1618
concerning jockeys; 40.20.801)	TWIN QUIN FEATURE
general requirements, sub-)	
sections (8) and (64)(c); 40.)	
20.1608 concerning the mutuel)	
system; and 40.20.1618 sub-)	
section (20) concerning twin)	
Quin feature.)	

TO: All Interested Persons:

1. On Friday, April 3, 1981, at 10:00 a.m., a public hearing will be held in the Old Highway Department Auditorium, Scott Hart Building, 303 Roberts, Helena, Montana, to consider the amendment of the above rules.

2. The proposed amendment of ARM 40.20.501 will read as follows: (deleted matter interlined, new matter underlined)
" 40.20.501 DEFINITIONS (1)...

(23) A Maiden - for purposes of eligibility at any race meetings whose race records are recorded in an official chart book or the Daily Racing Form is a horse which, at the time of starting, has never won a race on the flat in any country at a track whose racing records are recorded in an official chart book or the Daily Racing Form.

A maiden for purposes of eligibility at race meetings whose racing records are not recorded in an official chart book or the Daily Racing Form is a horse which at the time of starting has never won a race on the flat in any country.

(a)...."

3. The board is proposing the amendment based on a request by the Montana Breeders Association because Montana has two types of race meets, recognized and unrecognized. The authority of the board to make the proposed change is based on section 23-4-104, MCA and implements the same.

4. The proposed amendment of 40.20.601 adds a new subsection (4) and will read as follows: (deleted matter interlined, new matter underlined)

" 40.20.601 GENERAL PROVISIONS (1)....

(4) No racing official shall serve in his capacity in regard to any race meet at which a horse owned by

him or a member of his immediate family or in which he has a financial interest is entered in a race at such meeting."

5. The board is proposing the new subsection to stop possible conflicts of interest. The authority of the board to make the amendment is based on section 23-4-104, MCA and the rule implements sections 23-4-104 and 23-4-201, MCA.

6. The proposed amendment of 40.20.610 deletes subsection (3) and reads as follows: (deleted matter interlined)
"40.20.610 STEWARDS (1)...

~~(3)--No state or track steward shall serve in his capacity in regard to any race meet at which a horse owned by him or a member of his immediate family, or in which he had a financial interest is entered in a race at such meeting:~~

~~-(4)-(3)...~~ " (all remaining subsections to be renumbered)

7. The board is proposing the deletion of subsection (3) as the preceding proposed amendment to 40.20.601 includes all racing officials, not just stewards.

8. The proposed amendment of ARM 40.20.611 adds new subsections (3)&(4) & will read as follows: (new matter underlined)
"40.20.611 TIMERS (1) ...

(3) In all horse races in Montana where an electric timer is used to determine qualifiers for the finals, the race track shall be required to supply three persons using stop watches. If the electric timer fails, then all the hand timers will be consulted to determine the time for the first place horse in that heat. Before the trial races start, the three hand-held times will be determined as follows:

(a) The three times will be averaged together and that average used for the winner.

(4) The film strip can then be used to determine the times of the second and other finishers in that heat. In the event, the film strip is also not available, the placement method shall be used. Clarification of the placement method will be made to the participants by the Director of Racing prior to the running of the first trials."

9. The board is proposing the amendment to avoid confusion when the electric timers and film strips fail. The authority of the board to make the proposed amendment is based on section 23-4-104, MCA and implements the same.

10. The proposed amendment of 40.20.705 adds a new subsection (3)(a) and will read as follows: (new matter underlined)
"40.20.705 JOCKEYS (1)....

(3)...

(a) All jockey applicants not previously licensed by the Montana Board of Horse Racing or another racing

jurisdiction, shall present proof of age before being licensed by the Montana Board of Horse Racing and a birth certificate may be required."

11. The board is proposing the amendment as in the past they have had jockeys state they were 16, when in fact they were not. The authority of the board to make the proposed amendment is based on section 23-4-104, MCA and implements sections 23-4-104 and 23-4-201, MCA.

12. The proposed amendment of 40.20.801 amends sections (8) and (64)(c) and will read as follows: (deleted matter interlined, new matter underlined)

"40.20.801 GENERAL REQUIREMENTS (1)...

(8) A sum equal to 10% of the first money of every purse won by a Montana bred horse shall be paid such horse. Such amount shall be paid within 30 days after the conclusion of the race meeting each year. Such amount shall not be deducted from the advertized purse. Only the money contributed by the licensee conducting the race meet may be considered in computing the bonus.

(9)...

(64)...

(c) Any horse failing to start or finish in any race shall not share in the purse distribution of that race, except a horse that has qualified for that race through a trial race."

13. The board is proposing the amendment to (8) to conform to section 23-4-204 (2), MCA. The amendment to subsection (64)(c) is proposed to conform with national racing rules. The authority of the board to make the proposed amendments is based on section 23-4-104, MCA. The rule implements sections 23-4-104 and 23-4-201, MCA.

14. The proposed amendment of 40.20.1608 adds two new subsections (7) and (8) and will read as follows: (new matter underlined)

"40.20.1608 THE MUTUEL SYSTEM (1)...

(7) The licensee is not required to have a track auditor if on a computerized system, as the auditor's functions are done in part by the system.

(8) A random testing program shall be performed on a computerized system to verify that all functions of the system are working properly. This shall be done prior to the opening of each race day by the state pari-mutuel supervisor. Approval shall be given by the state pari-mutuel supervisor to begin operation."

15. The reason for the addition of (7) is self-explanatory. Subsection (8) is being added to eliminate machines accidentally not being cleared from the previous day's activities. The authority of the board to make the proposed change is based on section 23-4-104, MCA. The rules implements sections 23-4-104, MCA and 23-4-301 through 305, MCA.

16. The proposed amendment of 40.20.1618 deletes the current language in subsections (20) and (20)(a) and will substitute the language below: (deleted matter interlined, new matter underlined)

"40.20.1618 TWIN QUIN FEATURE (1)...

~~(20) In the event of a late scratch in the second half of the Twin Quin and the holders of exchange tickets involved in such a later scratch or scratches are unable to exchange such tickets due to circumstances beyond the control of the track, then such ticket holders involved in such late scratches will be handled in the following manner:-~~

~~{a}--Should one or two runners of the exchanged ticket be scratched, then such tickets will participate in a consolation pool and all tickets including such runners shall be deducted from the Twin Quin pool, or pools, thus formed and shall be distributed as a straight Quintela pool. If a horse is scratched in the second race of the Twin Quin, the holders of tickets on the scratched horse shall be entitled to exchange their tickets for another selection.~~

(21) if a horse is scratched too late to make an exchange, the total number of exchanges shall be divided into the net pool to get a unit price for each winning exchange ticket and this unit price shall be multiplied by the number of tickets on the scratched horse of the second half of the Twin Quin. This total shall be deducted from the net pool and be used to pay the winner of the second half race combined with the scratched horse. The balance of the net pool shall be paid to the holders of the tickets on the horses that finish first and second."

17. The board is proposing the amendment to clarify extraordinary situations in the twin quin races. The authority of the board to make the proposed change is based on section 23-4-104, MCA. The rule implements section 23-4-104 and 23-4-301 through 305, MCA.


18. 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 Board of Horse Racing, Lalonde Building, Helena, Montana 59620, no later than April 9, 1981.

19. The board or its designee will preside over and conduct the hearing.

20. The authority and implementing sections as cited after each proposed change.

BOARD OF HORSE RACING
JOSEPH MURPHY, D.D.S., CHAIRMAN

-201-

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

Certified to the Secretary of State, March 2, 1981.

5-3/12/81

MAR Notice No. 40-20-20

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the repeal) NOTICE OF THE REPEAL
of rules ARM 2.5.112 and) OF RULES ARM 2.5.112
2.5.113, specifying the admin-) and 2.5.113
istrative procedures in)
resolving disputes arising out)
of state purchase contracts.)

TO: All Interested Persons:

1. On January 15, 1981, the Department of Administration published notice of a proposed repeal of rules ARM 2.5.112 and 2.5.113, concerning the administrative procedures to be followed in resolving disputes arising out of state purchase contracts, at page 1 of the 1981 Montana Administrative Register, issue number 1.

2. The agency has repealed the rules as proposed.

3. No comments or testimony were received.

MORRIS L. BRUSETT, Director
Department of Administration

By: Morris L. Brusett
Morris L. Brusett

Certified to the Secretary of State February 18, 1981 .

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

In the matter of the amendment)	NOTICE OF AMENDMENT
of ARM 16.8.1412, sulfur oxide)	OF ARM 16.8.1412
emissions--primary non-ferrous)	AND ADOPTION
smelters)	OF ARM 16.8.1414
)	
and)	
)	
In the matter of the adoption)	
of ARM 16.8.1414 setting sulfur)	
oxide emission limitations for)	
existing lead or lead-zinc)	
smelters)	

TO: All Interested Persons

1. On November 28, 1980, the Board published notice of a proposed amendment to rule 16.8.1412 concerning sulfur oxide emissions from primary non-ferrous smelters and simultaneously published notice of public hearing for adoption of a new rule, ARM 16.8.1414, concerning sulfur oxide emissions from existing lead or lead-zinc smelting facilities. The notices appeared at pages 2950-2954 of the 1980 Montana Administrative Register, issue no. 22.

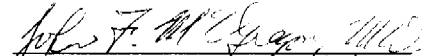
2. The agency has amended ARM 16.8.1412 and adopted ARM 16.8.1414 as each was proposed.


3. Supporting comments and testimony were received; there was no adverse testimony.

During the public comment period prior to the date of public hearing, and at the public hearing, representatives of American Smelting and Refining Corporation (ASARCO) supported the amendment and the new rule on the grounds that the changes will relieve ASARCO from seeking a variance each year from the Board because ASARCO's East Helena smelter complex can meet the sulfur dioxide emission requirements of the new rule and, at the same time, not violate state or federal ambient air quality standards. ASARCO further supported the rule changes because they establish fixed and certain limitations on SO₂ emissions from ASARCO's smelter, and because they conform the regulations to Montana's State Implementation Plan.

At the public hearing, Hal Robbins, Chief of the Air Quality Bureau, stated the Department of Health and Environmental Sciences' support of the rule changes by noting that the Air Quality Bureau had carefully reviewed ASARCO's modeling results and determined that the East Helena smelter would meet the revised emission standards and comply with Montana and federal ambient air quality standards.

4. The authority for the rule is section 75-2-111, MCA, and it implements section 75-2-203, MCA.


JOHN F. MCGREGOR, M.D., Chairman

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

Certified to the Secretary of State March 2, 1981

-205-
BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
OF THE STATE OF MONTANA

In the matter of the amendment)	NOTICE OF AMENDMENT
of rules ARM 16.20.401 et <u>seq.</u> ,)	OF ARM 16.20.401 et <u>seq.</u> ,
Plans for Public Water or)	(Public Water or
Wastewater Systems)	Wastewater Systems)

TO: All Interested Persons

1. On November 28, 1980, the Board of Health and Environmental Sciences ("Board") published notice of the proposed amendment of ARM 16.20.401 concerning plans for public water or wastewater systems at pages 2955-2959 of the 1980 Montana Administrative Register, issue number 22, and a hearing was held on February 20, 1981.

2. The Board has adopted the rules as proposed except for the following changes:

Section (4) was amended as follows:

(4) The department ~~may~~ shall issue a written approval for a public water supply system or wastewater system if it determines that the engineering report, plans and specifications are complete and the applicant has complied with all provisions of this rule.

(a) Upon issuance of the written approval, the department shall specify to the applicant those tests, analyses, and other information required to be performed or provided under section (6)(a).

(b) ~~(a)~~ Same as proposed, except renumber subsection.

(c) ~~(b)~~ Same as proposed, except renumber subsection.

A new section (7) was added as follows:

(7) When engineering reports, plans and specifications submitted pursuant to this rule are also part of a submittal for compliance with plan review pursuant to the Sanitation in Subdivisions Act, (76-4-101 et seq., MCA) the applicant shall so indicate by written notice accompanying his submittal. Review pursuant to this rule will then be conducted pursuant to 76-4-101 et seq.

3. Five individuals and the Department appeared at the hearing. Four individuals supported the proposed amendment. One individual did not oppose the amendment but commented on the risk of property damage potentially associated with allowance of deviations from design standards in the construction of public sewage and stormwater pipes.

One individual mailed written comments to the Board and suggested two changes in the proposed amendment. Summaries of comments on the proposed amendment along with the Board's responses are as follows:

Comment: In section (4) of the proposed amendment, the responsibility of the Department in issuing written approvals of plans should be phrased as "shall issue" rather than "may issue". There is no reason why approval of a complete and fully complying submittal should be discretionary with the Department. Once the Department determines the proposal is approvable, it should then be required to issue a written approval.

Response: Since the suggestion is well-founded and since the Department had no objection to this proposed change, the Board concurs and so amends section (4).

Comment: Section (6)(a) of the proposed amendment authorizes the Department to require analyses, tests, or other information from the applicant to prove that the system complies with the engineering specifications, etc. In fairness to the applicant, the tests, analyses and other information should be specified to the applicant at the same time the Department issues its written approval.

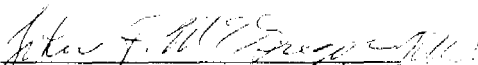
Response: The Board agrees that this requirement would be a change beneficial to the applicant and the Department represented that the additional administrative burden would not be significant. Therefore, the Board has included language in section (4) to impose this requirement upon the Department.

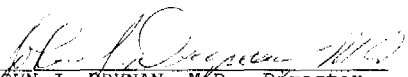
Comment: At the hearing the Department requested the Board to adopt an additional section to the rule. The new section pertains to public water or wastewater systems which are subject to review not only the Public Water Supply Act (75-6-101 et seq., MCA) but also under the Sanitation in Subdivisions Act (76-4-101 et seq., MCA). The new section would require that, in such cases, the applicant indicate in writing on his submittal that the proposal is subject to review under both laws. This notation by the applicant would help to assure proper concurrent review within the Department.

Response: The additional section proposed by the Department does not modify the substantive provisions of the rule but is an administrative measure designed to coordinate review of plans under two public health programs.

The Department had provided the text of the new section to its mailing list of consulting engineers and no comment was received by either the Department or Board in writing or at hearing concerning the proposed new section.

Since the proposed section will facilitate the proper administration of plan review, the Board includes the section in the final rule.


JOHN F. MCGREGOR, M.D., Chairman

BY 
JOHN J. BRYNAN, M.D., Director
Department of Health and
Environmental Sciences

Certified to the Secretary of State March 2, 1981

STATE OF MONTANA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF RADIOLOGIC TECHNOLOGISTS

In the matter of the amendments) NOTICE OF AMENDMENTS OF ARM
of ARM 40.54.402 concerning) 40.54.402 APPLICATIONS; 40.
applications; 40.54.404 con-) 54.404 CERTIFICATE OF LICENSE;
cerning certificates of license) 40.54.405 PERMIT EXAMINATIONS;
40.54.405 concerning permit) AND ADOPTION OF 40.54.412
examinations; and proposed) TEMPORARY PERMITS
adoption of a new rule concern-)
ing temporary permits.)

TO: All Interested Persons:

1. On January 15, 1981 the Board of Radiologic Technologists published a notice of amendments of ARM 40.54.402 concerning applications; 40.54.404 concerning certificate of license; 40.54.405 concerning permit examinations; and adoption of a new rule concerning temporary permits at pages 9 through 13, 1980 Administrative Register, issue number 1.

2. The board has amended and adopted the rules exactly as proposed.

3. No comments or testimony were received.

BOARD OF RADIOLOGIC TECHNOLOGISTS
REYNOLD J. BENEDETTI, R.T.,
CHAIRMAN

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

Certified to the Secretary of State, March 2, 1981.