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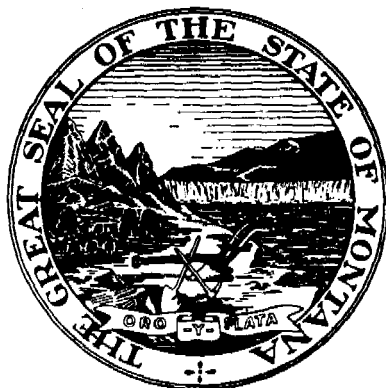
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RESERVE

MONTANA ADMINISTRATIVE REGISTER

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OF MONTANA

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 22

The Montana Administrative Register (MAR), a twice-monthly publication, has three sections. The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing, and where written comments may be submitted. The rule section indicates that the proposed rule action is adopted and lists any changes made since the proposed stage. The interpretation section contains the attorney general's opinions and state declaratory rulings. Special notices and tables are inserted at the back of each register.

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STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF MEDICAL EXAMINERS

IN THE MATTER of the proposed)	NOTICE OF PUBLIC HEARING
repeal of 8.28.901 - 8.28.903,)	FOR THE REPEAL OF RULES 8.28.
8.28.1001 - 8.28.1009, 8.28.)	901 - 8.28.903 EMERGENCY
1101 - 8.28.1108 and their re-)	MEDICAL TECHNICIANS GENERAL,
placement with new rules relat-)	8.28.1001 - 8.28.1009 EMER+
ing to standards for emergency)	GENCY MEDICAL TECHNICIANS -
medical technicians)	BASIC, 8.28.1101 - 8.28.1108
	EMERGENCY MEDICAL TECHNICIANS -
	ADVANCED and ADOPTION OF
	NEW RULES RELATING TO STANDARDS
	FOR EMERGENCY MEDICAL TECHN1-
	CIANS

TO: All Interested Persons:

1. On January 5, 1983, at 9:00 a.m., a public hearing will be held in the auditorium of the Department of Social and Rehabilitation Services, 111 Sanders, Helena, Montana to consider the proposed repeal of the above stated rules and the proposed adoption of new rules I through XVI relating to the standards for emergency medical technicians.

2. The proposed new rules will replace rules 8.28.901 - 8.28.903, 8.28.1001 - 8.28.1009, 8.28.1101 - 8.28.1108 in their entirety. The current rules relating to emergency medical technicians are located at pages 8-879 through 8-892, Administrative Rules of Montana.

3. The rules as proposed to be adopted are as follows:
"RULE I. DEFINITIONS

(1) Advanced EMT service means a comprehensive and integrated arrangement of personnel, facilities, communications and transportation necessary to allow an advanced emergency medical technician to function appropriately, and consistent with his level of training. An advanced EMT service, to assure adequate control of the practicing advanced EMT, must be approved by the board.

(2) Basic emergency medical technician (EMT-basic) means an individual who has successfully completed the Basic Training Course/Emergency Medical Technician, developed by the U.S. department of transportation and who is certified by the board and registry. An individual qualified under this section shall be certified as either:

(a) Emergency Medical Technician - Ambulance (EMT-A), where the individual is an emergency care provider affiliated with an ambulance service; or

(b) Emergency Medical Technician - Nonambulance (EMT-NA), where the individual is an emergency care provider in a rescue squad, law enforcement, hospital or setting other than an ambulance service.

(3) Board means the board of medical examiners,

department of commerce.

(4) Bureau means the emergency medical services bureau, department of health and environmental sciences.

(5) Candidate means a student who has completed one of the levels of training in accordance with these rules and who has been recommended by the Course Committee/Medical Director to the board for certification examination.

(6) Certification examination means the written and practical examinations, administered by the bureau to determine the competency of a candidate for each level of training, under the guidelines of the registry.

(7) Clinical experience means supervised instruction and practice in a patient care setting.

(8) Clinical preceptor means an individual trained to a level greater than the student, who is responsible for supervising and teaching the student in a clinical setting under the supervision of the medical director or medical training director.

(9) Conditional reciprocity means board recognition of EMT training conducted in another state as basis for certification eligibility in Montana. Application fees and additional testing are required prior to certification on the basis of conditional reciprocity.

(10) Course means a program of initial instruction which meets the specifications for a particular level of training.

(11) Course committee means those individuals officially recognized by the board to assist a medical advisor or medical training director in the management of an EMT course.

(12) Course coordinator means a person who has completed the appropriate training management course developed and conducted by the bureau, and recommended to the board by the bureau, and is authorized by the board every two years. He/she is under the supervision of a medical advisor or medical training director.

(13) Curriculum means the combination of instructor lesson plans, course guide and student study guide prepared by the U.S. department of transportation.

(14) Emergency care provider means an individual employed by or rendering volunteer service to a licensed ambulance service, rescue squad, law enforcement agency, fire department or other agency providing pre-hospital patient care.

(15) Emergency medical technician (EMT) means all pre-hospital emergency care personnel who are board and registry certified.

(16) Emergency medical technician - advanced means an EMT who has successfully completed one or more

of the registry-recognized levels of EMT training above basis and shall include, but not be limited to:

(a) Emergency medical technician - intermediate (EMT-I) means an EMT-A who has successfully completed modules I, II and III, and also the EOA training as set forth in the National Training Course Emergency Medical Technician - Paramedic, and is certified by the board and registry.

(b) Emergency medical technician - paramedic (EMT-P) means an individual who has successfully completed all the modules in the National Training Course Emergency Medical Technician - Paramedic (U.S. department of transportation), and is certified by the board and registry.

(17) Instructor means a person who is recommended by the course committee to the board to teach in an approved EMT training program, and who shall be capable of performing patient care techniques required in the portion of the curriculum which he is recommended to teach.

(18) Medical advisor means a physician licensed in Montana who provides off-line medical control over a basic EMT program.

(19) Medical control means the function of providing direction, advice, or orders by a physician to E.M.S. field personnel.

(a) On-line medical control means to provide 24 hour, 7 day per week medical direction, advice, or orders to advanced EMT's in the field via direct patient-side communication within an approved service, and originating from the medical control facility. On-line medical direction is supervised by the off-line medical director.

(b) Off-line medical control means to provide overall medical direction and advice insuring an accurate and thorough presentation of the medical content of the training programs, all continuing education, and performance reviews at all levels.

(20) Medical control facility means a facility in which on-line medical control originates and shall have the following:

(a) Patient side communication with all advanced EMT's within the approved service area.

(b) For EMT-P services, provide 24 hour physician radio coverage. For EMT-I services, provide 24 hour physician/surrogate radio coverage.

(21) Medical director (off-line) means a physician licensed in Montana who:

(a) is responsible and accountable for the overall

direction and supervision of the local advanced EMT program;

(b) is capable of demonstrating all patient care techniques required at the advanced EMT level;

(c) is responsible for the application of patient care techniques and quality of care provided by advanced EMT in the local program;

(d) has been approved in writing by all the local hospital medical staff(s) to function as medical director;

(e) is responsible for recommending the advanced EMT for recertification.

(22) Medical training director means a physician licensed in Montana who:

(a) is responsible and accountable for the overall direction and supervision of the advanced EMT class;

(b) is capable of demonstrating all patient care techniques required at the advanced EMT level;

(c) has been approved, in writing, by the medical staffs of the participating hospitals.

If advanced training program is in conjunction with an advanced EMT service, the medical director and medical training director may be the same individual.

(23) Module means a unit of the advanced EMT curriculum.

(24) Patient means an individual who, as a result of illness or injury, needs immediate medical attention, and whose physical or mental condition suggests imminent danger of loss of life or of significant health impairment.

(25) Patient-side communication means direct voice communication which originates at the side and site of the ill or injured patient and terminates with the delivery of the patient to a receiving hospital. Patient-side communications must be conducted by telephone or on a radio frequency spectrum licensed by the FCC and approved by the EMS bureau. The system configuration must be approved by the bureau.

(26) Protocol means a standardized manner of administering patient care filed with the board and approved by the medical advisor/director, and local medical staff.

(27) Receiving hospital means any Montana licensed hospital in or adjacent to an advanced EMT service area.

(28) Registry means the National Registry of Emergency Medical Technicians.

(29) Service area means the geographic boundary in which the advanced EMT service provides service in, patient-side radio communications must be maintained over 90% of the geographic area.

(30) State ambulance trip report form means a form developed

and produced by the bureau to preserve minimum uniform documentation of pre-hospital care provided at the basic and advanced life-support levels.

(31) Student means an individual who meets all student prerequisites and who is selected and approved by the course committee to participate in the training program.

(32) Surrogate means a registered nurse, licensed in Montana, who, may initiate approved written standard protocols within an approved intermediate EMT service. The surrogate must be capable of demonstrating all the skills at the intermediate level. The surrogate must be approved by and responsible to the off-line medical control (medical director).

(33) Temporary suspension means the revocation of the advanced EMT's right to practice at an advanced level until a permanent ruling can be made by the board.

(34) Training management course means a course specifically developed and conducted by the bureau to prepare an individual to manage the operational aspects of an EMT training program under the supervision of a physician.

(35) Unconditional reciprocity means board recognition of EMT training and certification in another state by written agreement with a cooperating state as a basis for certification in Montana. An application fee is required. No additional testing is required. (Authority: Section 50-6-203, MCA, Implement: Section 50-6-203, MCA)

RULE II. EMERGENCY MEDICAL SERVICES BUREAU - DUTIES

(1) The bureau shall:

(a) review each program/service application and make recommendations to the board in writing within 30 days after the bureau receives the final application;

(b) as requested by the board, make on-site visits to evaluate programs/service and submit written reports and recommendations to the board;

(c) conduct training management courses;

(d) select and train personnel to conduct final practical examinations for certification under the supervision of the board;

(e) conduct practical and written registry examinations for certification;

(f) establish and maintain a record-keeping system for EMT programs and related matters;

(g) develop, and produce state ambulance trip report forms appropriate for each level of pre-hospital care;

(h) perform other duties as requested by the board and agreed to by the bureau. (Authority: Section

50-6-203, MCA; Implement: Section 50-6-203, MCA)

RULE III. APPLICATION - PROGRAM APPROVAL (1) No person, corporation, partnership or any other organization may initiate or conduct any program of EMT instruction until the board has approved an application submitted by a course committee. A copy of the written approval shall be provided to each student prior to initiation of training.

(2) A course committee seeking to establish a program shall complete an application form approved by the board and shall submit it to the bureau.

(3) Upon receipt of an application, the board and/or bureau may request from the course committee any information necessary for a proper evaluation of the proposed program including, but not limited to information concerning:

(a) the eligibility of student(s) or the qualifications of the medical director, medical advisor, course coordinator, instructor, student(s) and clinical preceptor;

(b) the adequacy of proposed teaching facilities and training aides.

(4) The board may request the bureau to make an on-site visit and evaluation of the proposed training program/sites.

(5) Within 30 days from receipt of the application or, if additional information is requested, within 30 days from receipt of such information, the board shall in writing approve or reject the application.

(6) The board may disapprove any proposed program which, in its judgment, does not:

(a) provide all requested information;

(b) assure compliance with the provisions of Rule VIII and Rule XIII.

(7) The board shall hear grievances and complaints and conduct inquiries regarding the conduct and performance of EMT's, local program management and quality control and shall take appropriate action thereon. (Authority: Section 50-6-203, MCA; Implement: Section 50-6-204, 205, MCA)

RULE IV. CANDIDATES - CERTIFICATION (1) The board shall not certify any candidate as basic or advanced EMT until the candidate submits a completed application for certification on forms designated by the board, provides all the information necessary to establish eligibility for certification according to the requirements of (the proposed rules) herein, and passes written and practical examinations specified by the board and administered by the bureau. (Authority: Section 50-6-203, MCA; Implement: Section 50-6-204, 205, MCA)

RULE V. RECIPROCITY (1) A person certified as an EMT-(basic or advanced) by the registry or by another state determined by the bureau to have training standards equivalent to those of Montana may receive certification by the board when the person:

(a) submits a fee and application approved by the board;

(b) passes written and/or practical examinations as specified by the board;

(c) is currently an emergency care provider;

(d) is recommended by the course committee and the local medical advisor or medical director.

(2) A person certified as an EMT-(basic or advanced) by another state with which Montana has an unconditional reciprocity agreement may receive certification when the candidate:

(a) submits a fee and an application approved by the board;

(b) submits an application for unconditional reciprocity on forms designated by the board;

(c) is currently an emergency medical care provider;

(d) is recommended for certification by the course committee and by the local medical advisor or medical director. (Authority: Section 50-6-203, MCA; Implement: Section 50-6-204, 205, MCA)

RULE VI. SUSPENSION OR REVOCATION OF CERTIFICATION

(1) The certification of an EMT-basic or an EMT-advanced may be suspended or revoked if the EMT:

(a) represents himself/herself in any manner as a physician, nurse or other health care provider other than the highest EMT level for which he/she is certified;

(b) violates any of the provisions of sections 50-6-201 through 50-6-207, MCA, or the requirements of (the proposed rules) herein;

(c) is found by the board to be incapable of properly performing as an emergency medical technician at the level for which he/she is certified, or is adjudicated by a court to be mentally incompetent;

(d) does not renew his/her certification as required;

(e) performs acts in excess of those allowed at his/her level of certification.

(2) Any person having knowledge that an EMT-basic has engaged or is engaging in any of the acts listed in subsection (1) above shall notify the local medical advisor, who shall in cooperation with the course committee investigate the allegation. All complaints received about an individual EMT's performance shall be forwarded to the board and bureau along with a record of any action taken by the course committee. A copy shall be provided to the EMT.

(3) Any person having knowledge that an EMT-advanced has engaged, or is engaging in any of the acts listed in subsection (1) above shall notify the local medical director who shall investigate the allegation. All complaints received about an individual EMT's performance shall be forwarded to the board and bureau along with a record of any action taken by the course committee. A copy shall be provided to the EMT. The medical director may temporarily suspend the certification of an EMT-advanced and may allow the EMT-advanced to practice at a basic level until a final ruling by the board.

(4) If the board finds that considerations of public health, safety or welfare require immediate action, the board may issue an order for summary suspension of certification pending the completion of proceedings for revocation or other action. Such order shall state the basis for the summary suspension.

(5) Upon referral to the board of an allegation under section (2) or (3) above, or by any interested party, the board may initiate an investigation and may request the assistance of the bureau. Within 30 days of such request, the bureau shall prepare a written report of the findings and recommendations to the board.

(6) Within 30 days from receipt of the bureau's report and considering the recommendations of the medical advisor, medical director and/or course committee, the board shall issue its findings and an appropriate order, providing a copy thereof to the EMT in question. Unless appealed under section (8) below, such order becomes final within 30 days.

(7) Where an EMT-basic or EMT-advanced received a board order adversely affecting his status as an EMT, he/she may initiate the following appeal procedure:

(a) within 30 days of receipt of the order, a written notice of appeal may be sent to the board setting out the reasons why the EMT deems the order inappropriate;

(b) within 30 days of receipt of the notice of appeal, the board shall conduct a hearing and shall provide reasonable notice to the EMT, who may participate in the hearing;

(c) the date of the hearing may be extended if a written request from the EMT is approved by the board;

(d) upon conclusion of the hearing, but not to exceed 5 days, the board shall consider all appropriate facts and issue a final order. (Authority: Section 50-6-203, MCA; Implement: Section 50-6-204, 205, MCA)

RULE VII. EMT - BASIC: ACTS ALLOWED (1) The emergency medical technician - basic:

(a) may perform any skills as taught in the approved curriculum for basic EMT training and in accordance with approved protocols;

(b) may not perform any skill defined as an advanced technique by the U.S. department of transportation emergency medical technician - paramedic training curriculum except that an EMT-basic may apply pneumatic counter pressure devices (MAST) in compliance with additional local training and approved protocols.

(Authority: Section 50-6-203, MCA; Implement: Section 50-6-204, MCA)

RULE VIII. EMT - BASIC: COURSE REQUIREMENTS (1) A basic EMT course shall be managed by a course committee under the supervision of a medical advisor and shall:

(a) be conducted according to the latest available curriculum furnished by the U.S. department of transportation;

(b) be completed within 7 months of the date the course commences;

(c) provide a minimum of 10 hours of physician participation;

(d) have at least one instructor per 6 students when practical skills are taught;

(e) certify the students in airway obstruction and cardiopulmonary resuscitation management at the "Basic Rescuer" level in accordance with standards established by either the American national red cross or the American heart association;

(f) provide a minimum of 10 hours of in-hospital clinical experience for students.

(2) The medical advisor of a basic EMT course shall be responsible for:

(a) overseeing the course for quality and consistency of training and for adherence to protocols;

(b) reviewing, approving and/or developing patient care protocols;

(c) overseeing quality of patient care and adherence to protocols through retrospective audits and patient care critiques.

(3) The course committee of a basic EMT course shall include, but shall not be limited to:

(a) the medical advisor;

(b) the course coordinator;

(c) a registered nurse licensed in Montana who provides emergency care;

(d) pre-hospital emergency care provider (an EMT-basic is required after the first course).

(4) The course coordinator shall, under the supervision of the medical advisor and the course committee:

- (a) complete and submit the course application forms approved by the board;
- (b) establish the course schedule(s);
- (c) provide for facilities and training materials;
- (d) arrange for in-hospital clinical experience;
- (e) maintain attendance, evaluation and examination records for each student;
- (f) schedule instructors and provide them with the material necessary to complete the instruction;
- (g) recommend qualified instructors;
- (h) perform other tasks as directed by the medical advisor.

(5) The course committee shall:

- (a) provide direction and technical advice to the course and continuing education;
- (b) assist in classroom and clinical instruction as appropriate;
- (c) participate in student evaluation;
- (d) participate in the performance evaluation of practicing EMT's;
- (e) participate in review of student applications and selection;
- (f) assure the availability of a local program of continuing education for EMT's;
- (g) recommend candidates for certification or recertification to the board by endorsement on the application or certification form;
- (h) approve or disapprove faculty selections recommended by the course coordinator;
- (i) review results of interim exams;
- (j) perform other tasks as assigned by the medical advisor. (Authority: Section 50-6-203, MCA; Implement: Section 50-6-204, MCA)

RULE IX. EMT - BASIC: STUDENT PREREQUISITES (1) To be eligible for admission to an EMT basic course, a student must:

- (a) be 18 years of age or older at the beginning of the course;
- (b) be a high school graduate or equivalent;
- (c) be approved for admission by the local medical advisor in consultation with the course committee;
- (d) either demonstrate that he/she is currently functioning as a health care provider or submit a letter of intent to become an emergency care provider from the applicant. (Authority: Section 50-6-203, MCA; Implement: Section 50-6-204, MCA)

RULE X. EMT - BASIC: CERTIFICATION - FEES

- (1) Certification shall be for a period of not less than 18 months, nor more than 30 months.

Certification shall become due for renewal on December 31. The board may certify only those students who:

- (a) submit an application of forms designated by the board;
- (b) attend 90% of the classes and make up all lessons missed;
- (c) pass the written examination and the practical examination specified by the board and registry;
- (d) complete a minimum of 10 hours of in-hospital clinical experience;
- (e) pay a fee designated by the board as sufficient to cover costs of examination and processing of the application;
- (f) provide from the emergency care facility or service that he/she is/will become an active emergency care provider upon completion of certification. (Authority: Section 50-6-203, MCA; Implement: Section 50-6-204, MCA)

RULE XI. EMT - BASIC: RECERTIFICATION - FEES

- (1) An EMT-basic will be recertified by the board every two years (the EMT certification shall terminate on March 31 following the date of expiration) provided that the EMT-basic:
 - (a) submits an application for recertification on forms designated by the board;
 - (b) has accumulated credits in compliance with registry board guidelines;
 - (c) has been evaluated and recommended for recertification by the local course committee and medical advisor;
 - (d) demonstrates that he/she continues to be an emergency care provider;
 - (e) pays a fee designated by the board as sufficient to cover recertification costs;
 - (f) submits documentation of all approved continuing education and submits completed forms with the appropriate fee to the bureau on or before February 1, following the date of expiration. (Authority: Section 50-6-203, MCA; Implement: Section 50-6-204, MCA)

RULE XII. EMT - ADVANCED: ACTS ALLOWED (1) The emergency medical technician-intermediate (EMT-I) may perform all acts allowed the EMT-basic and, when properly trained, certified, and functioning within an approved service and when directed to perform a specific act by medical control also may:

- (a) insert an esophageal obturator airway (EOA) or an esophageal gastric tube airway (EGTA);
- (b) place peripheral intravenous fluid lines;
- (c) administer approved intravenous fluids;
- (d) perform endotracheal suctioning;

- (e) perform peripheral venipuncture;
- (2) The emergency medical technician-paramedic (EMT-P) may perform all acts allowed the EMT-basic and the EMT-I and, when properly trained, certified, and functioning within an approved service and when directed to perform a specific act by medical control also may:
 - (a) administer intramuscular, subcutaneous and intravenous injections;
 - (b) administer the following list of drugs approved for use by the board:
 - (i) medium acting barbiturates
 - (ii) Lidocaine (Xylocaine)
 - (iii) Morphine Sulfate
 - (iv) Diazepam (Valium)
 - (v) Calcium Gluconate
 - (vi) Calcium Chloride
 - (vii) Ipecac
 - (viii) Saline
 - (ix) Dextrose 5%-50%
 - (x) Lactated Ringers
 - (xi) Atropine Sulfate (Atropine)
 - (xii) Epinephrine (Adrenalin)
 - (xiii) Furosemide (Lasix)
 - (xiv) Naloxone (Narcan)
 - (xv) Aminophylline
 - (xvi) Diphenhydramine HCL (Benadryl)
 - (xvii) Isoproterenol (Isuprel)
 - (xviii) Dopamine (Intropin)
 - (xix) Metaraminol (Aramine)
 - (xx) Norepinephrine (Levarterenol/levophed)
 - (xxi) Sodium Bicarbonate
 - (xxii) Nitroglycerin
 - (xxiii) Propranolol (Inderal)
 - (xxiv) Procainamide (Pronestyl)
 - (xxv) Hydralazine (Apresoline/Hyperstat)
 - (xxvi) Phenytoin Sodium (Dilantin)
 - (xxvii) Mannitol
 - (xxviii) Pitocin
 - (xxix) Edecrin
 - (xxx) Dobutres (Dobutamine)
 - (xxxi) Nipride (Nitroprusside)
 - (xxxii) Decadron (Corticosteroids)
 - (xxxiii) Digitalis (Digoxin, Digitoxin)
 - (xxxiv) Quinidine
 - (xxxv) Bretylium Tosylate (Bretlyol)
 - (c) perform tracheostomy suctioning;
 - (d) perform direct laryngoscopies;
 - (e) perform endotracheal intubations;

- (f) apply electrodes and monitor EKG's;
 - (g) perform cardiac defibrillations;
 - (h) perform cardioversions.
- (3) Where a medical director determines that a service has both the need and personnel have demonstrated competence, he may direct that the following skills be taught to and performed by EMT-P's. They must be functioning within an approved service and when directed to perform a specific act by medical control also may:
- (a) insert subclavian, external and internal jugular IV lines;
 - (b) perform cricothyroidotomy;
 - (c) perform transtracheal jet insufflation;
 - (d) insert catheter and Heimlich valve tension pneumothorax relief;
 - (e) perform carotid sinus massage;
 - (f) administer intracardiac injections;
 - (g) perform transthoracic pacemaker placement;
 - (h) perform phlebotomy;
 - (i) perform minor suturing;
 - (j) insert urinary bladder catheter;
 - (k) insert naso-gastric tube;
 - (l) use rotating tourniquets.
- (4) The advanced emergency medical technician may perform the specified advanced acts only:
- (a) when he has patient-side voice contact with on-line medical control and is directed to perform a specific act;
 - (b) or, when he is initiating formally adopted, written protocols of the medical director prior to initiating voice communication in only the pulseless, non-breathing patient.
- (5) When patient-side communications cannot be established within the service area and where the medical director has authorized by written policy, an EMT-advanced may initiate treatment according to approved written standing protocols provided that:
- (a) voice contact with on-line medical control is made by most expedient means possible after the initiation of treatment;
 - (b) within 24 hours from the time such emergency technique is performed, the EMT-advanced submits a full written report on forms designated by the bureau describing the circumstances;
 - (c) if in more than 10% of the total advanced calls per year, patient-side communications can not or was not established the service shall be reinspected for conformance.

(6) A student who is participating in an approved advanced, EMT program, may perform the advanced techniques listed in (1), (2), and (3) above only under the direct supervision of a physician or registered nurse.

(7) An EMT-I may not perform any technique defined as an advanced technique by the U.S. department of transportation "Emergency Medical Technician-Paramedic" training curriculum, nor may an EMT-I perform outside his/her approved advanced EMT service and medical control.

(8) An EMT-P may not perform any act determined by the medical director to be beyond the EMT-P acts allowed, nor may he function outside his/her approved advanced EMT service, and medical control. (Authority: Section 50-6-203, MCA; Implement: Section 50-6-205, MCA)

RULE XIII. EMT - ADVANCED: COURSE REQUIREMENTS

(1) An EMT-advanced course shall be managed by a course coordinator (who is not a student in this class) under the supervision of a training director and shall:

(a) be conducted according to the current advanced curriculum available from the U.S. department of transportation;

(b) provide clinical experience as specified in the approved curriculum;

(c) provide for the teaching of all required material in each module that is approved for presentation;

(d) provide at least one instructor per 2 students when practical skills are taught;

(e) be approved by the board prior to beginning instruction; a written copy shall be provided to each student prior to the initiation of training;

(f) provide that the course is completed as follows:
(i) EMT-Intermediate course - 6 months from starting date of course;

(ii) EMT-Paramedic - 18 months from starting date of course.

(2) The medical training director of an EMT-advanced course shall:

(a) obtain approval from the hospital medical staff(s) (providing clinical training) to initiate an advanced EMT course;

(b) be responsible for the selection and orientation of clinical preceptors;

(c) assure overall direction and coordination of the planning, ~~organization~~, administration, periodic review, continued development and effectiveness of the program;

(d) oversee that the course is conducted as outlined

in the curriculum;

(e) oversee the quality of instruction and clinical experience;

(f) oversee course compliance with all applicable board regulations;

(g) critique patient care during training and assure maintenance of written documentation of same;

(h) participate in review of student applications and selection;

(i) review results of interim examinations;

(j) in conjunction with the course committee, recommend to the board candidates for certification.

(3) The course committee of an EMT-advanced course shall include, but shall not be limited to:

(a) medical training director of the course;

(b) physician medical staff representative from participating medical facility(s);

(c) course coordinator;

(d) registered nurses currently providing emergency care in the facility;

(e) currently-certified EMT's who are providing emergency care in the field (advanced-EMT will be required after completion of the first training course);

(f) hospital administrator(s) or representative from participating medical facility(s).

(4) The course coordinator, under the supervision of the medical training director and course committee, shall:

(a) complete and submit the course application forms approved by the board;

(b) arrange for training facilities and materials;

(c) arrange for in-hospital and in-field clinical experience with appropriate supervision;

(d) establish course schedules;

(e) maintain attendance, evaluation and examination records for each student;

(f) schedule instructors and provide them with the material necessary to complete the instruction;

(g) perform other tasks as assigned by the medical training director.

(5) The course committee shall:

(a) provide direction and technical expertise to the course;

(b) assist in classroom and clinical instruction as appropriate;

(c) participate in student evaluation;

(d) participate in review of student applications and selection of students;

(e) recommend candidates for certification to the medical training director by endorsement of applications

for certification;

(f) perform other tasks as assigned by the medical training director.

(6) For EMT-Intermediate courses; training facilities and clinical experience shall include but shall not be limited to:

(a) classroom space sufficient to accommodate students, instructor(s) and all necessary equipment;

(b) access to manikins, A-V equipment, A-V soft goods and expendable supplies/equipment as specified in the EMT-Paramedic course guide;

(c) sufficient patient volume to allow students to complete all clinical experience within 6 months of the course starting date;

(d) clinical facilities, including but not limited to;

(i) emergency department with physician staffing,

(ii) intensive care unit/coronary care unit,

(e) clinical experience with an instructor/student ratio of no more than 1:2, which provides sufficient number of each of the following supervised experiences to demonstrate student proficiency and accuracy;

(i) patient examination and documentation of findings,

(ii) patient interview for pertinent medical/social history and documentation of findings,

(iii) peripheral IV insertions on patients and documentation of the procedure,

(iv) peripheral IV maintenance, adding, changing or discontinuing IV fluids with appropriate documentation,

(v) airway management including oropharyngeal and endotracheal suctioning with appropriate documentation,

(vi) placement of esophageal obturator airways in live patients with appropriate documentation,

(vii) venipuncture for obtaining venous blood specimen with the appropriate documentation.

(7) For EMT-Paramedic courses, training facilities and experience shall include, but shall not be limited to:

(a) classroom space sufficient to accommodate students, instructor(s) and all needed equipment;

(b) access to manikins, A-V equipment, A-V soft goods, patient care equipment and expendable supplies as specified in the EMT-Paramedic course guide;

(c) sufficient patient volume to allow students to complete all clinical experiences within 18 months of the starting date of the course;

(d) clinical facilities, including but not limited to:

- (i) emergency department with 24 hour, in-house emergency physician staff,
 - (ii) intensive care unit/coronary care unit,
 - (iii) operating/recovery room,
 - (iv) pediatric unit,
 - (v) labor/delivery room/newborn nursery,
 - (vi) psychiatric unit,
 - (vii) morgue,
 - (viii) radiology department,
 - (ix) respiratory therapy department.
 - (e) clinical experience provided with an instructor/student ratio of no more than 1:2;
 - (f) completion of all clinical objectives specified in required U.S. department of transportation emergency medical technician-paramedic training curriculum.
- (Authority: Section 50-6-203, MCA; Implement: Section 50-6-205, MCA)

RULE XIV. EMT-ADVANCED: STUDENT ELIGIBILITY (1) To be eligible for admission to an EMT-Intermediate course, a student must:

- (a) be 19 years of age or older at the beginning of the course;
 - (b) be a high school graduate or equivalent;
 - (c) be board certified as a Basic-EMT in Montana;
 - (d) prove that he/she is currently an emergency care provider with at least one year of pre-hospital patient care experience;
 - (e) be accepted by the medical training director and course committee;
 - (f) be free of any physical or mental disabilities that would render him/her incapable of performing as an emergency medical technician-intermediate.
- (2) To be eligible for admission to an EMT-Paramedic course, a student must:
- (a) be 19 years of age or older at the beginning of the course;
 - (b) be a high school graduate or equivalent;
 - (c) be board certified as a basic EMT or EMT-Intermediate in Montana;
 - (d) prove that he/she is currently providing pre-hospital emergency care at the basic or intermediate level;
 - (e) be accepted by the medical training director and course committee;
 - (f) be free of any physical or mental disabilities that would render him/her incapable of performing as an emergency medical technician-paramedic. (Authority: Section 50-6-203, MCA; Implement: Section 50-6-205, MCA)

RULE XV. EMT-ADVANCED: CERTIFICATION FEES (1) A qualified EMT-advanced shall be certified for a period of not less than 18 months, nor more than 30 months. Certification shall become due for renewal on December 31. The board may certify only those students who:

- (a) submit an application on forms designated by the board;
- (b) attend and participate in all of the required classes and clinical experience, both in-hospital and pre-hospital;
- (c) pass the written examination and the practical examination for certification as specified by the board and the registry;
- (d) prove that he/she will be functioning as an EMT-I or EMT-P within an approved advanced system;
- (e) pay a fee designated by the board as sufficient to cover costs of examination and the processing of the application;
- (f) are recommended for certification by the medical director.

(2) The advanced EMT certification shall terminate on March 31 following date of expiration unless he:

- (a) submits an application on forms designated by the board;
- (b) pays a fee designated by the board as sufficient to cover recertification costs;
- (c) accumulates sufficient credits in compliance with registry board guidelines;
- (d) has been evaluated and recommended for recertification by the medical director;
- (e) demonstrates that he/she continues to be an emergency care provider within an approved advanced EMT service;
- (f) submits documentation of all approved continuing education and submits completed forms with the appropriate fee to the bureau on or before January 1, following the date of expiration. (Authority: Section 50-6-203, MCA; Implement: Section 50-6-205, MCA)

RULE XVI. EMT - ADVANCED: SERVICE APPROVAL (1) No person, corporation, partnership or any other organization may initiate or conduct any part of an advanced EMT activity until the board has approved its application for an advanced EMT service.

(2) Any person, corporation, partnership or any other organization seeking to establish an advanced EMT service shall complete an application form approved by the board and shall submit the application to the bureau.

(3) Upon receipt of an application, the board and/or bureau may request from the applicant any information

necessary for a proper evaluation.

(4) Within 30 days from receipt of the application or, if additional information is requested, within 30 days from receipt of such information, the board shall in writing approve or reject the application for an advanced EMT service.

(5) The board may disapprove any proposed advanced EMT service which, in its judgment, does not:

- (a) provide all requested information;
- (b) assure compliance with the provisions of (Rule VIII) and (Rule XIII).

(6) The board shall hear grievances and complaints and conduct inquiries regarding the conduct and performance of advanced EMT's, local service management and quality control and shall take appropriate action thereon.

(7) To be approved as an advanced EMT service by the board, the applicant shall meet the following service criteria:

- (a) medical control;
 - (i) provide for designated medical director,
 - (ii) provide for designated on-line medical personnel,
 - (iii) provide for designated medical control facility,
 - (iv) provide for patient-side communications,
 - (v) provide for written protocols.
- (b) sufficient personnel to assure 24 hour service availability consistent with acts allowed, and as adopted by the board;
- (c) communications;
 - (i) provide for a designated service area dependent upon patient-side radio communications capability,
 - (ii) provide for a dispatch center that shall be capable of receiving calls from the service area via a single access phone number, and radio communication with all field advanced EMT's,
 - (iii) provide for the following equipment at the intermediate level:

- (A) E.O.A. Any combination
E.G.T.A. minimum of (3)
- (B) IV solutions (1000cc)
 - D5W (2)
 - LR (6)
 - Saline (2)
- (C) IV Administration Sets
 - MACRO (4)
 - MINI (1)
 - MICRO (1)
- (D) Intercaths
 - 12 gauge (8)
 - 14 gauge (8)
 - 16 gauge (8)

- 18 gauge (8)
- 20 gauge (8)
- (E) IV Tourniquets (3)
- (F) M.A.S.T. Pants
 - Adult
 - Pediatric
- (G) Swabs
 - Alcohol
 - Betadine
- (H) Pen/pencil with paper
- (I) American College of Surgeon's current minimim equipment for a basic life support ambulance (June 1981)
 - (iv) provide for the following equipment at the paramedic level:
 - (A) Monitor/Defibrillator
 - portable self contained DC powered - with self contained monitor and ECG strip writer with quick look paddles
 - (B) Pediatric paddles
 - (C) IV Catheters
 - 12 gauge (10)
 - 14 gauge (10)
 - 16 gauge (10)
 - 18 gauge (10)
 - 20 gauge (10)
 - (D) Needles (Butterfly)
 - 19 gauge (10)
 - 21 gauge (10)
 - 23 gauge (10)
 - (E) Needles
 - 18 gauge (10)
 - 22 gauge (10)
 - 25 gauge (10)
 - (F) IV Solutions (1000cc or equivalent)
 - D5W (5)
 - LR (6)
 - Saline (2)
 - (G) IV Administration Sets
 - MACRO (7)
 - MINI (3)
 - MICRO (3)
 - (H) Syringes
 - 1cc TB
 - 3cc Monoject
 - 6cc Monoject
 - 12cc Monoject
 - 35cc Monoject

- (I) ET Tubes
Oral 3-9 (2 each)
Nasal 3-9 (2-each)
- (J) Laryngoscopes
Handle (1)
Blades (1 set infant through adult)
- (K) McGill Forceps (1)
- (L) E.O.A. Total (3)
E.G.T.A. any combination
- (M) Alcohol swabs
- (N) Betadine swabs
- (O) IV Tourniquets (3)
- (P) Pen/pencil with paper
- (Q) Amercian College of Surgeon's current minimum
equipment for basic life support ambulance (June 1981)
- (R) Prejelled electrodes (12)
- (S) Conductive Jell
- (T) Approved Drugs
- (U) Copies of local approved ALS Protocols
- (V) M.A.S.T. Trousers
Adult
Pediatric
- (d) transportation:
 - (i) provide transportation via a Montana licensed ambulance service;
 - (ii) provide designated emergency vehicles for initial response.
 - (e) mutual aid:
 - (i) provide mutual aid agreements that provide for 24 hour, 7 day a week coverage with all licensed pre-hospital EMS providers in and bordering the designated service area. These agreements shall, as a minimum, include the following:
 - defined primary and secondary geographic response areas;
 - defined limitations of mutual aid agreements;
 - defined initiation of mutual aid agreements.
 - (ii) provide mutual aid agreements with any existing medical control facilities within or serving the designated service area. These agreements shall, as a minimum, include the following:
 - an acknowledgement of the others existence;
 - provisions for assuming on-line medical direction in the event of equipment failure.
 - (iii) provide a mutual aid agreement among all receiving hospitals within or adjacent to designated service area. These agreements shall, as a minimum, include the following:
 - a distribution plan for patients to be initiated by medical control. (Authority: Section 50-6-203, MCA; Implement: Section 50-6-205, MCA)"

4. The board has proposed these rules in order to more clearly define the standards for training and operation of emergency medical technicians. The rules will provide a clearer response to the statutory mandate to establish standards for emergency medical technicians at both the basic and advanced level. Because of the complexity of these proposed rules and the difficulty of integrating them with the existing rules, the board has determined that the existing rules should be repealed in their entirety and replaced with the proposed rules.

5. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written data, view or arguments may also be submitted to the Board of Medical Examiners, 1424 9th Avenue, Helena, Montana 59620-0407, no later than December 22, 1982.

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

7. The authority and implementing sections for the new rules are listed after each proposed rule. The authority of the board to repeal the existing rules is based on section 50-6-203, MCA.

BOARD OF MEDICAL EXAMINERS
THOMAS MALEE, M.D., PRESIDENT

BY:


GARY BUCHANAN, DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, November 15, 1982.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF PROPOSED AMENDMENT
of Rule 10.57.102 Definitions) OF RULE 10.57.102 DEFINITIONS
Teacher Certification) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On December 24, 1982, the Board of Public Education proposes to amend rule 10.57.102, Definitions relating to Teacher Certification.

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

10.57.102 DEFINITIONS

(1) through (10) (a) remain the same.

(b) An applicant seeking an initial administrative endorsement for the secondary grades who has teacher training at the 7-12 level will be given an option of receiving a Class 3 certificate allowing practice at only the 7-12 level or a provisional Class 5 certificate to complete the 5-12 deficiencies in his teaching program while serving in a 5-12 setting.

(11) through (20) remain the same.

AUTH: 20-4-102 IMP: 20-4-106

3. The board of public education is proposing this amendment on the recommendation of the office of public instruction to add this for the purpose of allowing some flexibility for experienced administrators who are serving in the state and who may have come into the state from other states.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Allen D. Gunderson, Chairman, Board of Public Education, 33 South Last Chance gulch, Helena, Montana 59620 no later than December 22, 1982.

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 Allen D. Gunderson, Chairman, Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59620 no later than December 22, 1982.

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 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 100 persons based on 1,000 school administrators in the state of Montana.

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

Allen D. Gunderson

ALLEN D. GUNDERSON, CHAIRMAN
BOARD OF PUBLIC EDUCATION

By

Underlain D. Jensen

Certified to the Secretary of State November 15, 1982.

TO: All Interested Persons

1. On December 20, 1982 at 11:00 a.m. to 12:00 p.m. a public hearing will be held in the Board of Regents Conference Room, 33 South Last Chance Gulch, Helena, Montana, to consider the adoption of rules relating to the external diploma program.
2. The proposed rules do not replace or modify any section currently found in the Administrative Rules of Montana.
3. The rules as proposed provide as follows:

RULE 1 OPERATIONS (1) The adult education specialist of the office of public instruction is the accountable officer for administration and operational procedures for program operations and the establishment of authorized external diploma program centers.

(2) A center may be established in any accredited school district, community college or other public funded educational institution. The typical center will be located in public school districts, vocational technical centers or public tax supported community colleges preferably as part of an adult basic educational program.

(3) A center must be established with not less than two adequately trained professional educators. The minimum criteria for external diploma program staff members are:

(a) Holder of a current Montana teaching certificate;

(b) At least one week of training in delivering the services of the program;

(c) An appreciation of the effect upon successful participants in the program and of the need to sustain program integrity.

AUTH: 20-7-111 IMP: 20-2-121(10)

RULE II ELIGIBILITY (1) The candidates must be residents of the state of Montana who have attained their nineteenth birthday and whose high school class shall have graduated.

(a) A person is a resident of the state if any of the following conditions are met:

(i) Has resided in the state for thirty consecutive days prior to enrollment;

(ii) Shows evidence of having paid property or income taxes for the current or the immediate prior year; or

(iii) Shows exceptional circumstances that may constitute a basis for consideration, i.e., special social, physical, economic or educational circumstance beyond control of the applicant.

(b) Proof of age consists of birth certificate or equally authentic documentation.

(2) An individual enrolled in any accredited secondary education institution, or having been enrolled six months prior to application for enrollment in the program is not eligible for admittance to the program. Exceptions can be made by the adult education specialist with proper documentation.

AUTH: 20-7-111 IMP: 20-2-121(10)

RULE III ENROLLMENT (1) Each individual enrolling in the external diploma program will be evaluated by program staff in order to establish applicable academic skill levels. Requirements of previous academic achievement may not be used as enrollment criteria.

AUTH: 20-7-111 IMP: 20-2-121(10)

RULE IV AGREEMENT (1) Each candidate must have completed an individual education program agreement between the candidate and an authorized external diploma program center, delineating areas of concern for skill development, level of achievement, and a timeline for completion of the program.

AUTH: 20-7-111 IMP: 20-2-121(10)

RULE V RECORDS (1) An active file for each enrollee in the external diploma program will be maintained at the center. The individual education program, initial evaluation results and documentation of progress in the program will be retained in this file together with correspondence or other information pertinent to the individual and the external diploma program process.

(2) Upon successful completion of the external diploma program, records from an individual's file will be transferred to the adult education specialist in the office of public instruction.

(3) The following documents will constitute the permanent file for each individual maintained in the office of public instruction: assessment and diagnostic summary, individual education program agreement, and individual enrollment form. The data entered on the enrollment form will become part of the permanent file for the applicant kept in the office of public instruction. When necessary the external diploma program center personnel may assist the applicant to provide accurate and correct information.

AUTH: 20-7-111 IMP: 20-2-121(10)

RULE VI NON-COMPLETION OF THE PROGRAM (1) If an individual fails to complete the requirements within the provisions of the individual education program agreement, a new agreement may be negotiated between the individual and the external diploma center. Once an agreement is established, however, only the timelines should be considered for renegotiation unless extreme and unusual circumstances prevail, and documentation of those circumstances is provided to the center.

(2) If an individual withdraws from the program without notifying the external diploma program center, after the expiration of the individual program agreement the center must maintain the individual's active file for five years. Upon expiration of this waiting period the center will forward to the adult education specialist the following records:

- (a) Assessment and diagnostic summary;
- (b) Individual education program agreement;
- (c) Individual enrollment form;
- (d) A notification for the external diploma program center director of the circumstances for termination of the individual enrollment, and of the level of achievement reached at the time of termination.

AUTH: 20-7-111 IMP: 20-2-121(10)

RULE VII ANNUAL REPORT (1) The superintendent of public instruction will report to the board of public education annually the number of external diploma programs in the state and number of students enrolled in the programs.

AUTH: 20-7-111 IMP: 20-2-121(10)

4. The board of public education is proposing this rule in order to allow adults who have not completed a formal process of secondary education to receive documentation of their having acquired the generally accepted skills and knowledge of a Montana secondary school graduate.

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 Allen D. Gunderson, Chairman, Board of Public Education, 33 South Last Chance Gulch, Helena, Montana, 59620, no later than December 22, 1982.

6. Harriett Meloy, Member of the Board of Public Education, and Hidde Van Duym, Executive Secretary to the Board of Public Education, 33 South Last Chance Gulch, Helena, Montana have been designated to preside over and conduct the hearing.

7. The authority of the agency to make the proposed adoption is based on section 20-7-111, MCA, and the rule implements section 20-2-121(10), MCA.

Allen D. Gunderson

ALLEN D. GUNDERSON, CHAIRMAN
BOARD OF PUBLIC EDUCATION

By

Wanda Lou Dyer

Certified to the Secretary of State November 15, 1982 .

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

In the matter of the amendment) NOTICE OF PUBLIC HEARING
of rules 16.8.1201, 16.8.1202,) ON PROPOSED AMENDMENT OF
and 16.8.1203, governing tall) RULES 16.8.1201,
stacks) 16.8.1202 AND 16.8.1203
(Air Quality)

TO: All Interested Persons

1. On January 14, 1983, at 9:00 a.m., or as soon thereafter as the matter may be heard, a public hearing will be held in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the amendment of rules 16.8.1201, 16.8.1202, and 16.8.1203, governing the use of tall stacks to reduce levels of air contaminants in the ambient air.

2. The proposed rules would amend sections 16.8.1201, 16.8.1202 and 16.8.1203 found at pages 16-212 through 16-214 of the Administrative Rules of Montana in order to comply with Section 123 of the Federal Clean Air Act. Specifically, the amendments would clarify dispersion techniques used with tall stacks, make clarifications in the definition of Good Engineering Practices (GEP), add two new definitions, and make other minor clarifications within the stated sections of the Administrative Rules of Montana.

3. The rules as proposed to be amended provide as follows (matter to be stricken is interlined, new material is underlined):

16.8.1201 DEFINITIONS (1) For purposes of this subchapter, the following definitions apply:

(a) "Stack" means any point in a source, designed to emit solids, liquids, or gases into the air, including a pipe, duct, or flare.

(b) "In existence" means that the stack is physically complete.

(c) "Dispersion technique" means any ~~method~~ technique which ~~is intended attempts~~ to affect the concentration of an ~~air contaminant~~ a pollutant in the ambient air by

~~{+}~~ use of using that portion of a stack which exceeds good engineering practice stack height,

~~{++}~~ varying the rate of emission of an air contaminant according to atmospheric conditions or ambient concentrations of that air contaminant, or by addition of a fan or reheater to obtain a less stringent emission limitation.

~~{+++}~~ the manipulation of source process parameters or selective handling of exhaust gas streams. The preceding sentence does not include:

(i) the reheating of a gas stream following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(ii) the use of smoke management in agricultural or silvicultural programs; or

(iii) combining the exhaust gases from several stacks into one stack.

(d) "Good engineering practice (GEP) stack height" means the greater of: that stack height necessary to ensure that emissions from the stack do not result in excessive concentrations of any air contaminant in the immediate vicinity of the source as a result of atmospheric downwash, eddies, and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles and shall not exceed as appropriate.

(i) 30 65 meters, for stacks uninfluenced by structures or terrain; or

(ii) $H_G = H + 1.5 L$

where: H_G = good engineering practice stack height, measured from the ground level elevation at the base of the stack

where H = height of structure or nearby structure(s) measured from the ground level elevation at the base of the stack

L = lesser dimension (height or projected width) of the structure or nearby structure(s), for stacks influenced by structures.

(iii) such height as an owner or operator of a source demonstrates is necessary through the use of field studies or fluid models after notice and opportunity for public hearing.

(e) "Excessive concentrations" for the purpose of determining good engineering practice stack heights in fluid modeling studies means a maximum concentration of any air contaminant in excess of an ambient air quality standard, due in part or whole to downwash, wakes or eddies which is at least 40 percent in excess of the maximum concentration of any air contaminant experienced in the absence of downwash, wakes or eddy effects produced by nearby structures or terrain.

(f) "Plume impaction" means concentrations measured or predicted to occur when a plume interacts with elevated terrain.

(g) "Elevated terrain" means terrain which exceeds the elevation of the good engineering practice stack height as calculated under subsection (d) of this rule.

AUTHORITY: Sec. 75-2-111, 75-2-203, MCA

IMPLEMENTING: Sec. 75-2-203, MCA

16.8.1202 REQUIREMENTS (1) Any source whose stack emissions are controlled in order to attain and maintain any national ambient air quality standard or to prevent significant deterioration of the air quality shall, except as provided in ARM 16.8.1203(2), accomplish such control through

emission limitation alone. Except as provided in ARM 16.8.1203(2), The degree of emission limitation so required of any source for control of any air contaminant shall not be is not affected by so much of that source's stack height that exceeds good engineering practice or by any other dispersion technique, except as provided in ARM 16.8.1203.

AUTHORITY: Sec. 75-2-111, 75-2-203, MCA

IMPLEMENTING: Sec. 75-2-203, MCA

16.8.1203 EXCEPTIONS (1) This sub-chapter shall not apply to stack heights in existence, or dispersion techniques implemented, prior to December 31, 1970, ~~or to non-ferrous smelters operating under non-ferrous smelter orders obtained pursuant to section 119 of the Federal Clean Air Act as amended on August 7, 1977.~~

(2) The good engineering practice (GEP) stack height for any source seeking credit because of plume impaction must comply with the following:

(i) The source must determine its GEP for downwash, wake, or eddies using any of the 3 methods described in ARM 16.8.1201(d). Using this GEP, the source must show that its plume would come into contact with elevated terrain features and, together with background concentrations, cause a violation of a national or Montana ambient air quality standard or an applicable prevention of significant deterioration increment. If such a demonstration of plume impaction is not demonstrated through the model, credit for plume impaction is not applicable.

(ii) The source's maximum allowable emission limitation will be determined using the downwash stack GEP height determined above and assuming that the terrain feature or features causing the impaction is no taller than its downwash GEP height.

(iii) The source may adjust its GEP stack height to account for plume impaction on actual terrain features above the downwash GEP stack height.

AUTHORITY: Sec. 75-2-111, 75-2-203, MCA

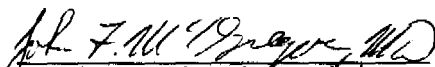
IMPLEMENTING: Sec. 75-2-203, MCA


4. The Board is proposing these amendments to the rules to conform Montana's state implementation plan (SIP) to recent federal Environmental Protection Agency changes in stack height requirements, action which is necessary for the SIP to remain fully effective.

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 Robert L. Solomon, Cogswell Building, Capitol Station, Helena, Montana, 59620, no later than January 7, 1983.

6. Robert L. Solomon has been designated to preside over

and conduct the hearing.


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 November 15, 1982

BEFORE THE DEPARTMENT OF
STATE LANDS OF THE
STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED AMENDMENT
amendment of rules	)	OF ARM 26.2.501, 26.3.210 and
26.2.501, 26.3.210 and	)	26.3.211 (royalties and delay
26.3.211 relating to	)	drilling penalties for oil
royalty charges and	)	and gas leases on state land)
delay drilling penalties	)	No PUBLIC HEARING CONTEMPLATED
for oil and gas leases)	
on state land)	

To: All Interested Persons

1. On January 17, 1983, the board of land commissioners and department of state lands proposes to amend rules 26.2.501, 26.3.210 and 26.3.211 relating to royalty charges and delay drilling penalties for oil and gas leases on state land.

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

26.2.501 RENTAL AND ROYALTY CHARGES (1) Current minimum rental and royalty charges for various leases and permits issued on state land are as follows:

(a) The fees for oil and gas are as follows:

(i) The rental shall be not less than \$1.50 per acre per annum (minimum of \$100.00 per lease);

(ii) The non-drilling penalty shall be \$1.25 per acre per annum for the 6th ~~through-10th~~ year in addition to annual rental.

(iii) The non-drilling penalty shall be \$2.50 per acre per annum for the 7th through the 10th year in addition to annual rental. The drilling penalty of \$2.50 per acre per annum for the 7th through the 10th year shall become effective beginning February 10, 1984. Prior to February 10, 1984 such penalty shall remain \$1.25 per acre per annum.

(iv) ~~++++~~ The royalty for oil or casing-head gasoline shall be 13% not-less-than-12-1/2% of the 1st-3000-barrels from-each-producing-well-each-calendar-month-and-not-less-than-17-1/2% for-the-amount-exceeding-3000-but-not-exceeding-6000 barrels-from-each-producing-well-each-calendar-month.

(v) ~~iv~~ The royalty rate for oil is based on the posted price on the day run into pipe or storage tank, or actual price obtained or reasonable market value at the wells if no posted field price.

(vi) ~~iv~~ The royalty for gas shall be not less than 12 1/2% or when gas is not sold or used off the premises the royalty is \$400 per well each year or the annual rental whichever is greater.

(vii) ~~(vi)~~ The royalty rate for gas is based on posted field price on the day gas is run into pipe or storage area, or on the actual price obtained or reasonable market value at the wells, if no posted field price. There is a minimum of 5¢ per 1000 cubic feet.

(b) The fees for coal are as follows:

(i) The rental shall not be less than \$2.00 per acre per annum for 1st through 10th year. The rental is subject to adjustment at the end of the 10th year and at 5 year intervals thereafter.

(ii) The royalty shall not be less than 10% of the f.o.b. mine price of a ton prepared for shipment, excluding that amount charged by the seller to pay taxes paid on production. Such rate is subject to adjustment at the end of the 10th year and at five year intervals thereafter.

(c) The fees for uranium are as follows:

(i) The rental shall be not less than \$1.00 per acre per annum for first 5 years, thereafter \$2.00 per acre per annum.

(ii) The royalty shall be not less than 5% of gross amount received.

(d) The fees for bentonite are as follows:

(i) The rental shall be not less than \$1.00 per acre per annum.

(ii) The royalty shall be not less than 25¢ per ton - minimum of 5% of gross amount received.

(e) The fees for metalliferous leases are as follows:

(i) The rental shall be not less than \$1.00 per acre per year.

(ii) The royalty shall be not less than 5% of gross amount received.

(f) The fees for nonmetalliferous leases are as follows:

(i) The rental shall be not less than \$1.00 per acre per annum subject to review every five years.

(ii) The royalty shall be not less than 5% of gross amount received.

(g) The fees for sand and gravel are as follows:

(i) For leases, the advance royalty and royalty per cubic yard shall be negotiated at the going market price in area. The minimum is 5¢ per cubic yard gravel and 12¢ per cubic yard for sand.

(ii) For permit, the royalty shall be negotiated at the going market price in area. The minimum is 5¢ per cubic yard for gravel and 12¢ per cubic yard for sand.

AUTH: 77-3-402, MCA

IMP: 77-3-424, 77-3-432, MCA

26.3.210 DELAY DRILLING PENALTIES (1) The lessee shall commence the drilling of a well for oil or gas upon the leased

premises within 5 years of the date of approval of the lease or pay in advance a delay drilling penalty as follows:

(a) Prior to February 10, 1984, for all leases regardless of date of issuance, \$1.25 per acre for the 6th year through the 10th year of the lease.

(b) After February 10, 1984, for all leases regardless of the date of issuance, \$1.25 per acre for the 6th year and \$2.50 per acre for the 7th through 10th year. for the sixth year of the lease \$1.25 per acre covered by the lease, and for the remainder of the primary term of the lease an amount per acre per year as the board may, in its discretion, determine. The delay drilling penalty for the seventh and succeeding years of the primary term of the lease shall continue at the rate of \$1.25 per acre per year, unless the board notifies the lessee not less than 60 days before the commencement of the next year of the lease that payment at a different rate is required or permitted, provided that if the lessee shall apply for a hearing thereon within 10 days after receipt of notice, the determination of a different delay drilling penalty rate shall become final only after such hearing has been held, and the rate determined by the board has been affirmed. Upon failure of the lessee to either commence the drilling of a well for oil and gas upon the leased premises or to pay the required delay drilling penalty, the board shall have full power and authority to declare termination of the lease as of the end of the annual period of the lease in which the failure to so commence drilling or to so pay occurs. Any such termination of the lease shall be after notice to the lessee of the board's proposed action, and after hearing thereon if the lessee so requests in writing.

(2) Failure to commence drilling a well or to pay the required delay drilling penalty shall be grounds for cancellation of the lease. Cancellation shall not occur until after notice and opportunity for an informal hearing to determine whether a well was commenced or delay drilling penalties were paid as required.

(3) ~~(2)~~ If the first a well drilled on the leased premises is a dry hole, and if a second another well is not commenced on the land covered by the lease before the 7th year or next second anniversary of the lease following the completion of the well, whichever comes later, the lease may be terminated by the board, unless the lessee, on or before such anniversary date, resumes the payments of pays the penalties in the amounts provided in this section. Upon the resumption of the payment of such delay drilling penalties and their continued payment, the lease continues in force during the primary term as though there had been no interruption in the delay drilling payments.

In case of any commencement of drilling in lieu of payment of a delay drilling penalty as above provided, the drilling of such well shall be prosecuted with due diligence and dispatch to such depth as is necessary to make a reasonable test for oil or gas. Failure of the lessee to do so shall subject the lease to termination by the board as though the lessee had neither commenced the drilling of the well nor paid the required delay drilling penalty. The lessee shall within 5 days of spudding in, notify the department of the commencement of drilling of any well.

AUTH: 77-3-402, MCA

IMP: 77-3-424, 77-3-432, MCA

26.3.211 ROYALTIES (1) The lessee shall pay in cash or deliver in kind to the lessor at its option, on all oil and gas produced and saved from the leased premises and not used for light, fuel and operation purposes on the leased premises, a royalty which shall be at the following rates unless, in regard to a particular lease, the department advertises in its lease sale notices that the royalty will be at a higher rate:

(a) On gas at the rate of 12 1/2%.

(b) On oil at the rate of 13%. ~~On that portion of the average production of oil or casing head gasoline for each producing well not exceeding 3,000 barrels for the calendar month 12 1/2% on that portion of the average production of oil or casing head gasoline for each producing well exceeding 3,000 barrels but not exceeding 6,000 barrels for the calendar month 17 1/2% on that portion of the average production of oil or casing head gasoline for each producing well exceeding 6,000 barrels for the calendar month 25%.~~

(c) The royalty on gas, including casing head gas and all gaseous substances, while the same is not sold or used off the premises shall be at the rate of \$400 per well each year or the amount of the annual rental provided in the lease, in lieu of the per well rate, whichever is the greater, payable on or before the annual anniversary date of the lease, and as long as the leased lands contain a well capable of such production and such payment is made the lease shall be considered a producing lease under the lease terms.

(2) The lessee shall pay royalties reserved to the state, in cash:

(a) on the reserved fraction of oil, the posted field price, or in lieu thereof, if no field price is posted, the fair market value in the field where produced on the day it is run into the pipeline or storage tanks; and

(b) on the reserved fraction of gas, the posted field price, or in lieu thereof, if no field price is posted, the fair market value at the well. In addition, the lessee shall pay to the state on the reserved fraction any bonus actually paid or agreed to be paid to the lessee for such oil or gas.

(3) All royalties, whether in money or in kind, shall be delivered to the state free of cost and deductions.

AUTH: 77-3-402, MCA IMP: 77-3-424, 77-3-432, MCA

3. The proposed amendments are proposed to implement certain aspects of the oil and gas royalty rate study prepared by the Meadowlark Group and presented to the board of land commissioners at its May 17, 1982 meeting. The amendments to the delay drilling were also recommended by the Governor's council on management.

4. Interested persons may submit their data, views, or arguments concerning the proposed amendment to Dennis Hemmer, Commissioner, Department of State Lands, Capitol Station, Helena, Montana 59620 no later than December 27, 1982.

5. If a person who is directly affected by the proposed action 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 Dennis Hemmer, Commissioner, Department of State Lands, Capitol Station, Helena, Montana 59620, no later than December 27, 1982.

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 more than 25.

7. The authority of the board to make the proposed amendments is based on section 77-3-402, MCA, and implements 77-3-424 and 77-3-432, MCA as specified in the existing rules.


Dennis Hemmer, Commissioner
Department of State Lands

CERTIFIED TO THE SECRETARY OF STATE November 15, 1982.

BEFORE THE DEPARTMENT OF REVENUE

OF THE STATE OF MONTANA

IN THE MATTER OF THE REPEAL)	NOTICE OF PUBLIC HEARING on
of Rules 42.20.111, 42.20.112)	Repeal of Rules 42.20.111,
42.20.121, 42.20.122,)	42.20.112, 42.20.121,
42.20.123, 42.20.124,)	42.20.122, 42.20.123,
42.20.125, 42.20.126,)	42.20.124, 42.20.125,
42.20.127, 42.20.128,)	42.20.126, 42.20.127,
42.20.129, 42.20.130,)	42.20.128, 42.20.129,
42.20.131 and 42.20.132)	42.20.130, 42.20.131 and
relating to the appraisal of)	42.20.132 relating to the
timberlands and the PROPOSED)	appraisal of timberlands,
ADOPTION of Proposed Rules I,)	and the PROPOSED ADOPTION
II, III and IV relating to)	of Rules I, II, III and IV
the appraisal of timberlands.)	relating to the appraisal
	of timberlands.

TO: All Interested Persons:

1. On December 20, 1982, at 10:00, a.m., a public hearing will be held in the First Floor Conference Room in the Mitchell Building, Helena, Montana, to consider the repeal of the above-referenced rules and to consider the adoption of four new rules relating to the appraisal of timberlands.

2. Proposed Rule I would prescribe certain general principles for the classification of timberlands. Proposed Rule II would prescribe certain general principles for the appraisal of timberlands. Proposed Rule III would prescribe certain formula for the valuation of stumpage. Proposed Rule IV would prescribe the manner in which discount multipliers would be applied to the valuation of stumpage.

3. The rules to be repealed are 42.20.111, 42.20.112, 42.20.121, 42.20.122, 42.20.123, 42.20.124, 42.20.125, 42.20.126, 42.20.127, 42.20.128, 42.20.129, 42.20.130, 42.20.131 and 42.20.132 which can be found on pages 42-2011 through 42-2030 of the Administrative Rules of Montana.

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

RULE I TIMBERLAND CLASSIFICATION - GENERAL PRINCIPLES (1)

All commercial timberlands with a potential for producing finished lumber products shall be appraised as such.

(2) Timber type records shall be based upon species composition, stand size and stand volume.

(3) All timberlands shall be graded for woodland grazing capacity and a grazing value shall be assigned.

(4) All timberlands will be classified and ownership records maintained by 40 acre tracts, fractional lots, or metes and bounds description. The county appraiser for the county where the timber is situated shall be responsible for maintaining the timber valuation records. Records must depict each timber type, acreage in each type, value for each type, total

acreage value for each type, and total timber value for an ownership.

(5) All commercial timberland shall receive a grade for access to usable roads, topography and distance to a defined manufacturing point.

(6) All terms pertaining to timberlands are defined in the "Timber Classification Manual" as compiled by the property assessment division of the department of revenue. AUTH: 15-1-201, MCA; IMP: 15-8-111, MCA.

RULE II TIMBERLAND VALUATION - GENERAL PRINCIPLES (1) Noncommercial timberlands and nontimberlands shall not receive a timber value.

(2) The valuation schedules for commercial timber shall be based on a 5 year average of experienced income and cost data, beginning with calendar year 1977 and ending calendar year 1981. They shall become effective as of January 1, 1986, and shall remain in effect during the balance of that appraisal cycle.

(3) Each valuation schedule shall be updated to coincide with the commencement of a new appraisal cycle.

(4) Copies of the valuation schedules and the stand volume tables, which are referenced in these rules, may be obtained from the property assessment division of the department of revenue.

(4) Timberland served by a private road shall be valued in the same manner as timberland served by a public road.

(5) The values assigned to each stand size class; sawtimber, 9 inches in diameter at breast height (hereinafter referred to as D.B.H.), and larger, poletimber, 5 inches to 9 inches D.B.H., and seedlings-saplings, less than 5 inches D.B.H., shall be the discounted merchantable stumpage value at the time of harvest.

(6) The values assigned in each stand size class; sawtimber, poletimber and seedlings-saplings, shall be discounted using discount multipliers based on a discount rate for long-term forest investments over a specified rotation period (in years).

(7) Each county west of the continental divide shall be assigned a valuation schedule and a specific stand volume table. These counties are: Flathead, Granite, Lincoln, Mineral, Missoula, Powell, Ravalli, Sanders and Lewis and Clark (that portion west of the continental divide). Lake county shall have one valuation schedule and stand volume table for the area east of Highway 93 and one valuation schedule and stand volume table for the area west of Highway 93.

(8) The counties west of the continental divide referenced in paragraph 7 hereinabove shall have commercial tree species divided into 3 groups. They are:

Group I	Ponderosa Pine, Western White Pine
Group II	Douglas-fir, Larch
Group III	Lodgepole Pine, Engelmann Spruce,

White Spruce, Western Hemlock, True Firs,
Whitebark Pine, Limber Pine, Cedar

(9) Each of the following counties east of the continental divide shall be assigned a valuation schedule and a specific stand volume table. They are: Beaverhead, Gallatin, Madison, Park and Sweet Grass. The remaining counties east of the continental divide (including that portion of Lewis and Clark county east of the continental divide), which contain commercial timberlands, shall be grouped together. Each group of counties shall be assigned a valuation schedule and specific stand volume table. These groups are:

- (a) Broadwater and Lewis and Clark counties;
- (b) Stillwater and Carbon counties;
- (c) Jefferson, Silver Bow and Deer Lodge counties;
- (d) Fergus, Chouteau, Cascade, Meagher, Judith Basin, Golden Valley and Wheatland counties;
- (e) Treasure, Yellowstone, Big Horn, Rosebud, Musselshell, Carter and Powder River counties.

(10) The counties east of the continental divide, referenced in subsection 9 above shall have commercial tree species divided into two groups. They are:

Group I	Douglas-fir
Group II	Ponderosa Pine, Lodgepole Pine, Engelmann Spruce, True Firs, Whitebark Pine, Limber Pine

(11) Each species group shall be valued separately.

(12) Counties west of the continental divide shall utilize income and expense figures collected from sources west of the continental divide. Counties east of the continental divide (including that portion of Lewis and Clark county east of the continental divide), which contain commercial timberlands, shall utilize income and expense figures collected from sources east of the continental divide.

(13) That portion of Flathead county which was cruised to determine timber inventories shall utilize timber volume cruise data instead of average stand volume tables. AUTH: 15-1-201, MCA; IMP: 15-8-111, MCA.

RULE III TIMBERLANDS -- STUMPAGE VALUATION (1) The basic appraisal formula to value commercial timberlands shall be:

$$NS = S_{LS} - (PC_{LS} + PM)$$

, where

NS = net stumpage value (\$)

S_{LS} = total lumber selling value (log scale) (\$)

PC_{LS} = total production cost (log scale) (\$)

22-11/24/82

MAR NOTICE NO. 42-2-208

PM = profit margin (\$)

(2) The methodology to value commercial timber shall be:

(a) Determine the average lumber selling price (lumber tally), for all end-products expected to be produced.

(b) Determine the average return from chips and miscellaneous by-products (lumber tally).

(c) Combine the lumber selling price and return from chips and miscellaneous by-products to form total lumber selling value (lumber tally).

(d) Determine the average overrun factor. The overrun factor is expressed as a percentage, in decimal form, greater than one.

(e) Determine total lumber selling value (log scale) by multiplying the total lumber selling value (lumber tally) by the overrun factor as shown by the following formula:

$$S_{LS} = S_{LT} \cdot OR$$

where

S_{LS} = total lumber selling value (log scale) (\$)

S_{LT} = total lumber selling value (lumber tally) (\$)

OR = overrun expressed as %, in decimal form greater than 1

(f) Determine average sale preparation and average sale administrative costs.

(g) Determine average logging costs from stump to mill. These costs include: felling and bucking, skidding and yarding, loading, log hauling, general logging overhead, logging depreciation, hazard reduction and road development.

(h) Determine average lumber manufacturing costs (lumber tally).

(i) Determine average manufacturing costs for chips and miscellaneous by-products (lumber tally).

(j) Combine lumber manufacturing costs with manufacturing costs from chips and miscellaneous by-products to determine total manufacturing costs (lumber tally).

(k) Determine manufacturing costs (log scale) by multiplying total manufacturing costs (lumber tally) by the overrun factor.

(l) Determine total production costs (log scale) by combining sale preparation and sale administration costs, total logging costs, and total manufacturing costs (log scale) as shown by the following formula:

$$PC_{LS} = SP + L + M_{LS}$$

, where

PC_{LS} = total production cost (log scale) (\$)

, where

V_s	=	Sawtimber discounted value
Vol_s^{BF}	=	Sawtimber board-foot volume
i	=	Discount rate for long-term forest investments (real)
n_1	=	Average time period in years from the point commercial timber reaches merchantable size (9" D.B.H.) to the point of harvest. (Average cutting period for merchantable timber.)
NS	=	Net stumpage value.

Poletimber: $V_p = V_s \left[\frac{1}{(1+i)^{n_2}} \right]$

, where

V_p	=	Poletimber discounted value <u>1./</u>
n_2	=	Average time period, in years, from the point commercial timber enters poletimber size (5.0" D.B.H.) to the point the timber enters sawtimber size (9.0" D.B.H.).
i	=	Discount rate for long-term forest investments (real)

Seedlings and Saplings:

$$V_{ss} = V_p \left[\frac{1}{(1+i)^{n_3}} \right]$$

, where

V_{ss}	=	Seedling-sapling discounted value <u>2./</u>
n_3	=	Average time period, in years, from regeneration to the point the commercial timber enters poletimber size (5.0" D.B.H.).
V_p	=	Seedling-sapling discounted value <u>1/</u>
i	=	Discount rate for long-term forest investments (real)

1./ To determine V_p , use the medium-stocked, sawtimber, board-foot volume for the poletimber species in question.

SP = sale preparation and sale administration cost (\$)
 L = total logging cost from stump to mill (\$)
 M_{LS} = total manufacturing cost (log scale) (\$)

, and
 $M_{LS} = (M_{LT} \cdot OR)$

, where

M_{LT} = total manufacturing cost (lumber tally) (\$)
 OR = overrun expressed as %, in decimal form greater than 1.

(m) Determine a margin for profit and risk using the Profit Ratio Method. Profit margin is that allocation for profit, risk, interest on borrowed capital and income taxes. The profit margin is determined by multiplying the total lumber selling value (log scale) by the selling value ratio as shown in the following formula:

$PM = S_{LS} \cdot SVR$

, where

PM = profit margin (\$)
 S_{LS} = total lumber selling value (log scale) (\$)
 SVR = selling value ratio

, and

$SVR = \frac{PR}{1 + PR}$

, where

PR = profit ratio expressed as % in decimal form
 AUTH: 15-1-201, MCA; IMP: 15-8-111, MCA.

RULE IV TIMBERLANDS - DISCOUNT MULTIPLIERS Discount multipliers shall be applied to all commercial timber stumpage values to find the present value of a future payment, or an annual payment for n years, at the interest rate i. The following equations shall be used to find the discounted stumpage values:

$$\text{Sawtimber: } V_s = Vol_s^{BF} \left[\left[\frac{(1+i)^{n_1} - 1}{i(1+i)^{n_1}} \right] \div n_1 \right] NS$$

2./ To determine V_{ss}, use the medium-stocked, sawtimber, board-foot volume ^{ss} for the seedling-sapling species in question.

AUTH: 15-1-201, MCA; IMP: 15-8-111, MCA.

5. The foregoing rules are being proposed to conform with Montana statutory law. The proposed rules will insure that all timberlands are appraised in a uniform, rational and wholly lawful manner.

6. Interested persons may present their data, views, or arguments, either orally or in writing at the hearing. Written data, views, or arguments may also be submitted no later than December 22, 1982, to:

Larry Schuster
Department of Revenue
Mitchell Building
Helena, Montana 59620

7. Authority of the Department to make the proposed amendments is based upon 15-1-201, MCA. The proposed amendments implement 15-8-111, MCA.



ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 11/15/82

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

In the matter of the amendment) NOTICE OF PUBLIC HEARING ON
of Rules 46.9.601, 46.9.602,) THE PROPOSED AMENDMENT OF
46.9.603, 46.9.604, 46.9.605,) RULES 46.9.601, 46.9.602,
46.9.606, 46.9.607, 46.9.608) 46.9.603, 46.9.604,
pertaining to the community) 46.9.605, 46.9.606,
services block grants) 46.9.607, 46.9.608
) PERTAINING TO THE
) COMMUNITY SERVICES BLOCK
) GRANTS

To: All Interested Persons

1. On December 16, 1982, at 1:00 p.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana, to consider the amendment of Rules 46.9.601, 46.9.602, 46.9.603, 46.9.604, 46.9.605, 46.9.606, 46.9.607, 46.9.608 pertaining to the community services block grants.

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

46.9.601 PURPOSE (1) The purpose of the community services block grant ~~to counties~~ is to alleviate the causes of poverty within the state.

The authority of the department to amend the proposed rule is based on Section 53-2-201, and the rule implements HB 2 of the First Special Session, 1981, and U.S. House Joint Resolution 599.

46.9.602 DEFINITIONS For purposes of this subchapter, the following definitions apply:

(1) "Act" means the Omnibus Budget Reconciliation Act of 1981.

(2) "CSBG" means the community services block grant.

(3) "Director" means the director of the department of social and rehabilitation services.

(4) "Poverty line" means the official poverty line established by the director of the federal office of management and budget.

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

(6) "County" means the board of county commissioners.

(7) "HRDC" means Human Resource Development Council, one of the state's ten (10) organizations designated as a community action agency under the provisions of section 210 of the Economic Opportunity Act of 1964.

(8) "Contractor" means the entity receiving CSBG funds under ARM 46.9.606(2) which must be either a county or an HRDC.

The authority of the department to amend the proposed rule is based on Section 53-2-201, and the rule implements HB 2 of the First Special Session, 1981, and U.S. House Joint Resolution 599.

46.9.603 COUNTY CONTRACTOR PLAN (1) To receive its allotment of CSBG funds, as determined under ARM 46.9.606, each county contractor must submit, by July 1 of each year, its contractor plan to the department for review and approval.

(a) If two or more counties choose to join in multi-county or regional efforts, one contractor plan for all participating counties may be submitted.

(b) If the federal CSBG appropriation has not been determined to such a degree that estimates of county allocations are feasible, the submittal date in subsection (1) above will be revised accordingly.

The authority of the department to adopt the proposed rule is based on Section 53-2-201, and the rule implements HB 2 of the First Special Session, 1981, and U.S. House Joint Resolution 599.

46.9.604 COUNTY CONTRACTOR PLAN ASSURANCES AND CONTENT

(1) A county contractor must assure in its contractor plan that it will only use the funds:

(a) to provide a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem;

(b) to provide activities designed to assist low-income participants including the elderly poor:

(i) to secure and retain meaningful employment;

(ii) to attain an adequate education;

(iii) to make better use of available income;

(iv) to obtain and maintain adequate housing and a suitable living environment;

(v) to obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, family needs, including the need for health services, nutritious food, housing and employment related assistance;

(vi) to remove obstacles and solve problems which block the achievement of self-sufficiency;

(vii) to achieve greater participation in the affairs of the community; and

(viii) to make more effective use of other programs related to the purpose of this subchapter.

(c) to provide on an emergency basis for the provision of such supplies and services, nutritious foodstuffs, and related services, as may be necessary to counteract conditions

of starvation and malnutrition among the poor;

(d) to coordinate and establish linkages between governmental and other social services programs to assure the effective delivery of such services to low-income individuals; and

(e) to encourage the use of entities in the private sector of the community in efforts to ameliorate poverty in the community; and

(f) to meet department-identified priorities which address one or more of the eligible activities described in subsections (a) through (e) above.

(2) Not all of items in subsections (b) through (ef) above must be proposed in a county contractor plan. However, the county contractor does have to certify that it is providing a range of services and activities having a measurable and potentially major impact on the causes of poverty in its community, commensurate with the amount of money received.

(3) The contractor plan shall contain the additional assurances that:

(a) CSBG funds will not be used to provide voters and prospective voters with transportation to the polls or provide similar assistance in connection with an election or any voter registration activity;

(b) CSBG funds will be used to provide for coordination between anti-poverty programs and, where appropriate, with emergency energy crisis intervention programs under Title XXVI of the Act (relating to low-income home energy assistance) conducted in the county;

(c) fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursement of and accounting for CSBG funds;

(d) the county contractor will prepare and submit to the state, at least once every two years, an independent audit of the CSBG funds;

(e) amounts found not to have been expended in accordance with the Act or the county contractor plan will be repaid to the state;

(f) no person shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded, in whole or in part, with CSBG funds. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity;

(g) CSBG funds will not be used for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repair) of any building or other facility;

(h) it will permit and cooperate with any federal or state investigation related to the CSBG.

(i) If an HRDC, each board will be constituted so as to assure that:

(i) one-third of the members of the board are elected public officials, currently holding office, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board of appointive public officials may be counted in meeting such one-third requirement;

(ii) at least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served; and

(iii) the remainder of the members are officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community.

(4) The county contractor plan must contain:

(a) evidence that an assessment of needs has been undertaken to determine the best expenditures of CSBG funds;

(b) a description of which services and activities will be carried out and the means to be used to provide those services and activities. Such description shall also include the geographic areas to be served, and categories or characteristics of individuals to be served. If direct services are planned, only individuals with income below the poverty line are eligible;

(c) a proposed budget describing how the CSBG funds will be used during the program period;

(d) an official resolution of approval by the county board of each participating county.

(5) The program period will begin October 1 and end on September 30 of the following year. All contractor plans/budget material must be proposed for completion during that period. Should unusual or extraordinary circumstances occur, the department will entertain consider requests for amendment(s) to the county contractor plan.

(6) The county Contractor plan shall be submitted on forms provided by the department.

The authority of the department to amend the proposed rule is based on Section 53-2-201, and the rule implements HB 2 of the First Special Session, 1981, and U.S. House Joint Resolution 599.

46.9.605 CONTRACTOR PLAN APPROVAL, DISAPPROVAL, AMEND-

MENTS (1) The department will, within 45 working days of plan receipt, notify the county contractor of approval/disapproval of each contractor plan.

(2) The department will base its review of the contractor plan on whether or not:

(a) the contractor plan demonstrates that it provides a range of services and activities having a measurable and potentially major impact on causes of poverty in the community, or those areas of the community where poverty is a particularly acute problem;

(b) all assurances and requirements of ARM 46.9.604 have been met.

(3) If the contractor plan is either partially or totally unacceptable, the department will work with the county contractor to develop an acceptable proposal. If an acceptable proposal can not be developed within thirty days after notice of disapproval, CSBG funds reserved for the an affected county shall be distributed to counties contractors with approved contractor plans.

(4) If a contractor plan is disapproved, a county contractor has the right to appeal to the director. The director's decision shall be the final administrative decision.

The authority of the department to amend the proposed rule is based on Section 53-2-201, and the rule implements HB 2 of the First Special Session, 1981, and U.S. House Joint Resolution 599.

46.9.606 COUNTY CONTRACTOR ALLOTMENTS (1) From the available CSBG funds, the department shall retain 5% for cost of administration of the grant and 5% for special projects. ~~The remainder is allocated to county governments in the following proportions:~~

(2) Whenever federal law allows CSBG funds to be granted to a contractor county, the proportions are as follows:

(a) 50% is allocated according to general population distribution as provided in subsection (23);

(b) 35% is allocated according to poverty population distribution as provided in subsection (34);

(c) 15% is used to assure a minimum grant equal to one half of one percent of CSBG funds for each county as provided in subsection (45) and to increase the grants for economically depressed counties as provided in subsection (56).

(23) General population allocation: Each county shall receive an amount equal to the county's 1980 census population less the county's Indian population living on reservations divided by Montana's 1980 census population less the state's Indian population living on reservations times the amount available for allocation according to general population distribution in subsection (12)(a).

(34) Poverty population allocation: Each eligible county shall receive an amount equal to the county's 1980 census of poverty less the county's Indian population living on reservations below poverty population divided by Montana's

1980 census of poverty population less Montana's Indian population living on reservations below poverty times the amount available for allocation according to poverty population distribution in subsection (42)(b). If the 1980 census information referenced to in subsection (23) and (34) of the rule is unavailable, the most current and accurate information available will be used.

(45) Minimum allocation: If the sum of the allocations as provided in subsection (23) and (34) is less than one half of one percent of CSBG funds for a county, then an amount is added to the allocations in subsections (23) and (34) for that county to yield a minimum allocation of one half of one percent of CSBG funds.

(56) Economically depressed county allocation:

(a) The amount available for increasing grants to economically depressed counties is the amount remaining after the funds necessary to insure that all counties have a minimum allocation as provided in subsection (45) has been deducted.

(b) If a county qualifies as an economically depressed county, then an amount is added to that county's allocations as provided in subsections (23), (34) and (45) equal to the county's 1981 relative unemployment rate, as determined by the department of labor, divided by the sum of all qualifying counties' 1981 relative unemployment rate times the amount available for allocation to economically depressed counties.

(i) a county qualifies as an economically depressed county if its 1981 unemployment rate is more than one standard deviation above the mean of all counties' 1981 unemployment rate.

(ii) a qualifying county's relative unemployment rate is the qualifying county's 1981 unemployment rate less the unemployment rate at one standard deviation above the mean of all counties' 1981 unemployment rate.

(7) If required by federal law, 90% of the available funds is allocated to the human resource development councils which submit contractor plans approved by the department. A target amount for planning will be furnished to each HRDC based on the following:

(a) If available, a \$50,000 funding base will be provided for each HRDC. Allotments attributable to each county in an HRDC's district will be proportional to its population.

(b) Of the remainder:

(i) 50% is allocated according to general population distribution as provided in subsection (3); and

(ii) 50% is allocated according to poverty population distribution as provided in subsection (4).

The authority of the department to amend the proposed rule is based on Section 53-2-201, and the rule implements HB 2 of the First Special Session, 1981, and U.S. House Joint Resolution 599.

46.9.607 RELEASE OF COUNTY ALLOTMENTS (1) Release of county allotments is contingent upon receipt by the department of the federal CSBG funds. As those funds are received, they will be disbursed by the department.

The authority of the department to amend the proposed rule is based on Section 53-2-201, and the rule implements HB 2 of the First Special Session, 1981, and U.S. House Joint Resolution 599.

46.9.608 REPORTS (1) Within 90 days of the end of the grant period or the completion of a county's contractor's planned activities, whichever comes first, the county contractor will submit to the department certification that all assurances and services or activities contained in its approved plan have been complied with and achieved.

(2) Upon request, the county contractor will submit to the department a description of how the funds were expended and for which services or activities. any reports, forms or documents deemed necessary in order to determine how the funds were expended and for which services or activities.

The authority of the department to amend the proposed rule is based on Section 53-2-201, and the rule implements HB 2 of the First Special Session, 1981, and U.S. House Joint Resolution 599.

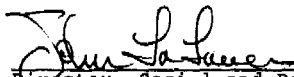
3. The Omnibus Budget Reconciliation Act of 1981, Title VI, Subtitle B, authorizes community service block grants to the states to alleviate the causes of poverty within the states. The First Special Session of the 47th Legislature in HB 2 approved Montana's assumption of the community service block grant, effective January 1, 1982. HB 2 mandated that, after FY 82, CSBG funds shall be implemented through the counties. House Joint Resolution 599, enacted by the U.S. Congress on October 2, 1982, mandates that states are required to continue the FY 1982 limitation to provide 90% of their CSBG funds to eligible entities, which, in Montana, are the HRDC's. Federal law has pre-empted state HB 2 and unless it is changed, CSBG funds will be distributed to eligible HRDC's. Should both federal and state law become moot as to which entity shall receive CSBG funds, SRS will utilize the most current evidence of state legislative intent. These proposed rules provide the means for distribution of CSBG funds in any event.

From the CSBG federal allocation for Montana for the period October 1, 1982 through September 30, 1983, the federal allocation for Indian reservations is deducted. The federal allocation of Indian reservations in Montana is 10.46349% of the state's total allocation. The federal government is

responsible for administering the Indian reservation allocation. The department is responsible for administering the balance.

4. Interested parties may submit 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, Department of Social and Rehabilitation Services, P. O. Box 4210, Helena, Montana 59604, no later than December 24, 1982.

5. The Office of Legal Affairs, Department of Social and Rehabilitation Services has been designated to preside over and conduct the hearing.



Director, Social and Rehabilitation
Services

Certified to the Secretary of State November 15, 1982.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE STATE ELECTRICAL BOARD

In the matter of the amendment) NOTICE OF AMENDMENT OF ARM
of ARM 8.18.407 concerning the) 8.18.407 FEE SCHEDULE
fee schedule.)

TO: All Interested Persons:

1. On September 30, 1982, the State Electrical Board published a notice of amendment of 8.18.407 concerning fees at pages 1722 and 1723, 1982 Montana Administrative Register, issue number 18.
2. The board has amended the rule exactly as proposed.
3. No comments or testimony were received.

DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF REALTY REGULATION

In the matter of the amendment) NOTICE OF AMENDMENT OF ARM
of 8.58.412 concerning inactive) 8.58.412 INACTIVE LICENSES
licenses)

TO: All Interested Persons:

- 1 On September 30, 1982 the Board of Realty Regulation published a notice of proposed amendment of ARM 8.58.412 concerning inactive licenses at pages 1724 & 1725, 1982 Montana Administrative Register, issue number 18.

2. The board has amended the rule as proposed with the following change in the last sentence of subsection (3):

"(3)... If the licensee does not reactive reactivate
his license at that time, the license is lapsed."

The change results from a typing error which was made when the amendment was proposed.

3. No comments or testimony were received.

DEPARTMENT OF COMMERCE

BY:


GARY BUCHANAN, DIRECTOR

Certified to the Secretary of State, November 15, 1982.

BEFORE THE GOVERNOR
STATE OF MONTANA

In the matter of the adoption of rules implementing the Governor's petroleum data collection authority under the Energy Supply Emergency Powers Act	)	NOTICE OF THE ADOPTION OF RULES PERTAINING TO PETROLEUM INDUSTRY REPORTING REQUIREMENTS
	)	14.8.301 - 14.8.311

TO: All Interested Persons

1. On July 15, 1982, the Governor published notice of a hearing to consider the proposed adoption of rules implementing the Governor's petroleum data collection authority at page 1384 of the 1982 Montana Administrative Register, issue number 13. A public hearing was held on August 5, 1982, at which time oral and written testimony was taken. Written testimony was accepted until August 13, 1982.

2. The Governor has adopted the rules as proposed except for Rules I, II, III, V, VI, VIII and XI which the Governor has adopted with the following indicated changes:

RULE I PURPOSE These rules describe procedures implementing the Governor's authority under Title 90, Chapter 4, part 3, MCA, to regularly monitor the supply of and demand for petroleum products in Montana.

AUTH: 90-4-316, MCA

IMP: 90-4-305 and
90-4-316, MCA

RULE II DEFINITIONS As used in these rules, the following definitions apply:

(1) "Billing location" means the zip code or county of the purchaser's destination of the petroleum product; additional information, such as terminal of delivery and customer name, is optional. ~~If the purchaser has more than one address in Montana or an out-of-state billing address, the reporting location(s) shall be the purchaser's Montana address(es) closest to the point of retail sale or end-use consumption.~~

(2) "Department" means the department of natural resources and conservation, provided for in Section 2-15-3301, MCA.

(3) "Firm" means any person, as defined in Section 90-4-302, MCA, engaged in any activity covered by these rules.

(4) "Gas plant operator" means a person that owns, operates, or controls the operation of one or more natural gas processing plants or fractionators, meeting the definition of "refinery" in Section 90-4-302(9), located in Montana.

AUTH: 90-4-316, MCA

IMP: 90-4-316, MCA

22-11/24/82

Montana Administrative Register

RULE III. REQUIREMENT TO PROVIDE ADVANCE NOTIFICATION OF PETROLEUM PRODUCT SUPPLY SHORTAGES

(1) Each refiner, petroleum pipeline company, and prime petroleum supplier shall notify the department of any mechanical, logistical, personnel, raw material or product acquisition, marketing, or other problem ~~which that~~ may prevent the firm from meeting the fuel requirements of its Montana customers. The department shall be contacted by phone, and in writing by certified mail, within 24 hours of company identification of such a problem.

(2) Each firm shall designate one or more contact persons who will be responsible for complying with the requirements of subsection (1). The name, title, telephone number, and address of each contact person shall be provided to the department within thirty days following promulgation of these rules. The department shall be notified in writing of any change in contact personnel, mailing address, or telephone numbers.

AUTH: 90-4-316, MCA

IMP: 90-4-305, MCA

RULE V. REQUIREMENT TO FILE ANNUAL REPORTS Each prime petroleum supplier shall provide the department with an annual report of the firm's monthly marketing sales to Montana purchasers by billing location for each type of petroleum product listed on the EIA 25, or its successor, sold in the state.

AUTH: 90-4-316, MCA

IMP: 90-4-305, MCA

RULE VI. FORM AND FORMAT OF REPORTS (1) The information required under Rules IV and V shall be reported on forms designated by the department.

(2) The department shall provide ~~thirty ninety~~ days notice prior to specifying or modifying any form ~~or format~~.

(3) Subject to the department's prior approval of the report format, the department shall accept copies of reports filed with other federal and state agencies or private associations, if such reports provide all of the information described in Rules IV and V.

(4) Certified computer printouts, which are in the format of the reporting schedules designated by the department, may be submitted in lieu of the specified forms.

AUTH: 90-4-316, MCA

IMP: 90-4-305, MCA

RULE VIII. RESUBMISSIONS (1) A revised report is required if data provided to the department is found to be erroneous or incomplete and the volume, as previously reported, would be changed as a result of the error or omission by a difference of five percent (5%) or greater from the originally submitted figures.

(2) Errors or omissions must not be corrected by adjusting the data in subsequent original reports.

(3) A resubmission or clarification of an original report must also be provided, if requested by the department to replace an illegible, incomplete, or missing report.

AUTH: 90-4-316, MCA

IMP: 90-4-305, MCA

RULE XI EXEMPTIONS The department may exempt a firm from the provisions of these rules, if it determines that the specified information is not required to satisfy the provisions of Section 90-4-305, MCA.

AUTH: 90-4-316, MCA

IMP: 90-4-305, MCA

3. The Governor designated the Department of Natural Resources and Conservation to conduct the hearing on these proposed rules and to respond to the oral and written comments received. The following are summaries of the comments received and the Department's responses to those comments.

RULE I

COMMENT: Rule I also implements Section 90-4-305.

RESPONSE: The comment is correct and the rule has been modified to accurately reflect the sections implemented.

RULE II

COMMENT: The definition of "Billing location" should be clarified by inserting "'s destination" in the first sentence after the word "purchaser." Strike the second sentence.

RESPONSE: The suggestion is accepted.

RULE III

COMMENT: Qualify the requirement to provide advance notification of petroleum product shortages by striking the word "any" and insert "a significant" after the phrase "notify the department of."

RESPONSE: The department agrees that the requirement should be qualified, but that the suggested language is vague and subject to individual interpretation. The intent of the rule will be clarified by striking "which" and inserting "that" after "problem."

COMMENT: Notification should only be required for shortages that are expected to last longer than seven days.

RESPONSE: This suggestion is rejected, since major supply problems could develop in just a few days depending on the magnitude and nature of the disruption and the volume and availability of inventories.

COMMENT: Delete the requirement to provide the name of the contact personnel.

RESPONSE: This suggestion is rejected, since the intention of the rule is to establish a person to person communication network for emergency information exchange.

RULE IV. No comments received.

RULE V

COMMENT: The specific petroleum products, which will be subject to the reporting requirements, should be identified by inserting "as listed on the EIA 25 or its successor" after the word "product."

RESPONSE: The suggestion is accepted.

RULE VI

COMMENT: The notice for specifying or modifying a report format should be extended to one-hundred twenty days from thirty days.

RESPONSE: The notification period will be extended from thirty days to ninety days. Such a notification is consistent with the time frame specified in Rule VII(2)(b) for the new annual report.

COMMENT: The phrase "or format" is redundant and should be deleted.

RESPONSE: The suggestion is accepted.

RULE VII No comments received.

RULE VIII

COMMENT: Eliminate subsection (3) or define the circumstances that would cause the department to request a resubmission of previously filed data.

RESPONSE: The rule should be clarified by inserting "to replace an illegible, incomplete, or missing report" after the word "department."

RULE IX No comments received.

RULE X No comments received.

GENERAL COMMENTS:

COMMENT: The rules should specify an exemption procedure to delineate the department's authority to exempt firms that supply unneeded data from compliance with the rules.

RESPONSE: The suggestion is accepted and embodied in a new rule, Rule XI.

4. The new rules are assigned to the following numbers in the ARM: Rule I (14.8.301); Rule II (14.8.302); Rule III (14.8.303); Rule IV (14.8.304); Rule V (14.8.305); Rule VI (14.8.306); Rule VII (14.8.307); Rule VIII (14.8.308); Rule IX (14.8.309); Rule X (14.8.310); and, Rule XI (14.8.311).

5. The governor may adopt the proposed rules under the authority granted by Section 90-4-316, MCA, and the rules implement sections of Title 90, Chapter 4, Part 3, MCA as cited following each adopted rule.



Ted Schwinden, Governor
State of Montana
State Capitol
Helena, MT 59620

Certified to the Secretary of State November 5, 1982

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

IN THE MATTER of Adoption of)	NOTICE OF ADOPTION OF NEW
the New Rules for filing)	RULES FOR FILING PIPE LINE
monthly and annual reports)	COMPANY REPORTS
regarding pipe line companies.)	38.7.101, 38.7.102

TO: All Interested Persons

1. On July 29, 1982, the Department of Public Service Regulation published notice of a proposed adoption of new rules regarding the filing of monthly and annual reports for pipe line companies at pages 1464-1466 of the 1982 Montana Administrative Register Issue Number 14.

2. The Public Service Commission has adopted the proposed rules with the following amendments:

Rule I. 38.7.101 MONTHLY REPORT (1) Each intrastate common carrier pipe line company shall file with the Commission at its office in Helena, Montana, monthly reports to be filed not later than the 25th day of the month, following the calendar month for which the report is rendered, verified under oath by the reporting carrier showing the following information:

(a) The total number of receiving stations established by the reporting carrier for the reception and transportation of crude petroleum through its pipe lines, giving the name or number, if any, by which said stations are designated, the field or district where located, and the county or counties served by such receiving stations.

(b) The total number of delivery stations established by the reporting carrier for the delivery of crude petroleum transported through its pipe lines, giving the name or number, if any, by which said delivery stations are designated, and where located.

(c) (a) The total number of barrels of crude petroleum gathered by each gathering system, receiving station and run into the pipe lines of the reporting carrier.

(d) (b) The total number of barrels of crude petroleum received from other transporters, transported through the pipe lines of the reporting carrier, between points within the state, showing separately the number of barrels transported for its own account and the number of barrels transported for others.

(e) (c) The total number of barrels of crude petroleum delivered to other transporters or consignees, by the reporting carrier subsequent to transportation by it, showing to whom delivered and at what station delivered.

(f) The total number of barrels of crude petroleum owned and held by the reporting carrier within the state for its own account.

(g) (d) The total number of barrels of crude petroleum held in storage by the reporting carrier for others.

(h) (e) The total amount of unfilled storage capacity (tankage) held by the reporting carrier.

(i) A statement as to gross revenue and expenses, each and every item thereof being separately set out, and proper monthly allowances made for depreciation, amortisation and taxes.

(j) Estimated amount of loss by oil by fire or leakage from tanks and pipe lines for the preceding month, if any.

(k) (f) Total loss due to leakage, and evaporation, or other causes. incident to storage and transportation.

(l) The average monthly field price of said oil according to grades.

(2) The information required under 38.7.101(f), (g) (d) and (h) (e) shall be furnished as of the last day of the calendar month for which the report is rendered. It is expressly provided by law that no publicity shall be given by the Commission as to the stock of crude petroleum on hand of any particular pipe line.

(3) The above stated requirements in ARM 38.7.101 may be fulfilled by submission of the Oil and Gas Conservation Commission of the State of Montana Form No. 7 supplemented to provide for the requirements in ARM 38.7.101.

AUTH: Sec. 69-13-301, MCA, IMP: Sec. 69-13-301, MCA

Rule II. 38.7.102 ANNUAL REPORTS (1) Each intrastate common carrier pipe line company shall file with the Commission, at its office in Helena, Montana, an annual report for each calendar year. The report shall be filed not later than the 28th 30th day of February April next following the year for which the report is made. The report shall show the names of officers, directors and the residence of each; amount of capital stock and bonded indebtedness outstanding; capital investment with additional investments made during the year; assets and liabilities; revenues and expenditures; depreciation; and statistical data as to petroleum delivered and lost during transportation.

(2) The Annual Report shall be made to the Commission on such forms as may be prescribed and furnished by the Commission. ~~for that purpose, and shall be verified under oath by the President or Secretary of the pipe line company.~~ The above stated ARM 38.7.102 may be fulfilled by submission of Federal Energy Regulatory Commission (FERC) Form No. 6 Annual Report of oil pipe line companies, supplemented by such other forms as the Commission may prescribe. The supplemental forms shall be duly verified under oath by an officer of the company.

AUTH: Sec. 69-13-301, MCA, IMP: Sec. 69-13-301, MCA

3. COMMENTS: The changes in these rules are in response to the following comments by the Montana Petroleum Association:

Rule I. (1)(a) and (b): These items request the naming of "receiving" and "delivery" stations, etc. Most of data requested by (a) and (b), including receipt/delivery points, are basic elements of tariffs published by common carrier pipe

lines. Such tariffs are a matter of public record and are readily available to all parties. Repetitive reporting of this same data over and over each month would serve no practical purpose.

(1)(c): The language of the item is somewhat confusing in that it intimates that crude is gathered at "...each receiving station...." For practical purposes, crude is "gathered" by a gathering system which may, or may not have "receipt stations."

(1)(d): Barrels transported is reported in the Oil and Gas Commission's Form 7. Public Service Regulation Department's request to report barrels moved for the carrier's own account is inappropriate inasmuch as carriers do not ordinarily move crude for their own account, but rather move for their customers, i.e., shippers.

To conform with the Oil and Gas Commission Report No. 7, this item has been modified to show "receipts from other transporters."

(1)(e): The item is essentially a duplication of (d). A barrel of crude oil is not generally considered to have been "transported" until it has been "delivered," i.e., the terms "transported" and "delivered" are frequently used interchangeably in the pipe line industry.

This item has also been modified to conform to Form 7, i.e. "total deliveries to other transporters or consignees."

(1)(f): Reporting of crude oil owned and held by a carrier will not provide meaningful data. Any oil held by the carrier for its own account is the net of pipe line allowance oil earned less actual losses. Balances of this type are not generally associated with a specific state. Such balances are considered to be working stock, therefore, we suggest that reporting of these balances would not be meaningful.

(1)(g): This item is included on the Form 7 Monthly Report.

(1)(h): The amount of unfilled storage can be reported, however, the value of repetitive reporting of such data is questionable. Additionally, if the request is directed to tank storage the fact remains that a substantial portion of inventory may be stored in the pipe line itself when the crude is in the process of being transported.

(1)(i): As has been pointed out above, a complete annual report of activities related to operations within Montana is required by the Montana Revenue Department. To break out these costs and income items on a monthly basis for filing by the 25th of the month following is not practical. Furthermore, the value of such monthly reporting, even from the States' point, is questionable. The monthly reports will require consolidation into annual reports before any meaningful analysis can be made of a carrier's ongoing operation. Resulting increased work load would not appear to be cost effective.

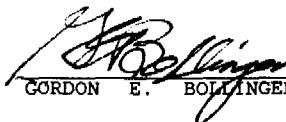
(1)(j): The requirement for loss by "...fire or leakage..." in the normal operation of a pipe line is an unknown. Losses generally cannot be quantified by each cause for loss. Therefore, this data is not available for the "...preceding

month..." or any other month.

(1)(k): In general, it is the industry practice to determine losses upon delivery at a major termination point, although losses may be determined on a composite basis, i.e., losses from all causes are lumped into one determination of "unaccounted for" barrels of crude. Any attempt to assess the volume lost due to evaporation, leakage, etc. is not practical and at best can only be an educated guess.

(1)(l): The monthly field price of crude oil is not necessarily available to common carrier pipe lines. As a result, many common carrier pipe lines assess a loss allowance which is designed to balance losses against the allowance earned so that the pipe line can meet its obligations for delivery of specified volumes for shippers. In summary, the value per barrel is available only from the owner of the barrels shipped.

Rule II. As to the proposed request for annual data, crude oil pipe lines already file an annual report with the Montana Department of Revenue. A comparison of this Report and the proposed reporting indicates the new reporting would be substantially duplication of data already provided. Therefore, the suggested changes in the proposed language would provide the desired information with the least amount of duplication.



GORDON E. BOLLINGER, Chairman

CERTIFIED TO THE SECRETARY OF STATE NOVEMBER 15, 1982.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF THE AMENDMENT
AMENDMENT of Rule 42.16.1112	)	of Rule 42.16.1112
relating to away-from-home	)	relating to away-from-home
expenses.	)	expenses.

TO: All Interested Persons:

1. On October 14, 1982, the Department of Revenue published notice of the proposed amendment of rule 42.16.1112 relating to away-from-home expenses at pages 1823 through 1824 of the Montana Administrative Register, issue no. 19.
2. The agency has amended the rule as proposed.
3. No comments or testimony were received.
4. The authority for the rule is Section 15-30-305, MCA, and the rule implements Section 15-30-131, MCA.



ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 11/15/82

-2102-
BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE REPEAL)	NOTICE OF REPEAL OF RULE
OF RULE 42.16.1116, the)	42.16.1116, the Amendment
Amendment of Rules 42.16.1115)	of Rules 42.16.1115 and
and 42.16.1117, and the)	42.16.1117, and the
Adoption of Rules I through)	Adoption of Rules I through
XXIX (42.16.1201-1229),)	XXIX (42.16.1201-1229),
relating to allocation and)	relating to allocation and
apportionment of income by)	apportionment of income by
nonresident individuals of)	nonresident individuals of
Montana.)	Montana.

TO: All Interested Persons:

1. On October 14, 1982, the Department of Revenue published notice of the proposed repeal of rule 42.16.1116, the amendment of rules 42.16.1115 and 42.16.1117 and the adoption of rules I through XXIX (Rules 42.16.1201 through 42.16.1229), relating to the allocation and apportionment of income by nonresident individuals of Montana at page 1825 through 1843 of the Montana Administrative Register, issue number 19.

2. The agency has repealed, amended and adopted the rules as proposed.

3. No comments or testimony were received.

4. The authority for the rules is Section 15-30-305, MCA, and the rules implement Sections 15-30-131 and 15-1-601, MCA.

Ellen Feaver
ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 11/15/82

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF
AMENDMENT of Rules 42.19.101	)	AMENDMENT of Rules 42.19.101
and 42.19.103 relating to the)	)	and 42.19.103 relating to the
utilization of appraisal	)	utilization of appraisal
manuals.	)	manuals.

TO: All Interested Persons:

1. On September 16, 1982, the Department of Revenue published notice of a public hearing on proposed amendments to Rules 42.19.101 and 42.19.103 relating to the utilization of appraisal manuals at pages 1667 through 1668 of the 1982 Montana Administrative Register, issue number 17. On October 18, 1982, the public hearing was held.

2. The Department has amended rule 42.19.101 as proposed. The Department has amended rule 42.19.103 with the following changes (deletions interlined and additions underlined):

42.19.103 MONTANA APPRAISAL MANUAL

(1) amended as proposed.

(2) All ~~real property and improvements~~ improvements to agricultural property and residential property thereto shall be revalued appraised and valued in accordance with and pursuant to the Montana Appraisal Plan Manual (January 1, 1982). The Montana Appraisal Manual is an expanded version of the January 1, 1982 Marshall Valuation Service Manual and is wholly derived from the data contained therein. If the subject property is not adequately listed in the Montana Appraisal Manual, other replacement cost manuals will be used.

(3) amended as proposed.

3. No persons appeared at the hearing to offer comments or testimony regarding the proposed amendments. One telephone call was received from an attorney who suggested that the rules should more clearly specify which manuals are to be utilized between the time of the adoption of the amendments and the commencement of the new appraisal cycle.

4. The Hearing Examiner was of the opinion that the rationale supporting the proposed amendments was adequate and that the Department has the statutory authority to adopt the amendments. These amendments will insure that all residential, commercial and agricultural property is appraised in a uniform and lawful manner. Furthermore, utilization of the manuals prescribed in the rules will greatly assist individual appraisers in determining the market value of property. For these reasons, I find that an adequate justification for their adoption has been demonstrated.

5. Authority to make the amendments to the rules is found in 15-1-201, MCA. The rules implement 15-7-103, 15-7-111 through 15-7-114, MCA.



ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 11/15/82

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF AMENDMENT)	NOTICE OF AMENDMENT OF RULE
of Rule 42.22.1117 relating)	42.22.1117 relating to the
to the deductions allowed in)	deductions allowed in com-
puting the net proceeds of)	putting the net proceeds of
mines tax.)	mines tax.

TO: All Interested Persons:

1. On June 17, 1982, the Department of Revenue published notice of the proposed amendment of Rule 42.22.1117 relating to the deductions allowed in computing the net proceeds of mines tax at pages 1190, 1191 and 1192 of the 1982 Montana Administrative Register, issue no. 11.

2. The Department has amended the rule as proposed.

3. The Department having taken under consideration the comments made by Pfizer, Inc., to the above-referenced amendment to rule 42.22.1117, ARM, has decided to amend the rule as proposed. Pfizer contends that the Department is being too restrictive because the amendment permits only a deduction from the value of the gross product for the cost of marketing and conversion into money based on the cost of marketing a crude product. Pfizer supports its argument by asserting:


If 100 percent of our product was shipped from Montana in a manufactured form, the statute would allow us a deduction for 'cost of marketing and conversion into money'.

That position is not supported by the case law construing the underlying statute. In *Pfizer v. Madison County*, 161 Mont. 261, 267, 505 P.2d 399 (1973), the Supreme Court held:

Now that we have found that the tax only applies to the beneficiation stage, Pfizer of course will not, and cannot, deduct expenses of its final milling stage against the net proceeds tax. Where the net proceeds tax ends, there also ends the deduction for such tax. Only deductions for the mining operation will be allowed up through the beneficiation stage. All other expenses will be incurred as to the manufacturing process.

Therefore, the Department can allow only a deduction for actual expenses.

4. The authority of the rule is 15-1-201, MCA, and the rule implements 15-23-503, MCA.



ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 11/15/82

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 128, Montana State Capitol, Helena, Montana 59620.

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

Definition: 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 1, 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 the accumulative table and the table of contents for the last register issued. |

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies which have been designated by the Montana Procedure Act for inclusion in the ARM. The ARM is updated through September 30, 1982. This table includes those rules adopted during the period October 1, 1982 through December 31, 1982, and any proposed rule action that is pending during the past 6 month period. (A notice of adoption must be published within 6 months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through September 30, 1982, this table and the table of contents of this issue of the MAR.

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