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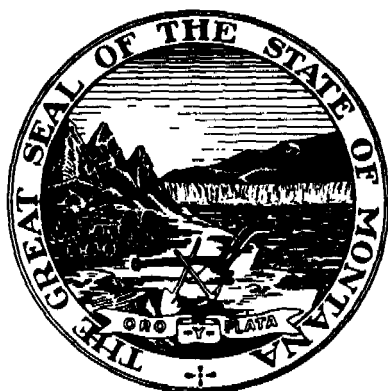
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RESERVE

**MONTANA
ADMINISTRATIVE
REGISTER**

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JUL 28 1983
OF MONTANA

1983 ISSUE NO. 14
JULY 28, 1983
PAGES 915-1005



MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 14

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 The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing, and where written comments may be submitted.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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BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the)	NOTICE OF PROPOSED
ADOPTION OF RULES	)	ADOPTION OF RULES
establishing criteria	)	State Assistance
for state emergency and	)	to Governmental
disaster assistance to	)	Entities in Presidentially
governmental entities in	)	Declared Disasters
presidentially declared	)	NO PUBLIC HEARING
disasters.	)	CONTEMPLATED

TO: All Interested Persons:

1. On Aug. 29, 1983, the Department of Administration proposes to adopt rules establishing criteria for state emergency and disaster assistance to its political subdivisions in presidentially declared disasters. The rules are proposed to establish criteria for participation by local governments and the state in federal disaster and emergency assistance programs in situations in which the availability of federal funds depends on either matching state funds or specific expenditures prior to eligibility for assistance under federal laws. The rules are proposed to establish a formula for determining the contribution share of both political subdivisions and the state as required to meet the state/local contribution requirement under the federal laws. The formula is based upon the responsibility of local governments to levy an emergency tax to cover emergency expenditures and is designed to establish an equitable method of computing the contribution responsibility of political subdivisions, other than counties, cities, and towns, which are entitled to participate in the federal assistance program and which do not have emergency tax levying powers.

2. The proposed rules provide as follows:

Rule 1. STATE AND FEDERAL ASSISTANCE -- GENERAL REQUIREMENTS

(1) The emergency or disaster must be declared by the President of the United States under current applicable federal law.

(2) In order to qualify for state assistance in a federal assistance program, a political subdivision must declare the emergency or disaster as provided in sections 10-3-402, 10-3-403, and 10-3-404, MCA.

(3) Cost sharing (the state/local commitment) for reimbursable costs will be based on the conditions established in the applicable FEMA/State Agreement.

(4) Costs will be eligible for reimbursement in accordance with current federal law pertaining to publicly owned and maintained facilities.

(5) The state will provide financial assistance to a political subdivision to help it in meeting the necessary state/local

commitment when the necessary state/local commitment exceeds the amount of the political subdivision's local share as determined by application of the formula established in Rule II. The political subdivision shall be responsible for the state/local commitment up to the amount of the local share as determined by Rule II.

(6) If the state's share of the state/local commitment for all eligible applicants exceeds funds available under section 10-3-312, MCA, the state's share to each eligible applicant shall be reduced on a pro-rata basis. If the Montana legislature does not appropriate additional funds in the next regularly scheduled session, after disbursements under these rules, to cover the difference between the state's prorated share and the share it would otherwise pay if funds were sufficient, the obligation for the remaining portion of the state/local commitment is the responsibility of the political subdivision.

(7) For purposes of this chapter, irrigation districts are political subdivisions; other special districts may apply to the Department of Military Affairs, Disaster and Emergency Services Division, for a determination as to their eligibility under these rules. (Sec. 10-3-311 MCA; IMF, Sec. 10-3-311 MCA).

Rule II. STATE AND FEDERAL ASSISTANCE - EXPENDITURES

(1) As used in this sub-chapter, the following definitions apply:

(a) "State/local commitment" means the portion of reimbursable costs which the state and its political subdivisions must meet in order to qualify for federal assistance in a presidentially declared disaster. The state/local commitment will be figured for each eligible applicant based on its reimbursable costs.

(b) "Local share" means the share of the state/local commitment which is the responsibility of each county, city, or town, up to the amount of the proceeds of its two mill emergency levy provided for in section 10-3-405, MCA or such lesser amount which equals the state/local commitment.

(c) "Total local share" means the sum of the local share of all counties, cities, and towns in the declared disaster area.

(d) "State share" means the share of the state/local commitment which is the responsibility of the state and which is the remainder of the state/local commitment less the local share.

(2) The local share of other political subdivisions, which do not have authority to levy an emergency tax, shall be determined as follows: (a) by dividing the total local share of all counties, cities, and towns in the declared area by the total state/local commitment for those counties, cities, and towns and multiplying that percentage factor by the state/local commitment for that particular political subdivision.

total local share of counties, cities, and towns	x	state/local commitment for that "other political sub- division"	=	"other political subdivision's" local share
total state/local commitment for counties, cities, and towns				

(b) If there are less than a total of five (5) eligible counties, cities, or towns in the declared disaster area, the percentage factor to be used in the above formula shall be determined from the last previously presidentially declared disaster in the State of Montana. (Sec. 10-3-311 MCA; IMP, Sec. 10-3-311 MCA.)

3. The reason for these rules is as follows: The recent flooding conditions in the State of Montana have created a situation in which the state and its political subdivisions are eligible for federal assistance, contingent upon certain contributions by the state and local governments. At the present time, there are no rules establishing the contribution responsibility of the state and a political subdivision for the state/local commitment of funds necessary to qualify for federal assistance. These rules establish a method of calculating the state's and the political subdivision's share of the necessary state/local commitment in such a situation.

4. Interested parties may submit their data, views, or arguments concerning the proposed rules in writing to Morris Bruset, Director, Department of Administration, Room 155, Sam W. Mitchell Building, Helena, Montana 59620, no later than Aug 26, 1983.

5. If a person who is directly affected by the proposed rules wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Morris Bruset, Director, Department of Administration, Room 155, Sam W. Mitchell Building, Helena, Montana, no later than Aug 26, 1983.

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.

MORRIS L. BRUSETT, Director
Department of Administration
Room 155, Sam W. Mitchell Building
Helena, Montana 59620

By Morris Bruset

Certified to the Secretary of State July 18, 1983

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PUBLIC HEARING
adoption of rules relating	)	ON THE ADOPTION OF RULES
to the administration of	)	RELATING TO THE ADMINI-
veterans' and handicapped	)	STRATION OF VETERANS' AND
civilians' preference	)	HANDICAPPED CIVILIANS'
	)	PREFERENCE

To: All Interested Persons.

1. On August 19, 1983, at 9:00 a.m. in the Social and Rehabilitation Services Building Auditorium, Helena, and on August 25, 1983, at 7:00 p.m. in the Parmly Billings Library, first floor conference room, 510 N. Broadway, Billings, public hearings will be held to consider the adoption of rules relating to the administration of veterans' and handicapped civilians' preference.

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

3. The proposed rules provide as follows:

RULE I SHORT TITLE (1) This sub-chapter may be cited as the veteran's and handicapped civilian's preference policy.
Authority 2-18-102, MCA. IMP. 2-18-102 MCA.

RULE II POLICY AND OBJECTIVES (1) It is the policy of the state of Montana to provide preference in employment to veterans and handicapped civilians who are eligible for and meet the criteria described in 10-2-201 et. seq. MCA.

(2) It is the objective of these rules to establish a consistent method for administration of the preference by state agencies.

Auth. 2-18-102, MCA. IMP. 2-18-102, MCA.

RULE III DEFINITIONS As used in this sub-chapter, the following definitions apply:

(1) As provided in 10-2-202, MCA, "the term 'veterans' means persons:

(a) who served in the armed forces of the United States in time of war or declared national emergency and who have been separated from service upon conditions other than dishonorable; or

(b) who after January 31, 1955:

(i) served on active military duty for more than 180 days or were discharged or released because of a service-connected disability; and

(ii) were honorably discharged."

(2) As provided in 10-2-202, MCA, "the term 'war or declared national emergency' includes:

(a) The Civil War;
(b) The Spanish-American War;
(c) The Philippine Insurrection;
(d) World War I, between April 6, 1917, and November 11, 1918, both dates inclusive;

(e) World War II, between September 16, 1940, and December 31, 1946, both dates inclusive; and

(f) The Korean conflict, military expedition, or police action, between June 26, 1950, and January 31, 1955, both dates inclusive."

(g) The Vietnam conflict between August 5, 1964, and May 7, 1965, both dates inclusive.

(3) As provided in 10-2-202, MCA, "the term 'surviving spouse' means an unremarried surviving spouse of a veteran."

(4) As provided in 10-2-202, MCA, "the word 'percent' means percent of the total aggregate points of the examination referred to."

(5) "Disabled veteran" means a veteran who has a disability admitted by the Veterans Administration of the United States to have been incurred during time of war or declared national emergency.

(6) "Disabled civilian" means a person who has been certified by the Department of Social and Rehabilitation Services as eligible for preference.

(7) "Dependent" means a person who in the year prior to application for preference received more than half of his or her support from a veteran or a disabled veteran and is a relative or member of the veteran's household, as defined in 15-30-113, MCA.

(8) "Spouse" means a person currently married, as recognized by Montana law, to a veteran.

(9) "Residence" means, as provided in 1-1-215, MCA, "Every person has, in law, a residence. In determining the place of residence the following rules are to be observed:

(a) It is the place where one remains when not called elsewhere for labor or other special or temporary purpose and to which he returns in seasons of repose.

(b) There can only be one residence.

(c) A residence cannot be lost until another is gained.

(d) The residence of his parents or, if one of them is deceased or they do not share the same residence, the residence of the parent having legal custody or, if neither parent has legal custody, the residence of the parent with whom he customarily resides is the residence of the unmarried minor child. In case of a controversy, the district court may declare which parental residence is the residence of an unmarried minor child.

(e) The residence of an unmarried minor who has a parent living cannot be changed by either his own act or that of his guardian.

(f) The residence can be changed only by the union of act and intent."

(10) "Active military duty" means full-time duty with military pay and allowances in the armed forces; does not include active duty for training.

(11) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps and Coast Guard.
Auth. 2-18-102, MCA, IMP. 2-18-102, 10-2-202, 1-1-215, MCA.

RULE IV ENTITLEMENT TO PREFERENCE (1) No person is entitled to preference who has not resided in Montana for at least one year immediately preceding an appointment.

(2) No person who refused to take up arms in defense of the United States or who refused to serve on active military duty is entitled to preference.

(3) The preference granted is of two types:

(a) When a written or oral exam is used, certain preferred persons are entitled to have points added to their scores, and

(b) certain preferred persons, if qualified, must be given absolute preference for jobs irrespective of the qualifications possessed by other non-preferred applicants. The addition of points to an examination score does not in itself satisfy the requirements of this act; absolute preference over and above any addition of points is also required.

(4) As provided in 10-2-204, MCA, when an oral or written exam is used, the following persons shall have 10 percentage points added to any passing scores: disabled veterans; spouses and surviving spouses of disabled veterans; and dependents of disabled veterans.

(5) As provided in 10-2-204, MCA, the following persons shall have 5 percentage points added to any passing scores: other veterans; spouses and surviving spouses of other veterans; and dependents of other veterans.

(6) Section 10-2-204, MCA does not provide for the addition of points to the scores of disabled civilians.

(7) Records shall separately show examination ratings and the veteran's credit.

(8) As provided in 10-2-203, MCA, absolute preference must be provided to the following categories of persons: veterans and disabled veterans; spouses and surviving spouses of veterans and disabled veterans; dependents of disabled veterans (but not of non-disabled veterans); disabled civilians recommended by the Department of Social and Rehabilitation Services.

Auth: 2-18-102, MCA. IMP. 2-18-102, 10-2-203, 10-2-204, MCA.

RULE V RANKING PREFERRED PERSONS (1) As provided in 10-2-203, MCA, disabled veterans who incurred their disability in time of war or national emergency receive preference over other veterans.

(2) Other veterans, the spouses and surviving spouses of disabled veterans and other veterans, dependents of disabled veterans, and disabled civilians recommended by the Department of Social and Rehabilitation Services will be treated equally in the application of absolute preference, under 10-2-203, MCA.

(3) Among equally preferred persons, relative qualifications should be considered.

Auth. 2-18-102, MCA IMP. 2-18-102, 10-2-203 MCA

14-7/28/83

MAR NOTICE NO. 2-2-117

RULE VI DOCUMENTATION (1) In all cases it is the responsibility of the applicant to claim the preference and to provide the required documentation.

(2) An applicant must claim preference for each position for which he/she wishes to be considered.

(3) An applicant shall provide proof of eligibility for preference upon request of an agency. Agencies shall obtain documentation from a successful applicant prior to hire. Types of documentations include:

(a) From veterans, their spouses, surviving spouses, and dependents, a form DD-214 or other document issued by the U. S. Armed Forces which verifies dates of service and character of discharge. Note that certificates of discharge usually carry only the discharge date and therefore are of no value in determining if the veteran has more than 180 days of active service.

(b) From all preferred persons, proof of one year's residency. Typical documentation includes a Montana State Income Tax Return (persons who paid income tax in another state while claiming residency in Montana should have also filed in Montana), voter registration (persons residing out-of-state who claim Montana residency must vote by absentee ballot if they vote). The payment of property tax is not proof of residency since property can be held simultaneously in any number of states. Veterans and their dependents who served in the military service elsewhere but who continued to declare Montana as their place of residency are considered Montana residents. Persons who have been residents but have left the state other than for a temporary purpose must reestablish residency for one year before being eligible for the preference.

(c) From spouses of veterans, a marriage license, or tax records or other verification of the relationship.

(d) From disabled veterans, their spouses, surviving spouses, and dependents, a letter from the Veterans Administration verifying receipt of a service-connected disability and documentation that the disability was incurred during time of war or declared national emergency.

(e) From current dependents of veterans or disabled veterans, tax records or other documents which establish that dependency.

(4) Disabled civilians shall obtain a letter from the Department of Social and Rehabilitation Services certifying their eligibility for preference. Any agencies having questions regarding individuals certified for civilian preference should contact, Administrator, Rehabilitative Services Division/Visual Services Division, Department of Social and Rehabilitation Services.

(5) It shall be the responsibility of the applicant to report any status changes which affect eligibility for preference.

Auth. 2-18-102, MCA. IMP. 2-18-102, 10-2-201 et. seq. MCA.

RULE VII APPLICATION OF PREFERENCE TO INITIAL APPOINTMENT (1) The preference shall be applied to initial appointment only. Personnel actions limited to current employees or employees in a reduction-in-force pool are not considered initial appointments.

Auth. 2-18-102, MCA. IMP. 2-18-102, 10-2-201 et. seq. MCA.

RULE VIII RECRUITMENT AND SELECTION PROCEDURES (1) Agencies shall not routinely copy minimum qualifications statements from class specifications as listed on the class specifications because they are not developed for selection use and in most cases are far too general to be more than rough indications for any specific position.

(2) Agencies should perform a job analysis for each position when it becomes vacant. Agencies should identify the knowledges, skills, and abilities which are synonymous with "business capacity, competency and education" as provided in 10-2-206 MCA, for a given position.

(3) All vacancy announcements shall conform to the minimum standards prescribed by the Department of Administration (available from the Personnel Division. Department of Administration).

(4) Agencies shall require all applicants to complete the application supplement for preferred persons (Form PD-25A) in addition to the state application or other application.

(5) Whenever agencies have qualified employees available, recruitment may be limited to the agency, the division, or other appropriate internal unit. Agencies should continue to consider career ladders and upward mobility for current employees when deciding whether recruitment will be internal or external.

Auth. 2-18-102, MCA. IMP. 2-18-102, 10-2-206, MCA.

RULE IX CLOSING (1) This sub-chapter shall be followed unless it conflicts with negotiated labor contracts, which shall take precedence to the extent applicable.

Auth. 2-18-102, MCA, IMP. 2-18-102, MCA

(4) These rules are proposed to provide a uniform and consistent way for state agencies to administer veterans' and handicapped civilians' preference in light of the recent Montana Supreme Court decision in Crabtree v. Montana State Library which provides absolute entitlement to eligible and persons as provided in 10-2-201, et. seq. MCA.

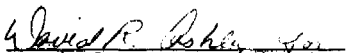
(5) Interested parties may submit their data, views or arguments concerning the proposed adoption in writing to:

Dennis M. Taylor, Administrator
Personnel Division
Department of Administration
Room 130, Mitchell Building
Helena, Montana 59620

no later than August 26, 1983.

(6) Mark Cress, Chief, Employee Relations Bureau, Personnel Division, Department of Administration, Mitchell Building, Helena, MT. 59620 has been designated to preside over and conduct the hearings.

(7) The authority of the agency to adopt rules is based on Section 2-18-102, MCA and the rule implements 2-18-102, 1-1-215, and 10-2-201 et. seq., MCA.


Morris L. Brusett, Director
Department of Administration

Certified to the Secretary of State July 18, 1983.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF CHIROPRACTORS

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENTS
amendments of 8.12.603 concern-) OF ARM 8.12. 603 EXAMINATION,
ing examinations, 8.12.605 con-) 8.12.603 RECIPROCITY, 8.12.606
cerning reciprocity, 8.12.606) RENEWALS, PROPOSED REPEAL
concerning a late renewal fee,) OF 8.12.608 INVESTIGATIONS
proposed repeal of 8.12.608 con-) AND PROPOSED ADOPTION OF
cerning investigations and pro-) A NEW SUB-CHAPTER CONTAINING
posed adoption of new rules con-) RULES REGARDING COMPLAINT
cerning complaint procedures.) PROCEDURES

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On August 27, 1983, the Board of Chiropractors proposes to amend the above stated rules.
2. The proposed amendment of 8.12.603 will read as follows: (new matter underlined, deleted matter interlined)

"8.12.603 EXAMINATION (1) In the absence of an applicant's score in the National Board Examination which may be accepted, the Examination for licensure shall be made by the board according to the method deemed necessary to test the qualifications of the applicants. The written examination will consist of physical diagnosis, physiotherapy, orthopedics and x-ray, and may be given in additional subjects as the board deems necessary. An oral interview and practical demonstration may be required in addition to the minimum written examination.

(2) ...

(3) The secretary of the board will keep examination papers on file for such a length of time as may be deemed necessary and/or one year. Those individuals who sat for the examination and were successful or unsuccessful shall be recorded in the minutes and become part of the permanent record. The written examinations have been given in the following subjects which have been required since 1954:

Anatomy	Obstetrics & Gynecology
Histology	Pathology
Neurology	Electro-therapeutics
Physiology	X-ray
Diagnosis & Symptomatology	Chiropractic Principles and Practice
Hygiene and Sanitation	A-Chiropractic Jurisprudence
Chemistry & Urinalysis	B-Philosophy
Bacteriology & Toxicology	C-Clinical Technique
Pediatrics	D-Ethics

(4) Minimum passing grade on each of the written and x-ray sections of the examination is 75%. Applicants failing two or less sections will only be required to retake the sections failed. The full examination will be required for failure to pass more than two sections."

3. House Bill 671 amended the specific subject requirements for the examination to those subjects taught in a chiropractic college. The amendment to this rule corresponds to the legislative change. Section 37-12-304, MCA, also specifies the minimum passing grade. The authority of the board to make the proposed amendment is based on section 37-12-201, MCA, and implements section 37-12-304, MCA.

4. The proposed amendment of 8.12.605 will read as follows: (new matter underlined, deleted matter interlined)

"8.12.605 RECIPROCITY (1) Applicants for reciprocity must have been in active chiropractic practice for at least five years prior to making application. Individuals whose applications are complete and whose preliminary and professional education meets the general requirements of the Montana Chiropractic Act, and wherein the standard of such states is not in any degree or particular less than were the requirements for the state of Montana in the same year of application, and educational standards required by the rules of the board may be granted admittance through licensure with or without the clinical proficiency examination. Reciprocity, however, is only effective with those states where the board has established a mutual agreement or at the discretion of the board."

5. The board is proposing the amendment to require that reciprocal applicants have been actively practicing for 5 years prior to making application. The right to practice without examination does require, in the opinion of the board, at least 5 years of active credentialed practice in order to adequately protect the public. The authority of the board to make the proposed change is based on section 37-12-201, MCA and implements section 37-12-305, MCA.

6. The proposed amendment of 8.12.606 adds a new subsection (4) which will read as follows: (new matter underlined, deleted matter interlined)

"8.12.606 RENEWALS - CONTINUING EDUCATION REQUIREMENTS

(1)...

(4) Licensees who have not renewed by October 1 of each year shall pay a late renewal fee of \$15.00."

7. House Bill 513 provided that a late renewal fee could be charged those individuals who have not renewed by October 1. The board has determined that \$15.00 is the fee necessary to cover the costs of late renewal. The authority of the board to make the proposed change is based on section 37-12-201, MCA and implements section 37-12-307, MCA.

8. The proposed amendment of 8.12.608 repeals the current rule in its entirety. New rules governing the complaint procedures are being proposed for adoption.

"8.12.608 INVESTIGATIONS

(1) The board will review all complaints and may authorize the department of commerce to investigate."

9. The board is proposing the repeal of rule 8.12.608 as it is also proposing to adopt new rules governing complaint procedures. Rather than amend rule 8.12.608 and adopt other rules of complaint procedures which would fall two rules later in the current rules, the board feels it would be clearer to the user to place all rules concerning the complaint procedures in a separate sub-chapter. The authority of the board to make the proposed change is based on section 37-12-201, MCA and implemented section 37-12-322, MCA.

10. The proposed new rules regarding the complaint procedures will read as follows:

"I. INVESTIGATIONS - COMPLAINT PROCEDURES (1) All complaints must be in writing and upon a form prescribed by the department. The complaint must at least give the name of the party suspected of an alleged violation and the nature of the complaint against the person. The complaint must be made to the board of chiropractors to report a suspected violation of Title 37, Chapter 12, MCA, or Title 8, Chapter 42, Administrative Rules of Montana.

(2) All complaints against a chiropractor licensed in the state of Montana, relating to the practice of chiropractic, must be filed with the board of chiropractors. Complaints received by the Montana chiropractors association concerning violations of association rules by a member of that organization will be investigated by that organization and not filed with the board of chiropractors, unless the violation also constitutes an infraction of the law which requires legal action against the offending member. All agencies or departments of government receiving and/or making complaint against a chiropractor must file said complaint with the board of chiropractors.

(3) These procedural rules apply only to complaints filed with the board of chiropractors. These rules in no way negate or make illegal complaints which may be filed with the Montana chiropractors association and its sub-organization, the ethics committee. The Montana chiropractors association may only accept complaints made against an association member or if the board of chiropractors has referred the complaint to the association. Complaints made against individuals who are not members of the Montana chiropractors association must be directed to the board of chiropractors.

(4) Complaints handled by the Montana chiropractors association should be resolved to the satisfaction of all parties. Should any of the parties involved be dissatisfied with the outcome, the complaint may be appealed before the board of chiropractors in the prescribed manner.

(5) All steps in the complaint process will be confidential until final disposition by the board.

(6) All correspondence or communications on complaints

or investigations shall be made to the office of the board of chiropractors at 1424 9th Avenue, Helena, Montana 59620-0407." (auth. Sec. 37-12-201, MCA; Imp. Sec. 37-12-322, MCA)

"II. BOARD OFFICE RECEIPT OF COMPLAINT (1) The complaint received by the board will be documented. A formal complaint form will be supplied to the complainant requesting all information concerning the complaint. Receipt of the formal complaint shall be acknowledged to the complainant.

(2) If no formal complaint form is received within 30 days of the original complaint, the complaint will be dismissed by the board.

(3) If facts discovered in preliminary investigation indicate that the Montana chiropractic act has been violated by a licensee, and the complainant has not submitted the formal complaint within the 30 day period as prescribed in subsection (2), the board may, on its own motion, make the complaint, and investigation will be completed and submitted to the board for their determination." (auth. Sec. 37-12-201, MCA; Imp. Sec. 37-12-322, MCA)

"III. BOARD ACTION UPON RECEIPT OF COMPLAINTS

(1) Matters presented by complaint, if their nature warrants it, may be taken up by correspondence with the parties affected in an endeavor to bring about a satisfactory disposition without formal hearing.

(2) The board will review all complaints received and may initiate the investigation or request the department of commerce or the ethics committee of the Montana chiropractors associations to investigate.

(3) All investigation reports, documents, papers, x-rays, or other items of the investigative process shall be made a part of the records of the board and retained by the board and not the parties conducting the investigation.

(4) The board reserves the right to pass upon the sufficiency of any complaint when received, and will notify the complainant in the event that cause of action has not been shown, without prejudice however, to the right of the complainant to file a new complaint." (auth. Sec. 37-12-201, MCA; Imp. Sec. 37-12-322, MCA)

"IV. ACTION WHICH MAY BE TAKEN ON INVESTIGATION OF A COMPLAINT (1) The board may take various actions after it has obtained sufficient information about a complaint.

(2) The board may determine that, as a result of its investigation, no violation of Title 37, Chapter 12, MCA or Title 8, Chapter 12, A.R.M., has occurred. If so, the case will be closed and complainant and alleged violator will be so notified.

(3) The board may determine that a violation of Title 37, Chapter 12, MCA, or Title 8, Chapter 12, A.R.M. has occurred. Any such action shall proceed in accordance with the Montana Administrative Procedures Act, Title 2, Chapter 4, MCA, as adopted by the department of commerce, professional and occupational licensing bureau.

(4) Dismissal of the charges leads to case closure, while the sustaining of charges merits those penalties and sanctions as expressed in Title 37, Chapter 12, MCA, or Title 8, Chapter 12, A.R.M. upon the person in violation. Complainant and alleged violator are so notified. (auth. Sec. 37-12-201, MCA; Imp. Sec. 37-12-322, MCA)

11. The board is proposing the new rules to update and provide procedural steps to complaint handling and investigations and to define the board's role and the association role on complaint matters.

12. Interested persons may submit their data, views or arguments concerning the proposed amendments, repeal and adoptions in writing to the Board of Chiropractors, 1424 9th Avenue, Helena, Montana 59620-0407, no later than August 25, 1983.

13. If a person who is directly affected by the proposed amendments, repeal and adoptions wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any comments he has to the Board of Chiropractors, 1424 9th Avenue, Helena, Montana 59620-0407, no later than August 25, 1983.

14. If the board receives requests for a public hearing on the proposed amendments, repeal or adoptions from either 10% or 25, whichever is less, of those persons who are directly affected by the proposed amendments, repeal and adoptions, from the Administrative Code Committee of the legislature, from a governmental agency or subdivision, or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 23 based on the 230 licensees.

15. The authority and implementing sections are listed after each proposed change.

BOARD OF CHIROPRACTORS
CARROL ALBERT, D.O., PRESIDENT

BY: 

GARY BUCHANAN, DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, July 18, 1983.

14-7/28/83

MAR NOTICE NO. 8-12-6

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF NURSING HOME ADMINISTRATORS

In the matter of the proposed) NOTICE OF PUBLIC HEARING FOR
amendments of 8.34.414 concern-) THE PROPOSED AMENDMENTS OF
ing examinations, 8.34.416 con-) ARM 8.34.414 EXAMINATIONS,
cerning the continuing educa-) 8.34.416 CONTINUING EDUCATION,
tion requirements, and 8.34.418) 8.34.418 FEE SCHEDULE
concerning the fee schedule.)

TO: All Interested Persons:

The notice of proposed amendment by the Board of Nursing Home Administrators published in the Montana Administrative Register on May 26, 1983, (issue 10) is amended as follows because the Montana Health Care Association has requested a public hearing.

1. On August 18, 1983, at 1:30 p.m., a public hearing will be held in the large conference room of the Department of Commerce, 1430 9th Avenue, Helena, Montana to consider the amendment of the above-stated rules.

2. The rules amendments are the same as proposed in the original notice.

3. The rules are proposed for amendment for the reasons stated in the original notice.

4. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written data, views and arguments may also be submitted to the Board of Nursing Home Administrators, 1424 9th Avenue, Helena, Montana 59620-0407, no later than August 27, 1983.

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

6. The authority of the board to make the proposed amendments is based on sections 37-1-134, MCA and 37-9-201, MCA and implements sections 37-9-202, 203, 301, MCA for rule 8.34.414; sections 37-9-203 and 305, MCA for rule 8.34.416; and sections 37-1-134 and 37-9-304, MCA.

BOARD OF NURSING HOME
ADMINISTRATORS
VERA GERKE, CHAIRMAN

BY: 

GARY BUCHANAN, DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, July 18, 1983.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption) NOTICE OF PROPOSED ADOPTION
of Rules relating to the) OF RULES I - VII
External Diploma Program) EXTERNAL DIPLOMA PROGRAM
) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On August 29, 1983, the Board of Public Education proposes to adopt Rules 1, 2, 3, 4, 5, 6, and 7 that relate to the External Diploma Program.

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

RULE I 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.

14-7/28/83

MAR NOTICE NO. 10-3-69

(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)

3. The board of public education is proposing these rules 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.

4. Interested parties may submit their data, views or arguments concerning the proposed rules in writing to Harriett C. Meloy, Chairman, Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59620 no later than August 26, 1983.

5. If a person who is directly affected by the proposed rules wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Harriett C. Meloy, Chairman, Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59620 no later than August 26, 1983.

6. If the agency receives requests for a public hearing on the proposed rule from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed rule; from the Administrative Code Committee of the legislature; from a governmental 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 about 500 persons per year based on approximately 5,000 persons per year that will enroll in an adult basic education program.

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

Harriett C. MeLOY

HARRIETT C. MELOY, CHAIRMAN
BOARD OF PUBLIC EDUCATION

By

Walter Dean Degen

Certified to the Secretary of State July 18, 1983.

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

In the matter of the repeal	)	NOTICE OF PUBLIC HEARING
of rule 16.30.202 concerning	)	ON REPEAL OF RULE 16.30.202
ambulance service licensure)	
requirements	)	(Licensing Provisions)

To: All Interested Persons

1. On August 29, 1983, at 10:00 a.m., a public hearing will be held in Room C307 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the repeal of rule 16.30.202.


2. The rule proposed to be repealed can be found on page 16-1353 of the Administrative Rules of Montana.

3. The rule is proposed to be repealed because it simply repeats statutory language, which is prohibited by Section 2-4-305(2), MCA, of the Montana Administrative Procedure Act.

4. 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 Complex, Helena, MT., no later than August 26, 1983.

5. Robert L. Solomon, Cogswell Building, Capitol Complex, Helena, MT, has been designated to preside over and conduct the hearing.

6. The authority of the Department to repeal the rule is based on Section 50-6-203, MCA.


JOHN J. DRYNAN, M.D., Director

By 
JOHN W. BARTLETT, Deputy Director


Certified to the Secretary of State July 18, 1983

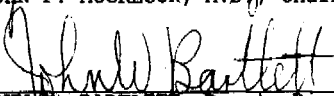
BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
OF THE STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF
of an interpretive rule	)	CONTINUATION OF HEARING
concerning access to vital)	
statistics records	)	(Vital Statistics)

To: All Interested Persons

1. On June 16, 1983, MAR notice no. 16-2-249 was published at page 618 of the 1983 Montana Administrative Register regarding a public hearing to be held by the Board of Health and Environmental Sciences on July 15, 1983, to consider the adoption of the above-referenced interpretive rule. The Board considered the rule at the July 15 hearing, but delayed final action until its September 16, 1983, meeting. The hearing is continued until September 16, 1983, and final action will be taken on that date.


JOHN F. MCGREGOR, M.D., Chairman

By 
JOHN W. BARTLETT, Deputy Director
Department of Health and
Environmental Sciences

Certified to the Secretary of State July 18, 1983

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

In the matter of the adoption	)	NOTICE OF PUBLIC HEARING
of a rule setting fees for	)	FOR ADOPTION OF A RULE
examinations and certification	)	(Water and
of water and wastewater	)	Wastewater Operators)
operators)	

To: All Interested Persons

1. On August 29, 1983, at 10:00 a.m., a public hearing will be held in Room C307 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the adoption of a rule which sets fees for initial and annual renewal of certification of water and wastewater operators, and for their examinations.

2. The proposed rule will replace the emergency rule found at page 602 of the Montana Administrative Register, issue no. 10.

3. The proposed rule provides as follows:

RULE I FEES (1) An applicant for certification or a certified operator applying for renewal of his certificate must pay to the department the fee below which is set for the class in which he is or wishes to be certified:

(a) For applications submitted through December 31, 1983:

- (i) Class I, \$20
- (ii) Class II, \$15
- (iii) Class III, \$10
- (iv) Class IV, \$5
- (v) Class V, \$3

(b) For applications submitted after December 31, 1983:

- (i) Class I, \$27
- (ii) Class II, \$22
- (iii) Class III, \$17
- (iv) Class IV, \$12
- (v) Class V, \$10

(2) The fee is \$5 for each examination held after December 31, 1983.

(3) After July 1, 1984, any renewal application received from an applicant whose certificate has been suspended must be accompanied by \$5 in addition to the fee required by subsection (1) above.

AUTHORITY: Sec. 37-42-202, MCA

IMPLEMENTING: Sec. 37-42-202 and 37-42-304, MCA

4. The department is proposing this rule because the 1983 Legislature eliminated the statutory fee schedule and gave the department the authority to set its own, which is necessary to cover the cost of administration of the program.

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 Complex, Helena, Montana, 59620, no later than August 26, 1983.

6. Robert L. Solomon, Cogswell Building, Capitol Complex, Helena, Montana, has been designated to preside over and conduct the hearing.

7. The authority of the Department to make the proposed rule is based on section 37-42-202, MCA, and the rule implements section 37-42-202 and 37-42-304, MCA.

John J. Drynan
JOHN J. DRYNAN, C.D., Director

By Don Willem
DON WILLEMS, Administrator,
Environmental Sciences Division

Certified to the Secretary of State July 18, 1983

BEFORE THE BOARD OF LABOR APPEALS
OF THE STATE OF MONTANA

In the matter of the adoption of
rules concerning reconsideration
of Board decisions.

NOTICE OF PROPOSED RULES
NO PUBLIC HEARING IS
CONTEMPLATED.

TO: All Interested Persons.

1. On September 1, 1983 the Board of Labor Appeals, a quasi-judicial board established by 2-15-1704, MCA proposes to adopt rules concerning standards for reconsideration for Board decisions.

2. The proposed rules are as follows:

RULE I STANDARDS AND PROCEDURE FOR RECONSIDERATION OF DECISIONS.

(1) Definitions. As used in this rule, the following definitions apply:

- (a) "Petition" means a petition for rehearing or reconsideration.
- (b) "Requester" means the party requesting a petition for rehearing or reconsideration.

(2) All petitions shall be made within ten days of receipt of the Board's decision by the requester. The requester shall serve upon all parties a copy of the petition.

(3) The filing of a petition is not a prerequisite for seeking judicial review of a final Board decision.

(4) Petitions are addressed to the sole discretion of the Board.

(5) Grounds. A petition will be granted only upon the following grounds:

- (a) Clerical error.
- (b) To present relevant evidence that was not known or discoverable with reasonable diligence by the requester at the time of the hearing.
- (c) To present relevant evidence or argument that proper procedures was not followed in appealing the matter to the Board.

(6) Contents of Petition. The petition must state the ground or grounds upon which reconsideration is sought and a detailed statement as to why the requested rehearing or reconsideration will likely mandate a change in the Board's decision.

(7) The Board shall rule upon the petition at its next regular meeting and notify the parties of its decision.

(8) A decision of the Board denying a petition is a final decision pursuant to 39-51-2410, MCA.

AUTH: 2-15-102, 2-15-1704 and 39-51-310, MCA IMP: 2-15-102, MCA

3. This rule is proposed to clarify the procedure to be used in requesting rehearings and reconsiderations before the Board.

4. Interested parties may submit their data, views, or arguments concerning the proposed rule in writing to R. Scott Currey, General Counsel, P.O. Box 1728, Helena, Montana 59624 no later than August 28, 1983.

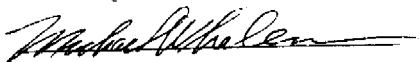
5. A person who is directly affected by the proposed rule who wishes to express his views, to present data, and or arguments orally or in writing at a public hearing must make written request for a hearing and submit this request along with any written comments he has to R. Scott Currey, General Counsel, P.O. Box 1728, Helena, Montana 59624 no later than August 28, 1983.

6. If the Department receives requests for a public hearing on the proposed rule by either 25 persons who are directly affected by the proposed

14/7-28/83

MAR NOTICE NO. 24-7-1

rule or 10% of all persons directly affected by the proposed rule, from the Administrative Code Committee of the Legislature, from a governmental division or agency, or from an association having not less than 25 members who will directly be affected, hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.



MICHAEL WHALEN, Chairman
Board of Labor Appeals

Certified to the Secretary of State July 11, 1983

MAR Notice 24-7-1

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF PROPOSED AMENDMENT
Amendment of Rules 42.15.305	)	of Rules 42.15.305 and
and 42.15.411 relating to	)	42.15.411 relating to estates
estates and trusts.	)	and trusts.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On August 29, 1983, the Department of Revenue proposes to amend rules 42.15.305 and 42.15.411 relating to estates and trusts.

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

42.15.305 TRUST AND ESTATE RETURNS (1) If an estate or trust has gross income for its taxable year of \$800, adjusted as provided in subsection (2) in excess of the exemption credit for that taxable year, or more, the fiduciary of the estate or trust shall make and file a return. However, estates or trusts held exclusively for charitable, educational, or religious purposes are not subject to tax and a return is not required thereof.

(2) By November 1 of each year the department will multiply the minimum amount of gross income necessitating the filing of a return by the inflation figure for the taxable year-(3) The return for an estate or a trust is to be made on the Montana Fiduciary Income Tax Return form 2 and must include a statement showing each beneficiary's distributive share of income, regardless of whether or not distributed as of the close of the taxable year. The return may must be made on Federal Form 1041, provided, Montana Form 2 is attached and completed as to name, address, taxable income, and tax liability. The return is due on or before the 15th day of the 4th month following the close of the taxable year and is to be filed with the Department of Revenue, Helena, Montana, 59620 the Montana Fiduciary Income Tax Return form and may not be made on the Federal 1041 form.

(4) The income of an estate or trust is its income reportable for federal income tax purposes with the modifying adjustments specified in 15-30-111, MCA.

AUTH: 15-30-305 MCA; IMP: 15-30-135, MCA.

42.15.411 EXEMPTIONS FOR NONRESIDENTS (1) Persons Individuals, estates and trusts who are not residents of Montana and persons individuals who were residents of Montana for only a fractional part of the taxable year are allowed the same exemptions as allowed to taxpayers who were residents of this state for the entire taxable year. However, the exemption deduction allowable is that fractional part of the total exemption allowance which the taxpayer's Montana adjusted gross income bears to his federal adjusted gross income. For example, assume a tax-

payer is entitled to three exemptions and has a Montana adjusted gross income of \$5,000 and federal adjusted gross income of \$10,000. The value of his exemptions is \$2,400 (3 exemptions times \$800, assuming an inflation figure of 1). His allowable deduction, however, is \$1,200 ($\$5,000 \div \$10,000 = 50\%$, 50% of $\$2,400 = \$1,200$).

(2) A nonresident estate or trust must prorate its exemption allowance of \$800, adjusted as provided in subsection (3), as explained above for nonresident and fractional year resident individuals.

(3) By November 1 of each year the department will multiply the exemption amount by the inflation figure for the taxable year.

AUTH: 15-30-305 MCA; IMP: 15-30-112 and 15-30-135, MCA.

3. The Department is proposing these amendments because of recent legislative changes. Rule 42.15.305 previously required estates and trusts to file if they had income over \$800. The 1983 Legislature amended §15-30-135, MCA, to require that estates and trusts file when they have income in excess of the current exemption amount. The rule as proposed to be amended requires estates and trusts to file using the Montana Estate Trust Return Form. A new form is necessary because the current Form 2 does not provide sufficient lines for reporting the information required under §15-30-135, MCA, as amended.

Rule 42.15.411 is proposed to be amended to take into account the changes required by the 1983 session which amended §15-30-135, MCA. Nonresident estates and trusts are required to prorate their exemption deduction in the same manner as other nonresidents. The example on the original rule is being amended because it was in error in that it showed $\$5,000 - \$10,000 = 50\%$ when it should show $\$5,000 \div \$10,000 = 50\%$.

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

Ann Kenny
Department of Revenue
Legal Division
Mitchell Building
Helena, Montana 59620

no later than August 26, 1983.

5. If a person who is directly affected by the proposed amendments wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Ann Kenny at the above address no later than August 26, 1983.

6. If the agency receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed

amendments; from the Administrative Code Committee of the Legislature; from a governmental subdivision, or agency; or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 25.

7. The authority of the agency to make the proposed amendments is based on §15-30-305, MCA, and the rules implement §§15-30-112 and 15-30-135, MCA.



ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 07/18/83

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF PROPOSED ADOPTION
Adoption of Rule I relating	)	of Rule I relating to charit-
to charitable contributions	)	able contributions by non-
by nonresidents.	)	residents.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On August 29, 1983, the Department of Revenue proposes to adopt Rule I relating to charitable contributions by nonresidents.

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

RULE I DEDUCTIONS FROM NET INCOME (1) A nonresident of Montana who is a resident of a state that imposes a tax on income of persons residing in that state may claim the following itemized deductions:

(a) the deductions directly connected with the production of Montana income; plus

(b) a contributions deduction, as defined and limited by section 170 of the Internal Revenue Code, for contributions to Montana or a political subdivision of Montana.

(2) A nonresident of Montana who is a resident of a state that does not impose a tax on income of persons residing in that state may claim the following itemized deductions:

(a) a contributions deduction, as defined and limited by section 170 of the Internal Revenue Code, for contributions to Montana or a political subdivision of Montana; plus

(b) the greater of those deductions directly connected with the production of Montana income; or

(c) a prorated amount of the normal itemized deductions allowed a resident of Montana. The proration is based on the ratio that the taxpayer's Montana earned income bears to his/her federal earned income.

(3) If the taxpayer elects to prorate the itemized deductions in accordance with (2)(c) above, the contributions referred to in (2)(a) must be excluded from the contribution deduction to be prorated.

(4) If the taxpayer elects (2)(c) above, and federal tax paid during the taxable year includes federal tax accrued for a previous year, the federal tax accrued must be prorated based on the ratio the taxpayer's Montana income bore to his federal earned income for the previous year.

(5) Section 2(a) applies to contributions made after December 31, 1982, and is applicable to tax years beginning after December 31, 1982.

AUTH: 15-30-305, MCA; IMP: 15-30-131, MCA.

3. The Department is proposing this new rule because chapter 378 of the 1983 Laws of Montana allows nonresidents to claim a deduction for contributions made to Montana or a political subdivision thereof. This legislation allows the deduction, but does not specify the manner in which these individuals are to calculate the contribution deduction when they have other deductions. This rule is therefore necessary to reflect the several different methods for a nonresident to calculate their itemized deductions. It also prevents the taxpayer from claiming a federal tax deduction on income not earned in Montana. It provides the method for calculating the percentage of federal tax attributable to the Montana income.

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

Ann Kenny
Department of Revenue
Legal Division
Mitchell Building
Helena, Montana 59620

no later than August 26, 1983.

5. If a person who is directly affected by the proposed amendments wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Ann Kenny at the above address no later than August 26, 1983.

6. If the agency receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendments; from the Administrative Code Committee of the Legislature; from a governmental subdivision, or agency; or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 25.

7. The authority of the agency to adopt the proposed rule is based on §15-30-305, MCA, and the rule implements §15-30-131, MCA.


ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 07/18/83

OFFICE OF THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE)	NOTICE OF PROPOSED AMENDMENT
Amendment of Rule 42.15.424)	of Rule 42.15.424 relating to
relating to expanded child)	expanded child and dependent
and dependent care deduction.)	care deduction.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On August 29, 1983, the Department of Revenue proposes to amend rule 42.15.424 relating to expanded child and dependent care deduction.

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

42.15.424 DEDUCTIONS FOR EXPENSES TO ALLOW TAXPAYER TO BE EMPLOYED (1) Effective for taxable years beginning after December 31, 1975, 15-30-121(3), MCA, allows a deduction from adjusted gross income for child and dependent care expense. The deduction is allowed according to the provisions of Section 214 of the Internal Revenue Code that were in effect for the taxable year that began January 1, 1974. The federal income tax regulations, rulings, and decisions applicable to Internal Revenue Code, Section 214 for the said taxable year shall be controlling in determining the deduction to be allowed.

(2) In general, a taxpayer who maintains a household is entitled to a deduction for employment-related expenses incurred for the care of:

(a) a dependent under age 15 for whom an exemption may be claimed;

(b) a dependent who, regardless of age, is unable to care for himself or herself because of a physical or a mental illness; or

(c) a spouse who is unable to care for himself or herself because of a physical or mental illness.

(3) In order to qualify for the deduction:

(a) the taxpayer must have been gainfully employed during the period the expenses were incurred or in active search of gainful employment;

(b) the taxpayer must have maintained a household that included one or more qualifying individuals;

(c) the taxpayer's expenditures must have been necessary to enable him or her to have been gainfully employed;

(d) his payments for the services must have been to other than relatives (except cousins) or to dependent members of his household.

(4) In the case of married persons living together, the deduction is allowed only if a joint return is filed. Also, Both the husband and the wife must be gainfully employed on substantially a full-time basis, unless one or the other is disabled.

(5) The deduction for child and dependent care expenses shall be divided equally between the taxpayers when taxpayers file separately on the same form.

(6) Persons in one of the following filing categories may, if eligible, claim the deduction:

(a) single;

(b) married filing a joint return; and

(c) married and filing separate returns on the same form.

(7) The deduction may not be claimed by married persons filing separately on separate tax forms.

AUTH: 15-30-305 MCA; IMP: 15-30-121 MCA.

3. The Department is proposing this amendment because chapter 118, 1983 Laws of Montana, allows the deduction for the first time in the case of married persons filing separately on the same form. Further, this new law also provides for an allocation of the deduction between spouses filing separately on the same form. Because the law states eligibility for the credit, in part, through reference to federal laws, this rule amendment states directly who is and is not eligible to claim the deduction in terms of filing status.

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

Ann Kenny
Department of Revenue
Legal Division
Mitchell Building
Helena, Montana 59620

no later than August 26, 1983.

5. If a person who is directly affected by the proposed amendments wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Ann Kenny at the above address no later than August 26, 1983.

6. If the agency receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendments; from the Administrative Code Committee of the Legislature; from a governmental subdivision, or agency; or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 25.

7. The authority of the agency to make the proposed amendment is based on §15-30-305, MCA, and the rule implements §§15-30-121, MCA.



ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 07/18/83

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF PROPOSED AMENDMENT
Amendment of Rule 42.15.511	)	of Rule 42.15.511 relating to
relating to credit for non-	)	credit for nonfossil energy
fossil energy generation	)	generation systems (alternative
systems (alternative energy	)	energy credit).
credit).)	

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On August 29, 1983, the Department of Revenue proposes to amend rule 42.15.511 relating to the credit for nonfossil energy generation systems (alternative energy credit).

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

42.15.511 CREDIT FOR NONFOSSIL ENERGY GENERATION SYSTEM

(1) A credit against tax liability is allowed to an individual who is a Montana resident and who either:

(a) places in use a qualified nonfossil energy system in a dwelling which is his or her principal place of residence; or

(b) purchases or otherwise acquires beneficial ownership of a dwelling to be used as his or her principal place of residence, which dwelling is equipped with a qualifying nonfossil energy system with respect to which this tax credit has not previously been claimed.

(2) The credit may be claimed only with respect to an installation made in the taxpayer's principal residence (including a principal place of residence acquired with an existing system) on or after January 1, 1977, but before December 31, 1982. The credit is allowed only once with respect to a particular installation. Once a tax credit has been given for a particular installation, it cannot be claimed again by a subsequent taxpayer who purchases the residence. It must be claimed against the taxpayer's tax determined for the year in which the residence is purchased or the installation is placed in use. In cases in which the residence is purchased in a year subsequent to installation the credit is to be applied to the latter year. If the credit exceeds the taxpayer's tax liability for such taxable year, the unused portion may be carried over and applied against his or her tax liability for succeeding taxable years. However, an unused credit may not be carried beyond the fourth taxable year succeeding the taxable year in which the installation was acquired.

(3) This credit must be claimed on Form 2-B, which may be obtained from the Montana Department of Revenue, Helena, Montana 59620. The completed form must be attached to the taxpayer's return for the year in which the credit is claimed.

AUTH: 15-32-203, MCA; IMP: 15-32-201 and 15-32-202 MCA.

14-7/28/83

MAR NOTICE NO. 42-2-219

3. The Department is proposing this amendment because Chapter 480 of the 1983 Laws of Montana amended §15-32-201, MCA, extending eligibility for the credit to installations made before December 31, 1986. The amendment to rule 42.15.511 is necessary to reflect this extension of time.

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

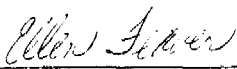
Ann Kenny
Department of Revenue
Legal Division
Mitchell Building
Helena, Montana 59620

no later than August 26, 1983.

5. If a person who is directly affected by the proposed amendments wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Ann Kenny at the above address no later than August 26, 1983.

6. If the agency receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendments; from the Administrative Code Committee of the Legislature; from a governmental subdivision, or agency; or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 25.

7. The authority of the agency to make the proposed amendment is based on §15-32-203, MCA, and the rule implements §§15-32-201 and 15-32-202, MCA.



ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 07/18/83

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF PROPOSED AMENDMENT
Amendment of Rule 42.15.506	)	of Rule 42.15.506 relating to
relating to the elderly	)	the elderly property tax
property tax credit.	)	credit.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On August 29, 1983, the Department of Revenue proposes to amend rule 42.15.506 relating to the elderly property tax credit.

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

42.15.506 COMPUTATION OF RESIDENTIAL PROPERTY TAX CREDIT FOR ELDERLY (1) When the taxpayer owns the dwelling but rents the land or owns the land and rents the dwelling, he shall add the rent-equivalent tax paid on the rented property to the property tax paid on the owned property. The total shall then be reduced as provided by 15-30-176(3)(4), MCA. The tax credit will be the reduced amount or ~~\$150~~\$400, whichever is less.

(2) A taxpayer shall not be entitled to rent-equivalent tax paid on either a rented dwelling or rented land which was not subject to ad valorem taxes in Montana during the claim period.

(3) Effective for taxable years beginning after December 31, 1982, the maximum allowable credit is \$400.

AUTH: 15-30-305, MCA; IMP: 15-30-176 MCA

3. The Department is proposing this amendment because of recent legislative changes to the residential property tax credit for the elderly. Chapter 134 of the 1983 Laws of Montana amended 15-30-176, MCA, increasing the maximum amount allowed for the credit from \$150 to \$400. Rule 42.15.506 as proposed to be amended reflects this increase. Chapter 134 also renumbered 15-30-176(3) to 15-30-176(4), and the amendment reflects the renumbering of this subsection.

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

Ann Kenny
Department of Revenue
Legal Division
Mitchell Building
Helena, Montana 59620

no later than August 26, 1983.

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 Ann Kenny at the above address no later than August 26, 1983.

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 no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 25.

7. The authority of the agency to make the proposed amendment is based on §15-30-305, MCA, and the rule implements §15-30-176, MCA.



ELLEN FFAVER, Director
Department of Revenue

Certified to Secretary of State 07/18/83

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF PROPOSED AMENDMENT
Amendment of Rule 42.17.103	)	of Rule 42.17.103 relating to
relating to the exemption of	)	the exemption of certain tip
certain tip income from	)	income from taxation.
taxation.)	

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On August 29, 1983, the Department of Revenue proposes to amend rule 42.17.103 relating to the exemption of certain tip income from taxation.

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

42.17.103 WAGES (1) The term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for an employer, including the fair value of all remuneration paid in any medium or form other than money. Thus, salaries, wages, bonuses, fees, commissions, and other payments are wages subject to withholding if paid as compensation for services rendered by an employee for his employer.

(2) The name by which compensation is designated is immaterial.

(3) Employee contributions to qualifying annuity contracts under IRC Sec. 403(b), or individual retirement accounts are exempt from withholding to the extent that the contributions are not includable in the employee's adjusted gross income for federal income tax purposes. Distributions from such contributions to the employee must be reported to the department as provided in ARM 42.15.311.

(4) Tip income received by an employee for services rendered within the premises of a licensed food, beverage, or lodging establishment is exempt from Montana withholding after December 31, 1982. However, the exemption is subject to change on the date the president approves legislation passed by Congress that removes the tip requirements of section 6053(c)(3) of the Internal Revenue Code of 1954. Tips received from other services, e.g., hairdressing, driving taxis, delivering goods, etc., remain subject to withholding.

AUTH: 15-30-305, MCA; IMP: 15-30-201, MCA.

3. The Department is proposing the amendment of rule 42.17.103 because the 1983 Legislature amended §15-30-201, MCA, to provide for the exemption of certain tip income from taxation. It is necessary to amend rule 42.17.103 to exempt tips received for services rendered on the premises of licensed food, beverage, and lodging establishments from Montana withholding after December 31, 1982. Other tips remain subject to current withholding requirements.

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

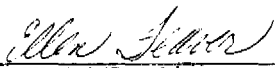
Ann Kenny
Department of Revenue
Legal Division
Mitchell Building
Helena, Montana 59620

no later than August 26, 1983.

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 Ann Kenny at the above address no later than August 26, 1983.

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 no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 25.

7. The authority of the agency to make the proposed amendment is based on §15-30-305, MCA, and the rule implements §15-30-201, MCA.


ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 07/18/83

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF PROPOSED AMENDMENT
Amendment of Rule 42.15.421	)	of Rule 42.15.421 relating to
relating to a deduction for	)	a deduction for heads of
heads of households.	)	households.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On August 29, 1983, the Department of Revenue proposes to amend rule 42.15.421 relating to a deduction for heads of households.

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

42.15.421 STANDARD DEDUCTION (1) Individuals who were residents of Montana during the taxable year, including individuals who were residents of this state for a fractional part of the taxable year, may elect to claim the standard deduction. The optional standard deduction is not allowed to nonresidents.

(2) The allowable standard deduction is 20% of the taxpayer's Montana adjusted gross income for the taxable year but may not exceed \$1,500, adjusted as provided in subsection (3), except in the case of a joint return of husband and wife, in which case it may not exceed \$3,000, adjusted as provided in subsection (3). The standard deduction is in lieu of all itemized deductions referred to in 15-30-121, MCA.

(3) By November 1 of each year the department will multiply the maximum amount by the inflation figure for the taxable year.

(4) In the event husband and wife file separate returns, if one spouse elects to claim itemized deductions, then the other spouse may not claim the standard deduction. The restriction upon the right of a married person to elect the standard deduction in his separate return is applicable unless the spouses are legally separated under a decree of divorce or separate maintenance in effect on the last day of the taxable year. In the event of death of one of the spouses, the restriction is applicable with respect to the taxable year ended with death and the taxable year of the surviving spouse in which the death occurs.

(5) Effective for taxable years beginning after December 31, 1984, section 15-30-122, MCA, allows a head of household to claim the same standard deduction allowed married individuals filing a joint return.

AUTH: 15-30-305, MCA; IMP: 15-30-122 MCA.

3. The Department is proposing the amendment to rule 42.15.421 because of recent legislative changes. Chapter 501 of the 1983 Laws of Montana amended 15-30-122, MCA, to allow a "head of household" individual to claim the same standard deduction as a married couple filing a joint return. The proposed amendment to rule 42.15.421 provides for this additional deduction.

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

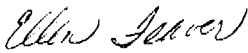
Ann Kenny
Department of Revenue
Legal Division
Mitchell Building
Helena, Montana 59620

no later than August 26, 1983.

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 Ann Kenny at the above address no later than August 26, 1983.

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 no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 25.

7. The authority of the agency to make the proposed amendment is based on §15-30-305, MCA, and the rule implements §15-30-122, MCA.



ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 07/18/83

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF PUBLIC HEARING ON
Amendment of Rules 42.21.101,	)	Proposed Amendment of Rules
42.21.102, 42.21.104,	)	42.21.101, 42.21.102,
42.21.106, 42.21.107,	)	42.21.104, 42.21.106,
42.21.123, 42.21.131, and the)	)	42.21.107, 42.21.123,
REPEAL OF RULES 42.21.108,	)	42.21.131 and the REPEAL
42.21.135, 42.21.136,	)	of Rules 42.21.108, 42.21.135,
42.21.152, 42.21.1101,	)	42.21.136, 42.21.152,
42.21.1102, 42.21.1103,	)	42.21.1101, 42.21.1102,
42.21.1104 relating to the	)	42.21.1103 and 42.21.1104
valuation of personal	)	relating to the valuation of
property.	)	personal property.

TO: All Interested Persons:

1. On August 18, 1983, at 10:00 a.m., a public hearing will be held in the Fourth Floor conference room in the Mitchell Building, Fifth and Roberts Streets, Helena, Montana, to consider the amendment of the above-referenced rules relating to the valuation of personal property.

2. The proposed amendments will modify the methodology by which the market value of certain types of personal property is determined for purposes of ad valorem taxation.

3. The rules as proposed to be repealed can be found on pages 42-2109.2 through 42-2173 of the Administrative Rules of Montana.

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

42.21.101 AIRCRAFT (1) The average market value of aircraft shall be the average wholesale value as computed from the "Aircraft Price Digest". The average wholesale value shall be determined by adding the "Average Equipped Inventory" to the "Average Equipped Marketable" value for each model as contained in the "Aircraft Price Digest" and dividing the sum by two. The Winter Edition applicable to the year of assessment of the "Aircraft Price Digest", Aircraft Appraisal Association of America, Inc., Will Rogers Airport, Box 59977, Oklahoma City, Oklahoma 73159, will be used. This book may be reviewed in the department or purchased from the publisher.

(2) The department shall add or delete equipment or high hours according to the instructions set forth in the "Aircraft Price Digest".

(3) If the above named publication does not value these properties, the department of revenue shall develop trended depreciation tables in which the percentages will approximate the wholesale value as calculated from the guidebook listed in subsection (1).

(4) For all aircraft which cannot be valued under subsection (1), the department of revenue or its agent shall try to ascertain the original f.o.b. through old aircraft valuation guidebooks. If an original f.o.b. cannot be ascertained, the

department of revenue or its agent may use trending to determine the f.o.b. The f.o.b. or "trended" f.o.b. will be used in conjunction with the depreciation tables mentioned in subsection (3) to arrive at a value which approximates wholesale value.

(5) If the methods mentioned in subsections (1) and (4) cannot be used to ascertain a wholesale market value for an aircraft, the owner or applicant must certify to the department of revenue or its agent the year acquired and the acquired price before that value can be applied to the table in subsection (3).

43}(6) This rule is effective for tax years beginning after December 31, 1981 1983.

AUTH: 15-1-201, MCA; IMP: 15-6-138 and 15-8-111, MCA.

42.21.102 BOATS WATERCRAFT AND MOTORS (1) The average market value of outboard boats shall be the estimated current value less repairs-high of such property as listed in the "Official Outboard Boat Trade-In Guide Bluebook", of the year of assessment, ABOS Marine Publications Division, Intertec Publishing Corporation, P. O. Box 12901, Overland Park, Kansas 66212. This bluebook may be reviewed in the department or purchased from the publisher.

(2) The average market value of inboard/outboard boats shall be the estimated current value less repairs-high of such property as shown in the "Official Inboard/Outboard Boat Trade-In Guide Bluebook", of the year of assessment, ABOS Marine Publications Division, Intertec Publishing Corporation, P. O. Box 12901, Overland Park, Kansas 66212. This bluebook may be reviewed in the department or purchased from the publisher.

(3) The average market value of sailboats shall be the estimated current value less repairs-high as shown in the "Official Sailboat Trade-In Guide Bluebook", of the year of assessment, ABOS Marine Publishing Division, Intertec Publishing Corporation, P. O. Box 12901, Overland Park, Kansas 66212. This bluebook may be reviewed in the department or purchased from the publisher.

(4) The average market value of inboard boats shall be the estimated current value less repairs-high of such property as listed in the "Official Inboard Boat Trade-In Guide Bluebook", of the year of assessment, ABOS Marine Publications Division, Intertec Publishing Corporation, P. O. Box 12901, Overland Park, Kansas 66212. This bluebook may be reviewed in the department or purchased from the publisher.

(5) The average market value of pontoon and houseboats shall be the estimated current value less repairs - high of such property as listed in the "Official Pontoon and Houseboat Trade-In Guide Bluebook", of the current year of assessment, ABOS Marine Publications Division, Intertec Publishing Corporation, P. O. Box 12901, Overland Park, Kansas 66212. This bluebook may be reviewed in the department or purchased from the publisher.

46}--If the above-named publications do not value these properties, then the following chart will be used to determine the average market value of all watercraft that cannot be valued under subsections 41} through 45}.

To determine the average market value, apply the following percentages of the retail purchase price to arrive at the estimated current value less repairs - high:

<u>Year Purchased</u>	<u>Percentage</u>
Current	72%
1 Year Age	69%
2 Years Age	64%
3 Years Age	61%
4 Years Age	58%
5 Years Age	55%
6 Years Age	53%
7 Years Age	51%
8 Years Age	49%
9 Years Age	47%
10 Years Age	45%
11 Years Age	43%
12 Years Age	41%
13 Years Age	39%
14 Years Age	37%
15 Years Age	35%
16 Years Age	33%
17 Years Age	31%
18 Years Age	29%
19 Years Age	27%
20 Years Age and before	25%

(7)--These percentages approximate the estimated current value less repairs-high of all watercraft, as calculated from the guidebooks listed in subsection (1) through (5).

(8)--For all watercraft that cannot be valued under subsections (1) through (5), the owner or applicant must certify to the department or its agent, the year acquired, the retail purchase price and whether acquired new or used, before it can be applied to the table in subsection (6).

(9)(6) The average market value of outboard motors shall be the estimated current value less repairs-high of such property as shown in the "Official Outboard Motor Trade-In Guide Bluebook", of the year of assessment, ABOS Marine Publications Division, Intertec Publishing Corporation, P. O. Box 12901, Overland Park, Kansas 66212. This bluebook may be reviewed in the department or purchased from the publisher.

(7) If the above named publications do not value these properties, the department of revenue shall develop trended depreciation tables in which the percentages will approximate the estimated current value less repairs - high as calculated from the guidebooks listed in subsections (1) through (6).

(8) For all watercraft and motors which cannot be valued under (1) through (6), the department of revenue or its agent shall try to ascertain the original f.o.b. through old watercraft and motor valuation guidebooks. If an original

f.o.b. cannot be ascertained, the department of revenue or its agent may use trending to determine the f.o.b. The f.o.b. or "trended" f.o.b. will be used in conjunction with the depreciation tables mentioned in subsection (7) to arrive at a value which approximates wholesale value.

(9) If the methods mentioned in subsections (1) through (6) and (8) cannot be used to ascertain an estimated current value less repairs - high market value for watercraft or motors, the owner or applicant must certify to the department of revenue or its agent the year acquired and the acquired price before that value can be applied to the table mentioned in subsection (7).

(10)--if the above named publication does not value these properties, then the following chart will be used to determine the average market value of all boat motors that cannot be valued under subsection (9):

To determine the average market value, apply the following percentage to the retail purchase price to arrive at the estimated current value less repair-high:

<u>Year</u> <u>Purchased</u>	<u>Percentage</u>
Current	72%
1 Year Ago	65%
2 Years Ago	61%
3 Years Ago	58%
4 Years Ago	55%
5 Years Ago	52%
6 Years Ago	48%
7 Years Ago	44%
8 Years Ago	40%
9 Years Ago	36%
10 Years Ago	32%
11 Years Ago	29%
12 Years Ago	26%
13 Years Ago	24%
14 Years Ago	22%
15 Years Ago	20%
16 Years Ago	18%
17 Years Ago	16%
18 Years Ago	14%
19 Years Ago	12%
20 Years Ago and before	10%

(11)--These percentages approximate the estimated current value less repairs - high of all boat motors, as calculated from the guidebook listed in subsection (9):

(12)--For all boat motors that cannot be valued under subsection (9), the owner or applicant must certify to the department or its agent the year acquired, the retail purchase price and whether acquired new or used, before it can be applied to the table in subsection (10):

(13)(10) This rule is effective for tax years beginning after December 31, 1982 1983.

AUTH: 15-1-201, MCA; IMP: 15-6-138 and 15-8-111, MCA.

42.21.104 MOTORCYCLES (1) The average market value for motorcycles shall be the estimated current value less repairs-high of such property as shown in the "Official Motorcycle and Mini-Bike Trade-In Guide", of the year of assessment, Publications Division, Intertec Publishing Corporation, 1014 Wyandotte, Kansas City, Missouri 64105. This guide may be reviewed in the department or purchased from the publisher.

(2) If the above-named publication does not value the property, then the following chart will be used to determine the average market value of motorcycles. To determine the average market value, apply the following percentages to the retail purchase price to arrive at the estimated current value less repairs-high:

<u>Year</u> <u>Purchased</u>	<u>Percentage</u>
Current	72%
1 Year Ago	57%
2 Years Ago	50%
3 Years Ago	42%
4 Years Ago	34%
5 Years Ago	28%
6 Years Ago	25%
7 Years Ago	21%
8 Years Ago	19%
9 Years Ago	17%
10 Years Ago	15%
11 Years Ago	14%
12 Years Ago	13%
13 Years Ago	12%
14 Years Ago	11%
15 Years Ago	10%

If the above named publication does not value these properties the department of revenue shall develop trended depreciation tables in which the percentages will approximate the estimated current value less repairs-high as calculated from the guidebooks listed in subsection (1).

(3) These percentages approximate the estimated current value less repairs-high for motorcycles, calculated from the guidebook listed in subsection (1). For all motorcycles which cannot be valued under subsection (1), the department of revenue or its agent shall try to ascertain the original f.o.b. through old motorcycle valuation guidebooks. If an original f.o.b. cannot be ascertained, the department of revenue or its agent may use trending to determine the f.o.b. The f.o.b. or "trended" f.o.b. will be used in conjunction with the depreciation tables mentioned in subsection (2) to arrive at a value which approximates wholesale value.

(4) For all motorcycles that cannot be valued under subsection (1), the owner or applicant must certify to the

department or its agent, the year acquired, the retail purchase price and whether acquired new or used, before it can be applied to the table in subsection (2). If the methods mentioned in subsections (1) and (3) cannot be used to ascertain an estimated current value less repairs high value for a motorcycle, the owner or applicant must certify to the department of revenue or its agent, the year acquired and the acquired price before that value can be applied to the table mentioned in subsection (2).

(5) This rule is effective for tax years beginning after December 31, 1982 1983.

AUTH: 15-1-201, MCA; IMP: 15-6-138 and 15-8-111, MCA.

42.21.106 TRUCKS AND COMMERCIAL TRAILERS (1) Market value for trucks rated over 3/4 ton is 80% of the average retail value for the trucks, as shown in the "Truck Bluebook Official Used Truck Valuation," January 1 edition of the year of assessment. This guide may be reviewed in the department or purchased from the publisher National Market Report, Inc., 900 South Wabash Avenue, Chicago, Illinois 60600.

(2) If the above-named publication cannot be used to value these properties, then the average market value will be determined using the following chart:

To determine the average market value for those models not included in the "Truck Bluebook" and for commercial trailers apply the following percentages to the Retail Purchased New or Retail Purchased Used price to arrive at wholesale value:

<u>Purchased-New</u>		<u>Purchased-Used</u>	
<u>Year-Purchased</u>	<u>%-Good</u>	<u>Year-Purchased</u>	<u>%-Good</u>
New	Wholesale	Used	Wholesale
Purchased current year	64%	Purchased current year	83%
1 yr. after purchase	58%	1 yr. after purchase	66%
2 yrs. after purchase	56%	2 yrs. after purchase	61%
3 yrs. after purchase	54%	3 yrs. after purchase	55%
4 yrs. after purchase	50%	4 yrs. after purchase	50%
5 yrs. after purchase	48%	5 yrs. after purchase	46%
6 yrs. after purchase	46%	6 yrs. after purchase	42%
7 yrs. after purchase	44%	7 yrs. after purchase	38%
8 yrs. after purchase	42%	8 yrs. after purchase	34%
9 yrs. after purchase	40%	9 yrs. after purchase	31%
10 yrs. after purchase	36%	10 yrs. after purchase	28%
11 yrs. after purchase	32%	11 yrs. after purchase	26%
12 yrs. after purchase	28%	12 yrs. after purchase	23%
13 yrs. after purchase	24%	13 yrs. after purchase	21%
14 yrs. after purchase	20%	14 yrs. after purchase	19%
15 yrs. after purchase	15%	15 yrs. after purchase	18%
and before		and before	

If the above publication does not value these properties, the department of revenue shall develop trended depreciation tables in which the percentages will approximate 80% of the average retail value of all trucks over 3/4 ton as calculated from the guidebook listed in subsection (1).

(3) These percentages approximate the wholesale value as calculated from the guidebook listed in subsection (1). For all trucks which cannot be valued under subsection (1), the department of revenue or its agent shall try to ascertain the original f.o.b. through old truck valuation guidebooks. If an original f.o.b. cannot be ascertained, the department of revenue or its agent may use trending to determine the f.o.b. The f.o.b. or "trended" f.o.b. will be used in conjunction with the depreciation tables mentioned in subsection (2) to arrive at a value which approximates 80% of the average retail value.

(4) The valuation tables in subsection (2) apply to prorated trucks and commercial trailers. For all trucks that cannot be valued under subsection (1) and commercial trailers, the owner or applicant must certify to the department or its agent the year acquired, the retail purchase price, and whether acquired new or used. If the methods mentioned in subsections (1) and (3) cannot be used to ascertain 80% of the average retail value of a truck, the owner or applicant must certify to the department of revenue or its agent the year acquired and the acquired price before that value can be applied to the table mentioned in subsection (2).

(5) The department of revenue may develop other supplementary schedules for unique equipment and other trucks not listed in the guidebook. These schedules will be used in conjunction with the above schedules in the valuation of trucks. The purpose of the department developed schedules will be to arrive at a value which approximates 80% of the average retail value.

(6) This rule is effective for tax years beginning after December 31, 1982 1983.
AUTH: 15-1-201, MCA; IMP: 15-6-139, 16-6-140, and 15-8-111, MCA.

42.21.107 BOAT, SNOWMOBILE, UTILITY AND OTHER LIGHT TRAILERS (1) The high - estimated current value less repairs for boat trailers, as shown in the "Official Boat Trailer Trade-In Guide Blue Book," current edition, for the year of assessment, shall be the market value. The market value for all trailers up to and including 18,000 pounds maximum gross loaded weight, except those subject to a fee in lieu of property tax, will be the estimated current value less repairs - high of such property as listed in "Boat Trailer Trade-In Guide" of the current year assessment. This guide may be reviewed in the department or purchased from the publisher: ABOS Marine Publications Division, Intertec Publishing Corp., P. O. Box 12901, Overland Park, Kansas 66212.

(2) If the above-named publication cannot be used to value a trailer, then the average market value will be determined by applying the following percentages to the retail purchase price to arrive at the estimated current value less repairs-high:

Year Purchased	6-Good---Estimated Current-Value Repairs-High
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Current	72%
1 Year Ago	63%
2 Years Ago	59%
3 Years Ago	55%
4 Years Ago	50%
5 Years Ago	46%
6 Years Ago	44%
7 Years Ago	42%
8 Years Ago	40%
9 Years Ago	38%
10 Years Ago	36%
11 Years Ago	34%
12 Years Ago	32%
13 Years Ago	30%
14 Years Ago	28%
15 Years Ago	26%
16 Years Ago	24%
17 Years Ago	22%
18 Years Ago	20%
19 Years Ago	18%
20 Years Ago and before	16%

The market value for all trailers exceeding 18,000 pounds maximum gross loaded weight, except those subject to a fee in lieu of property tax, will be the quick sale value as shown in the "Green Guide", Equipment Guide Book Company, 2800 West Bayshore Road, P.O. Box 10113, Palo Alto, California 94303. This guide may be reviewed in the department or purchased from the publisher.

(3) These percentages approximate the high estimated current value less repairs-high for boat, snowmobile, utility and other light trailers. If the above named publications do not value these properties, the department of revenue shall develop trended depreciation tables in which the percentages will approximate:

(a) the estimated current value less repairs-high for all trailers 18,000 gvw and under as calculated from the guidebook listed in subsection (1) and;

(b) the quick sale value for all trailers over 18,000 gvw as calculated from the guidebook listed in subsection (2).

(4) For all boat, snowmobile, utility and other light trailers that cannot be valued under subsection (1), the owner or applicant must certify to the department or its agent, the year acquired, the retail purchase price and whether acquired new or used, before it can be applied to the table in subsection (2).

For all trailers which cannot be valued under subsection (1) and (2), the department of revenue or its agent shall try to ascertain the original f.o.b. through old valuation guidebooks. If an original f.o.b. cannot be ascertained, the department of revenue or its agent may use trending to determine the f.o.b. The f.o.b. or "trended" f.o.b. will be used in conjunction with the depreciation tables mentioned in subsection (3) to arrive at a value which approximates wholesale market value.

(5) If the methods mentioned in subsections (1), (2) and (4) cannot be used to ascertain a wholesale market value for a trailer, the owner or applicant must certify to the department of revenue or its agent the year acquired and the acquired price before that value can be applied to the tables in subsection (3).

(6) The department of revenue may develop other supplementary schedules to value other unique trailers not listed in the guidebook. These schedules will be used in conjunction with the schedules mentioned in subsection (3) in the valuation of trailers. The purpose of the department developed schedules will be to arrive at a value which approximates wholesale value.

(5)(7) This rule is effective for tax years beginning after December 31, 1982 1983.

AUTH: 15-1-201, MCA: IMP: 15-6-138, 15-6-139, and 15-8-111, MCA.

42.21.123 FARM MACHINERY AND EQUIPMENT (1) The as-is value of farm machinery, as shown in the "Official Guide Tractors and Farm Equipment", Spring Edition for the year of the assessment, shall be the market value for this property. This guide may be reviewed in the department or purchased from the publisher: National Farm and Power Services, Inc., 10877 Watson Road, St. Louis, Missouri 63127. The average wholesale value for farm machinery and equipment shall be the estimated current value less repairs-high as shown in "Farm Tractor Trade-In Guide" and "Farm Equipment Trade-In Guide" of the current year of assessment, Technical Publications Division, Intertec Publishing Corporation, Box 12901, Overland Park, Kansas 66212. This publication may be reviewed in the department or purchased from the publisher.

(2) If the above-named publication does not value these properties, then the following chart will be used to determine the average market value of all farm machinery that cannot be valued under subsection (1). To determine the average market value, apply the following percentages to the retail purchase price to arrive at the as-is value:

Year Purchased	% Good As-Is
1 Year Ago	66%
2 Years Ago	61%
3 Years Ago	55%
4 Years Ago	50%
5 Years Ago	45%
6 Years Ago	42%
7 Years Ago	36%
8 Years Ago	32%
9 Years Ago	29%
10 Years Ago	27%
11 Years Ago	27%
12 Years Ago	26%

13 Years Age	15%
14 Years Age	14%
15 Years Age	13%
and before	

If the above named publications do not value these properties, the department of revenue shall develop trended depreciation tables in which the percentages will approximate the estimated current value less repairs-high as calculated from the guidebooks listed in subsection (1).

(3) These percentages approximate the as-is value of all farm machinery as calculated from the guidebook listed in subsection (1). For all farm machinery and equipment which cannot be valued under subsection (1), the department of revenue or its agent shall try to ascertain the original f.o.b. through old farm machinery and equipment valuation guidebooks. If an original f.o.b. cannot be ascertained, the department of revenue or its agent may use trending to determine the f.o.b. The f.o.b. or "trended" f.o.b. will be used in conjunction with the depreciation tables mentioned in subsection (2) to arrive at a value which approximates wholesale value.

(4) For all farm machinery that cannot be valued under subsection (1), the owner or applicant must certify to the department or its agent, the year acquired, the retail purchase price and whether acquired new or used, before it can be applied to the table in subsection (2). If the methods mentioned in subsections (1) and (3) cannot be used to ascertain an estimated current value less repair-high for farm machinery and equipment, the owner or applicant must certify to the department of revenue or its agents the year acquired and the acquired price before that value can be applied to the table in subsection (2).

(5) The department of revenue may develop other supplementary schedules and manuals for other farm equipment not listed in the guidebooks. These schedules and manuals will be used in conjunction with the schedules mentioned in subsection (2) in the valuation of farm equipment and machinery. The purpose of the department developed schedules and manuals will be to arrive at a value which approximates wholesale value.

(5)(6) This rule is effective for tax years beginning after December 31, 1982 1983.

AUTH: 15-1-201, MCA; IMP: 15-6-138 and 15-8-111, MCA.

42.21.131 HEAVY EQUIPMENT (1) The wholesale value of heavy equipment including coal and ore haulers, as shown in the current volumes of the "Green Guides", shall be the market value for this property. The wholesale market value of heavy equipment shall be the quick sale as shown in the "Green Guide" and "Green Guide for Older Equipment" for the current year of assessment. This guide may be reviewed in the Department or purchased from the publisher: Equipment Guide Book Company, 2800 West Bayshore Road, P. O. Box 10113, Palo Alto, California 94303.

(2) If the above-named publications cannot be used to value these properties, then the following charts will be used to

determine the average market value of all heavy equipment that cannot be valued under subsection (i).--To determine the average market value, apply the following percentage to the retail purchase price to arrive at the wholesale value:

TABLE-I

Crawler Cranes and Shovels; Truck Cranes and Shovels; Hydraulic Cranes; Wheel Loaders; Crawler Loader; Motor Graders; Skid Steer Loaders; Log Skidders; Rollers and Other Compaction Equipment; Wheel Tractors; Draglines; Lift Trucks; Crawler Tractors.

<u>Year</u> <u>Purchased</u>	<u>% Good</u> <u>Wholesale</u>
Current	65%
1 Year Ago	58%
2 Years Ago	50%
3 Years Ago	43%
4 Years Ago	38%
5 Years Ago	33%
6 Years Ago	31%
7 Years Ago	26%
8 Years Ago	25%
9 Years Ago	22%
10 Years Ago	18%
11 Years Ago	16%
12 Years Ago	15%
13 Years Ago	13%
14 Years Ago	12%
15 Years Ago	10%
16 Years Ago	10%
17 Years Ago	9%
18 Years Ago	8%
19 Years Ago	6%
20 Years Ago and before	6%

TABLE-II

Coal and Ore Haulers; Off-Highway Haul Units; Asphalt Finishers; Motor Scrapers; Hydraulic Excavators.

<u>Year</u> <u>Purchased</u>	<u>% Good</u> <u>Wholesale</u>
Current	65%
1 Year Ago	55%
2 Years Ago	45%
3 Years Ago	37%

4 Years Ago	31%
5 Years Ago	28%
6 Years Ago	23%
7 Years Ago	20%
8 Years Ago	17%
9 Years Ago	15%
10 Years Ago	14%
11 Years Ago	12%
12 Years Ago	10%
13 Years Ago	8%
14 Years Ago	6%

TABLE-III

Ditchers, Pumps, Air Equipment, Crushing Equipment, Concrete Equipment, Belt Loaders, Mobile Asphalt Equipment, Road Maintenance Equipment, Water Well Drilling Units, All Other Miscellaneous Equipment Not Included in Table I or II.

<u>Year</u> <u>Purchased</u>	<u>% Good</u> <u>Wholesale</u>
Current	65%
1 Year Ago	49%
2 Years Ago	42%
3 Years Ago	37%
4 Years Ago	34%
5 Years Ago	31%
6 Years Ago	28%
7 Years Ago	25%
8 Years Ago	23%
9 Years Ago	20%
10 Years Ago	18%
11 Years Ago	16%
12 Years Ago	15%
13 Years Ago	13%
14 Years Ago	12%

<u>Year</u> <u>Purchased</u>	<u>% Good</u> <u>Wholesale</u>
15 Years Ago	10%
16 Years Ago	10%
17 Years Ago	9%
18 Years Ago	8%
19 Years Ago and before	6%

If the above named publications do not value these properties, the department shall develop trended depreciation tables in which the percentages will approximate the quick sale value as calculated from the guidebooks listed in subsection (1).

(3) These percentages approximate the wholesale value of all heavy equipment as calculated from the guidebooks listed in

subsection (1). For all heavy equipment which cannot be valued under subsection (1), the department of revenue or its agent shall try to ascertain the original f.o.b. through old heavy equipment valuation guidebooks. If an original f.o.b. cannot be ascertained, the department of revenue or its agent may use trending to determine the f.o.b. The f.o.b. or "trended" f.o.b. will be used in conjunction with the depreciation tables mentioned in subsection (2) to arrive at a value which approximates wholesale value.

(4) The types of equipment contained in the tables listed in subsection (2) have been regrouped to more accurately reflect depreciation as calculated from the guidebooks listed in subsection (1). If the methods mentioned in subsection (1) and (3) cannot be used to ascertain a quick sale market value for the heavy equipment, the owner or applicant must certify to the department of revenue or its agent the year acquired and the acquired price before that value can be applied to the table in subsection (3).

(5) For all heavy equipment that cannot be valued under subsection (1), the owner or applicant must certify to the department or its agent, the year acquired, the retail purchase price, and whether acquired new or used, before it can be applied to the table in subsection (2).

In addition to using the values from the guidebooks in subsection (1) or the schedule in subsection (2), the department multiplies those values by a factor based on equipment use. This adjustment is determined from the following table:

ANNUAL HOURS OF USE (T)		MULTIPLIER
0	T	1
2,920	T	.87
3,650	T	.784

(6) (5) This rule is effective for tax years beginning after December 31, 1982 1983.

AUTH: 15-1-201, MCA; IMP: 15-6-135, 15-6-138, 15-6-140, and 15-8-111, MCA.

5. The proposed amendments remove from the rules certain tables which were used to value personal property. In lieu of providing such tables in the rules, the Department proposes three alternate methodologies for finding market value in each rule. In the event that particular depreciation tables are necessary, the Department will develop them well in advance of the applicable tax year and make them available to the taxpayer upon request. The purpose in amending the rules in this fashion is to establish uniform methodologies for valuation of all personal property and to provide consistency in the valuation process from one tax year to the next.

Rule 42.21.108 is being repealed because house trailers are now governed by a fee system in lieu of ad valorem assessment.

Rule 42.21.135 is being repealed because inventory is no longer subject to taxation in Montana. Rules 42.21.136 and 42.21.152 are being repealed because those items of personal property are covered by the furniture and fixture rules. Rules 42.21.1101 through 42.21.1104 are being repealed because freeport merchandise is no longer subject to taxation in Montana.

6. Interested persons may present their data, views, arguments, either orally or in writing, at the hearing. Written data, views, or comments may also be submitted no later than August 26, 1983, to:

Larry G. Schuster
Property Tax Division
Department of Revenue
Mitchell Building
Helena, MT 59601

7. Sarah Power, Agency Legal Services, Department of Justice, has been designated to preside over and to conduct the hearing.

8. Authority of the Department to repeal the rules and to make the proposed amendments is found in 15-1-201, MCA. The proposed rules to be amended and/or repealed implement 15-6-138, 15-6-139, 15-6-140, and 15-8-111, MCA.


ELLEN FEAVER, Director

Certified to the Secretary of State 07/18/83

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF PROPOSED ADOPTION of
Adoption of Rule I relating	)	Rule I relating to voluntary
to voluntary refund checkoff	)	refund checkoff for nongame
for nongame wildlife fund.	)	wildlife fund.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On August 29, 1983, the Department of Revenue proposes to adopt Rule I relating to a voluntary refund checkoff for the nongame wildlife fund.

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

RULE I VOLUNTARY REFUND CHECKOFF FOR NONGAME WILDLIFE FUND (1) If an individual taxpayer, who is required to file an income tax return and is entitled to a refund, wishes to contribute to the funding of nongame wildlife programs in Montana, he may do so by marking the appropriate box on the state income tax return.

(2) Each individual may contribute \$2, \$5, or \$10 of his refund to this fund. Married taxpayers filing a joint return may each individually contribute \$2, \$5, or \$10 of their refund to this fund.

(3) If a taxpayer designates on the tax return that he wishes to contribute to this fund when he is not due a refund, and pays in sufficient funds to cover the designation and the income tax due, the department will consider the tax overpaid. Such overpayment will then be deposited to the nongame wildlife account.

(4) This rule applies to tax years beginning after December 31, 1982, and ending before December 31, 1986.

AUTH: 15-30-305, MCA; IMP: 15-30-150, MCA.

3. The Department is proposing this new rule because Chapter 627 of the 1983 Laws of Montana established a "nongame wildlife account" to aid in the management of nongame wildlife. Section 3 of Chapter 627 establishes a voluntary income tax refund checkoff for the funding of nongame wildlife programs. This section has been codified as §15-30-150, MCA. The rule is necessary to implement this new law. The new rule also clarifies what action the Department is to take when a taxpayer who is not entitled to a refund wishes to contribute to the fund. In this case, the taxpayer must pay adequate funds to cover the tax due plus the additional amount he wishes to contribute to the nongame wildlife fund.

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

Ann Kenny
Department of Revenue
Legal Division
Mitchell Building
Helena, Montana 59620

no later than August 26, 1983.

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 Ann Kenny at the above address no later than August 26, 1983.

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 no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 25.

7. The authority of the agency to make the proposed amendment is based on §15-30-305, MCA, and the rule implements §15-30-150, MCA.



ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 07/18/83

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF Departmental Intent
PEPEAL of Rules 42.20.141,	)	to Take no Further Action on
42.20.142, 42.20.143,	)	the Proposed Repeal of Rules
42.20.144, 42.20.145, and	)	42.20.141 through 42.20.146,
42.20.146 relating to the	)	and the proposed adoption of
appraisal of agricultural	)	Rules I through VIII relating
lands and the PROPOSED	)	to the appraisal of agricul-
ADOPTION of Rules I through	)	tural lands.
VIII relating to the)	
appraisal of agricultural)	
lands.)	

TO: All Interested Persons:

1. On July 27, 1983, the six month statutory limit set for the adoption of the above mentioned rules will pass. The Department has appointed an advisory committee to review and make recommendations on the value of agricultural land for taxation purposes. Once the committee work is completed, the Department plans to proceed with the development of administrative rules in accordance with House Bill No. 851. The proposed rules were published at pages 58 through 64 of the 1983 Montana Administrative Register, issue no. 2.

2. The current rules as found on pages 42-2035 through 42-2039 of the Administrative Rules of Montana remain in effect.



ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 07/18/83

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF PROPOSED AMENDMENT
Amendment of Rule 42.31.2101	)	of Rule 42.31.2101 relating to
relating to the definition of)	)	the definition of public con-
public contractors and Rule	)	tractors and Rule 42.31.2141
42.31.2141 relating to a	)	relating to a deduction from
deduction from the gross	)	the gross receipts tax.
receipts tax.)	

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On August 29, 1983, the Department of Revenue proposes to amend rule 42.31.2101 relating to the definition of public contractors and rule 42.31.2141 relating to a deduction from the gross receipts tax.

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

42.31.2101 TERMINOLOGY (1) A "public contractor" is any one who submits a proposal to or enters into a contract with a governmental agency or department for the construction or reconstruction of any public work, the cost of such construction or reconstruction being greater than ~~\$17,000~~\$5,000. The term "public contractor" includes subcontractors.

(2) For the purpose of determining the type of work which requires a public contractors license, the words "public construction work", as referred to in 15-50-101(1)(a), MCA, are broadly construed to include any work requiring the installation, addition, placement, replacement, or removal of any equipment, parts, structures, or materials of any kind whatever. This rule applies to all contracts exceeding ~~\$17,000~~\$5,000 whether or not such contracts require performance of service, maintenance, repair, or any other type of work in addition to or as part of the work as above construed.

AUTH: 15-50-103 MCA; IMP: 15-50-101, MCA.

42.31.2141 PERSONAL PROPERTY TAX CREDIT (1) Public contractors, who have had 1% of the gross amount due to them under their respective contracts withheld by the respective contracting governmental agencies or prime contractors, shall be allowed, as a refund from his gross receipts tax account, those personal property taxes and vehicle license fees paid between January 1 and December 31, on any personal property of the contractor which is used in the business of the contractor.

(2) These refunds shall be allowed upon delivery to the department of revenue of copies of the applicable personal property tax paid receipts, provided such application is mailed or delivered on or before July 1 of the year following the year in which the personal property tax liability is incurred and paid.

AUTH: 15-50-103, MCA; IMP: 15-50-207, MCA.

3. The Department is proposing the amendment to rule 42.31.2101 because Chapter 152 of the 1983 Laws of Montana raised the minimum contract limit from \$1,000 to \$5,000. Rule 42.31.2141 is proposed to be amended to bring it into compliance with a 1981 amendment to §15-50-207, MCA, which added light vehicle license fees to the credit allowed against the gross receipts tax.

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


Ann Kenny
Department of Revenue
Legal Division
Mitchell Building
Helena, Montana 59620

no later than August 26, 1983.

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 Ann Kenny at the above address no later than August 26, 1983.

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 no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 25.

7. The authority of the agency to make the proposed amendment is based on §15-50-103, MCA, and the rule implements §§15-50-101 and 15-50-207, MCA.



ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 07/18/83

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the revision)
of rules pertaining to format)
for the Montana Administrative)
Register and Administrative)
Rules of Montana.)

NOTICE OF PROPOSED REPEAL,
AMENDMENTS AND ADOPTION OF RULES
PERTAINING TO GENERAL PROVISIONS
AND FORMAT - MONTANA ADMINISTRATIVE
REGISTER AND ADMINISTRATIVE
RULES OF MONTANA

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On August 29, 1983, the Secretary of State proposes to repeal, amend and adopt rules pertaining to format for the Montana Administrative Register and Administrative Rules of Montana.

2. All the rules listed in Chapter 2, Sub-chapter 5, Typing Information, are proposed to be repealed. The rules are found on pages 1-30.2 through 1-46 of the Administrative Rules of Montana.

The rules proposed to be amended provide as follows:

1.2.204 POSITIONING OF CODE ITEMS (1) through (2)(d) remain the same.

(e) ~~Topical-index---This-index-is-inserted-directly-behind-the-cross-reference-table-and-is-an-alphabetical-arrangement-of-all-significant-subject-matter-topics-which-are-covered-by-the-rules-within-the-department---The-topics-are-immediately-followed-by-the-rule-number-wherein-the-topic-is-located.~~

{#} (e) Repealed rule table - This table follows the topical-index cross reference table and indicates the repealed rules that were removed during recodification and the effective date of repeal.

(g)(h) redesignated - remain the same

AUTH: 2-4-306, MCA IMP: 2-4-306, MCA

1.2.217 RULE HISTORY NOTES (1) (a)-(c) remain the same

(d) TRANS - denotes a rule is transferred by legislative action or transferred to a different chapter location within a title. ~~{it-is-not-required-to-notice-the-rule-if-no-substantive-changes-were-made-}~~

(2)(a) remain the same

(b) authority extension and citation to session laws of Montana

(b) existing (b) through (d) redesignated and remain the same

(e) follow punctuation shown below:

New Example indicating Authority Extension citation

(History: Sec. 46-2-303 MCA; AUTH Extension, Sec. 14, Ch. 358, L. 1983, Eff. 10/1/83; IMP, Sec. 46-2-308 MCA; Eff. 12/31/72; AMD, 1978 MAR p. 212, Eff. 5/26/78; AMD, 1983 MAR p. 766, Eff. 10/28/83.)

Ex: For a new rule included in ARM after 12/31/72-remains the same

MAR NOTICE NO. 44-2-30

14-7/28/83

(3) Chapter 466, L. 1983 (House Bill 35) amended 5-4-402, MCA to provide that no grant of rulemaking authority is effective as such to implement new agency duties required or authorized by law after October 1, 1983, unless the law to be implemented is accompanied by language extending the rulemaking authority to the law to be implemented. Amendments made to 2-4-305, MCA by Chapter 466, L. 1983 also require the rule history to cite the session laws extending the rulemaking authority to the law to be implemented.

(3) (4) Transferred rules are rules which have either been transferred, as a part of a change in statutory authority, from one agency to another, or been moved from one location in the agency's portion of the code to another. In either case, the action does not require notice or opportunity for hearing, as long as there is no substantive change in the text of a transferred rule. The effective date of a transfer is the date the replacement page reflecting the transfer is published. The only other item shown in a transfer note is the legislative action directing an inter-agency transfer. Examples: TRANS, C-205, E-1977, Eff. 7/26/77, or TRANS, Bff. 3/26/78. The latter is an intra-agency transfer. The full history would carry forward the history from the old rule.

(a) The history note of the department that is transferring the rule will indicate the full history, where the rule is being transferred, the legislative action directing the action, and the date of directing action. Example: (New example - not underlined)

(History: Sec. 46-2-114 MCA, IMP, Sec. 46-2-116 MCA; NEW, 1981 MAR p. 116, Eff. 3/16/81; AMD, 1981 MAR p. 2223, Eff. 10/10/81; TRANS, to Dept. of Health, C. 274, L. 1983, Eff. 10/1/83.)

(b) The history note of the department where the rule is transferred will indicate the full history, the department that transferred the rule, the legislative action directing the action, and the date of directing action. Example: (New example - not underlined.)

(History: Sec. 46-2-114 MCA; IMP, Sec. 46-2-116 MCA; NEW, 1981 MAR p. 116, Eff. 3/16/81; AMD, 1981 MAR p. 2223, Eff. 10/10/81; TRANS, from Dept. of Livestock, C. 274, L. 1983, Eff. 10/1/83.)

(c) The history note of the rule that is being transferred within a title will indicate the full history, the new rule number, and the effective date of the transfer. Example: (New Example - not underlined.)

(History: Sec. 46-2-114 MCA, IMP, 46-21-111 MCA; NEW, 1981 MAR p. 116, Eff. 3/16/81; TRANS, to 46.22.116, Eff. 6/30/83.)

(d) The history note of the rule that was transferred within a title will indicate the full history, the previous rule number and the effective date of transfer. Example: (New Example - not underlined.)

(History: Sec. 46-2-114 MCA, IMP, 46-21-111 MCA; NEW, 1981 MAR p. 116, Eff. 3/16/81; TRANS from ARM 46.3.130, Eff. 6/30/83.)

(4) remains the same

AUTH: 2-4-306, MCA IMP: 2-4-306, MCA

1.2.219 TABLE OF CONTENTS, AND CROSS REFERENCE TABLE, TOPICAL INDEX (1) Where a new rule has been adopted, amended, or an existing rule has been repealed by agency action, the agency must submit a new replacement page reflecting any changes that should be included in the title chapter table of contents, chapter table of contents, or cross reference table, ~~or topical index~~. These pages must be submitted along with the new rule, amended rule or repealed rule for publication as replacement pages.

(2) If a rule is amended, there is no need to submit the new pages listed above, unless there has been a change in the catchphrase, or a new citation to the MCA's which should be included in the cross reference table, ~~or a new key word which should be included in the topical index~~.

(3) (a) through (c) remain the same.

~~(d) -- topical index -- Each department is responsible for preparing a topical index for its title. -- This index is an alphabetical arrangement of all significant subject matter topics which are covered by the rules under the department's title. This index must be very thorough and precise because it is the primary means by which a person unfamiliar with the rules will be able to find the rule which deals with the subject matter in which he is interested. -- It is suggested that a good point to start in compiling the index and selecting the alphabetical topics should be to refer to chapter, subchapter names and the catchphrases for the key words as guides to topics for the index. The words for topics should be chosen with an eye to which word in the rule the average user would look for first in an alphabetical index when trying to locate a rule.~~

AUTH: 2-4-306, MCA IMP: 2-4-306, MCA

1.2.212 NEW RULE NUMBERING METHOD FOR THE ADMINISTRATIVE RULES OF MONTANA (1) and (3) remain the same

(4) If it is necessary to add a new rule between two existing rules, and there is no rule number reserved in that area, the new rule will be numbered by adding an alphabetical letter to the preceding existing rule number. Example: 1.2.222A, 1.2.222B, 1.2.222C, etc. If future growth is anticipated in a certain area, then rule numbers should be reserved. Example: 1.2.222A reserved or 1.2.222C through 1.2.222J reserved. Place the reserved statement where the rule will fall in the body of the rules.

AUTH: 2-4-306, MCA IMP: 2-4-306, MCA

1.2.420 SCHEDULED SUBMISSION DATES FOR REPLACEMENT PAGES TO UPDATE THE ADMINISTRATIVE RULES OF MONTANA (1) remains the same

(2) Rulemaking agencies must submit replacement pages by the scheduled date on all rule changes that have appeared in the rule section of the Montana Administrative Register during the preceding three months. Updated chapter table of contents pages, subchapter table of contents pages and cross reference pages and ~~topicai~~-index-pages must also be submitted by the scheduled date.

AUTH: 2-4-312, MCA IMP: 2-4-312, MCA

The proposed rule provides as follows:

RULE I BASIC FORMAT INSTRUCTIONS (1) The following instructions apply to all material submitted for publication in the Montana Administrative Register and the Administrative Rules of Montana. Refer to the sample forms following the text of this rule for information pertaining to specific areas.

- (a) paper - white, bond, 8½ x 11 inches
- (b) type - 10 letters per inch, standard or courier type, black ribbon
- (c) Type on one side of the sheet only.
- (d) margins - left margin 1½ inches wide, right margin ¾ inch wide. Refer to sample forms for top and bottom margins.
- (e) spacing - Single space between paragraphs of a rule and double space between rules.
- (f) indentation - Each paragraph is indented 5 spaces.
- (g) outline form used - (1)(2)(3); (a)(b)(c); (i)(ii)(iii); (A)(B)(C); (I)(II)(III). Spacing after paragraph designation depends on how far the breakdown goes in the rule. Normally, there are 2 spaces after the paragraph designation before beginning the text of a rule. If the rule is broken down to (viii) then there should be 5 spaces so that the paragraphs of the rule will be lined up evenly.
- (h) capitalization - Capitalize as little as possible, lower case is easier to read.
- (i) Capitalize the first word in a sentence. The first word in a subsection following a colon must be capitalized if the items express a complete thought.
- (ii) Capitalize months and days of the week.
- (iii) Capitalize "Montana" in "state of Montana" but not "state". Capitalize "County" but not "city" in the name of a county or city.
- (iv) Capitalize names of specific persons or places, specific regions, geographic names.
- (v) Capitalize names of historic events and holidays.
- (vi) Capitalize references to statute compilation, and a particular act - Montana Administrative Procedure Act.
- (vii) Capitalize names of races, citizens and languages.
- (viii) Capitalize words pertaining to deity.
- (ix) Do not capitalize official titles, titles of state, county, or municipal officers, agencies or institutions.

(i) rule numbers - Use a Roman numeral in the proposed notice for a new rule and indicate the assigned ARM number in the notice of adoption of the rule. Example: (Rule I - 2.2.333)

(j) Underline the rule number and catchphrase of a rule. The catchphrase is typed in capital letters.

(k) All charts and illustrations must fit into format margins.

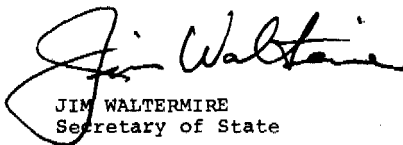
(l) signatures - Notices and administrative orders must be signed by the head of the department or the chairman of the governing board. The head of the agency or the chairman of the governing board will sign for an agency that is assigned to a department for administrative purposes only. A stamped (facsimile) signature is not acceptable. A letter must be filed with the secretary of state indicating signatory authority in the absence of the above.

(m) Sample forms 1 through 9 pertaining to the typing format for a proposed notice, notice of adoption, emergency rule, title chapter table of contents, reserved chapter page, first page of chapter, odd numbered page, even numbered page, cross reference page and an administrative order are incorporated in this rule. (Sample forms follow this notice).

AUTH: 2-4-306, MCA IMP: 2-4-306, MCA

3. To simplify and add clarity to the typing instructions for the ARM and MAR, the repealed rules are replaced by one rule with an appendix of sample forms following the text of the rule. The amendments and adoption are proposed to reflect current statutes and to set format guidelines for state rulemaking agencies. The repeal, amendments and adoption will be effective October 1, 1983.

4. Interested parties may submit their data, views or arguments concerning the proposed action in writing to Julie Glosser, Room 202, Capitol, Helena, Montana 59620, no later than August 25, 1983.


JIM WALTERMIRE
Secretary of State

Dated this 14th day of July, 1983.

SAMPLE FORM NO. 1 - PROPOSED NOTICE

BEFORE THE (name of agency) --5th line down
OF THE STATE OF MONTANA

In the matter of the adoption)

of a rule (summary; for ex.:)
Restricted areas and night)
closures for parks.)

NOTICE OF PUBLIC HEARING -8th

FOR ADOPTION OF RULE -
RULE I - RESTRICTED AREAS
AND NIGHT CLOSURES.

TO: All Interested Persons.

- Refer to the attorney general's sample forms - ARM Title 1, Chapter 3. Select the sample form that is applicable to your notice. (A single notice may combine adoption, amendment and repeal of a group of rules covering related subject matter.)
- Spacing - Follow the spacing as shown for the heading of this sample form. The heading appears on the first page of the notice only. Begin typing on the second page and on all following pages of the notice on the 8th line down. Single space between the paragraphs of a notice and the paragraphs of a rule. At the end of each rule noticed, double space and type the MCA authority and implementing citations for each rule noticed. (See sample below). All paragraphs are indented 5 spaces.
- If you are noticing a new rule, use a Roman numeral for the rule number; for ex.: RULE I, RULE II. Permanent rule numbers are not assigned until the rule section stage where the rule becomes effective.
- The notice number is penciled at the bottom of the first page only.
- The page number is penciled on the top right margin beginning with the second page and on all following pages.
- Proof and submit the notice to the secretary of state in original and two copies.

NEW RULE EXAMPLE - Follow the same spacing.

RULE I RESTRICTED AREAS AND NIGHT CLOSURES (1) No person may enter upon any portion of any area that is posted.
(2) Public recreation areas will be closed nightly.

AUTH: 76-3-777, MCA IMP: 65-98-222, MCA

RULE II OPENING HOURS (1) etc.

End text of notice on this line.

SAMPLE FORM NO. 2 - RULE SECTION

BEFORE THE (name of agency) --5th line down
OF THE STATE OF MONTANA

In the matter of the (same)
language as typed on notice)
of proposed action.)

NOTICE OF ADOPTION OF
RULE I - 12.18.322
RESTRICTED AREAS AND NIGHT
CLOSURES

-8th

TO: All Interested Persons.

- Refer to the attorney general's sample form for the adoption of rule action. ARM Title 1, Chapter 3. (A single notice may combine the adoption of new, amended and repealed rules covering related subject matter.) If more than one rule is adopted, the newly assigned ARM rule numbers may be shown in the second paragraph of the notice, rather than in the heading as shown above.
- Spacing - Follow the spacing as shown for the head- of this sample form. The heading appears on the first page of the notice only. Begin typing on the second page and on all following pages of the notice on the 8th line down. Single space between the paragraphs of a notice and the paragraphs of a rule.
- If changes are made to the rule language since the proposed stage, they are indicated by interlining the language removed and underlining the language added since the proposed notice.
- There is no notice number on a notice of adoption.
- The page number is penciled on the top right margin beginning with the second page and on all following pages.
- Submit an administrative order (Sample Form No. 9) with rule section material.
- Proof and submit notice of adoption to the secretary of state in original and two copies.

3/4"

End text of notice on this line.

SAMPLE FORM NO. 3 - EMERGENCY RULE

BEFORE THE BOARD OF LIVESTOCK --5th line down
OF THE STATE OF MONTANA

In the matter of the adoption
of emergency rules pertaining
to Tuberculosis in Wild Species
of Cloven-Hoofed Ungulates.

NOTICE OF THE ADOPTION OF
EMERGENCY RULES REQUIRING
TUBERCULOSIS TEST ON WILD
SPECIES OF CLOVEN-HOOFED
UNGULATES.

-8th

TO: All Interested Persons.

1. Statement of reasons for emergency
2. The text of the rules is as follows:

RULE I TUBERCULOSIS TEST, IMPORTATION OF WILD SPECIES OF
CLOVEN-HOOFED UNGULATES (1) All wild species of cloven-
hoofed ungulates brought into the state must be tested for
tuberculosis and found to be negative.

AUTH: 81-2-102, MCA IMP: 81-2-104, MCA

RULE II TUBERCULOSIS TEST, CHANGE OF OWNERSHIP (1) etc.

AUTH: 81-21-109, MCA IMP: 81-1-106, MCA

The emergency action is effective (date) _____.

(name)

(title)

-3/4"

Certified to the secretary of state _____

- Refer to the attorney general's sample form - ARM Title 1, Chapter 3, for abbreviated notice of emergency action. If that form does not apply, follow this format.
- If noticing more than one rule place the authority and implementing section at the end of each rule.
- Emergency rules become effective immediately upon filing with the secretary of state (unless otherwise stated), and are effective for a duration of 120 days.
- Submit an administrative order (Sample Form No. 9) with an emergency notice.
- Proof and submit to the secretary of state in original and two copies.

End the text of the notice on this line.

14-7/28/83

MAR NOTICE NO. 44-2-30

--1 1/4"

SAMPLE FORM NO. 4 - TITLE CHAPTER TABLE OF CONTENTS
TITLE 20 --5th line down

DEPARTMENT OF INSTITUTIONS

-8th

	Page
Chapter 1. Organizational Rule	20-3
2. Overall Departmental Rules	20-17
3. Alcohol and Drug Abuse Division	20-23
Chapters 4 through 6 reserved	
7. Corrections Division	20-233
Chapters 8 and 9 reserved	
10. Management Services Division	20-313
Chapters 11 through 14 reserved	
15. Mental Health and Residential Services	20-421
16. Board of Pardons	20-617

-14"

- Begin Title Chapter Table of Contents on an odd numbered page.
- Follow same spacing as shown on this sample form.
- Update when changes occur and submit new page with replacement pages in original and one copy.

-3/4"

End listing of chapters on this line.

NEXT PAGE IS 20-7

ADMINISTRATIVE RULES OF MONTANA

7/1/81

20-1

--1"

MAR NOTICE NO. 44-2-30

14-7/28/83

Chapter 9 reserved --14th line down

or

Chapters 9 and 10 reserved

or

Chapters 9 through 13 reserved

--1 1/4"

-3/4"

NEXT PAGE IS 44-1443

ADMINISTRATIVE RULES OF MONTANA

7/1/82

14-7/28/83

--1"

MAR NOTICE NO. 44-2-30

CHAPTER 28

-8th

COMMUNICABLE DISEASE CONTROL

Sub-Chapter 1

Specific Control Measures

Rule 16.28.101 Mumps

Rules 102 through 109 reserved

16.28.110 Minimal Control Measures

Sub-Chapter 2

Immunization of School Children

Rule 16.28.201 Definitions

Rules 202 through 208 reserved

16.28.209 Requirements for Unconditional Enrollment

Sub-Chapter 1

Specific Control Measures

--14"

-3/4"

16.28.101 MUMPS (1) For a case of mumps, the attending physician or the local health officer shall impose modified isolation until the fever and swelling of the salivary glands have disappeared.

(2) No quarantine is required. (History: Sec. 20-5-409 MCA; IMP, Sec. 20-5-403 MCA; NEW, 4/2/76; AMD, 1977 MAR p. 313, Eff. 9/14/77.)

Rules 102 through 109 reserved

16.28.110 MINIMAL CONTROL MEASURES (1) etc.

- Follow the same spacing as shown on this sample form. Indent 5 spaces for each paragraph. Single space between paragraphs of a rule. Double space between rules.
- Follow the same placements of heading and footing for an odd numbered page, as shown on this sample form. The rule number at top right margin represents the last rule number on that page.
- Note history notations, punctuation and spacing. See ARM 1.2.217 for more information on a history.
- Except for the first page of a chapter, odd numbered pages always have chapter name as heading.

SAMPLE FORM 7 - EVEN NUMBERED PAGE AND INSTRUCTIONS FOR FITTING
REPLACEMENT PAGES IN ARM
1.2.402 SECRETARY OF STATE --5th line down

- Follow same placements of heading and footing as shown on this sample. Rule number at top left margin represents the first new beginning rule on that page.
- Each even numbered page indicates the department name on the fifth line down.

INSTRUCTIONS FOR FITTING REPLACEMENT PAGES IN THE ARM

1. Placing the new, amended or repealed rule in ARM:

- If the information to be added pertains to an amended or a repealed rule, then refer to the existing page where the rule is located in the ARM. The page number for a new rule is determined by interspersing the new rule number into the existing rule numbers in the ARM.

2. How to add a new rule or amendment to a rule:

- Use the same heading as appears on the page where the rule is presently located. The rule number shown at the top of the page may change due to the added information on the page.
- If the change of language falls in the middle of a page, type existing language down to the point where new information or rule is added. If the added information extends to another page, start a new page and continue typing until all new information has been added.
- Check with the page that is being replaced and type any language or rules that were on that page that need to be placed back into the ARM.
- Type only to the point where language had ended on the page being replaced, even if the end of the language falls in the middle of a page or the middle of a sentence.
- Check to see if the language reads properly with the existing page in the ARM that will follow the added page.

3. How to number new supplemental pages:

- If there are no reserved page numbers available where the new page falls in the ARM, then decimal point pages used.
- Before adding the decimal point pages, the agency should check with the secretary of state for assistance in fitting in its new pages.

- At that time, it will be determined if the new page will be considered an odd or even numbered page. This information will also determine where the heading and footing will be placed on the page.

4. Placing a repealed or transferred rule in the ARM:

- Use the same heading as appears on the page where the rule is presently located.
- If the rule falls in the middle of a page, type down to the point where the repealed or transferred rule is located.
- Type the rule number, catchphrase, delete all the language of the rule, type the complete history notes.
- Check with the page that is being replaced and type any language or rules that were on that page that need to be placed back into the ARM.
- Type only to the point where language had ended on the page being replaced, even if the end of the language falls in the middle of the page or or a sentence.
- Check to see if the language reads properly with the existing page in the ARM that will follow the replaced page.
- If pages are eliminated from the ARM because of a repeal or transfer of a rule, then on the line above the date and page number of a replacing page, type the statement "NEXT PAGE IS _____", indicating the next existing page in the ARM.

-988-
SAMPLE FORM NO. 8 - CROSS REFERENCE TABLE

DEPARTMENT OF ADMINISTRATION --5th line down

MONTANA CODE ANNOTATED

-8th

TO
ADMINISTRATIVE RULES OF MONTANA

MCA

ARM

12-3-231	2.2.101
19-4-977	2.6.305
19-6-201	2.4.602
21-2-304	*2.5.301 - 2.5.309
21-2-304	*2.5.310 & 2.5.311

- Refer to ARM 1.2.219
- List MCA and ARM numbers in ascending order.
- *If a MCA citation refers to more than one rule number, and if the numbers are consecutive, they may be listed as shown above.
- Heading placed on first page only. After first page, pages will be as follows:

--1 1/2"

Even numbered pages:

_3/4"

- Fifth line down type name of department in capital letters, centered.
- Eighth line down type MCA at left hand margin and ARM at right hand margin.
- Page number will be typed at left hand margin with ADMINISTRATIVE RULES OF MONTANA ending at the right hand margin. Date centered between.

Odd numbered pages:

- Fifth line down type Cross Reference Table in capital letters, centered.
- Eighth line down type MCA at left hand margin and ARM at right hand margin.
- Page number will be typed at right hand margin with ADMINISTRATIVE RULES OF MONTANA beginning at left hand margin. Date centered between.

End Cross Reference listing on this line.

SAMPLE FORM NO. 9 - ADMINISTRATIVE ORDER

STATE OF MONTANA --5th line down

DEPARTMENT OF _____ --7th line down

(1) I, _____, Director of the Department of _____ 9th
or Chairman of the Board of _____
_____ (where the department is governed
by a board or where the order is promulgated by a board assign-
ed to a department for administrative purposes) of the State of
Montana, by virtue of and pursuant to the authority vested in
me by (MCA citation for authority) do promulgate and adopt the
annexed rules to wit:

NEW: _____ (rule number) _____ (catchphrase)

AMD: _____

REP: _____

--1 1/2"

as permanent _____ emergency _____ rules of this department (or 3/4"
board).

(2) This order after first being recorded in the order
register of this department (agency) shall be forwarded to the
secretary of state for filing.

APPROVED AND ADOPTED _____, 19__

CERTIFIED TO THE
SECRETARY OF STATE _____, 19__

BY: _____

Administrative Orders must be submitted with:

- All material published in the rule section of the Montana Administrative Register.
- Emergency rules.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption) NOTICE OF THE AMENDMENT
of Rule 10.57.207 Correspondence,) OF RULES 10.57.207, 10.57.
Extension and Inservice Credits,) 208 and 10.57.402 relating
Rule 10.57.208 Reinstatement, and) to Teacher Certification
Rule 10.57.402 Class 2 Standard)
Teaching Certificate)

TO: All Interested Persons

1. On May 26, 1983, the Board of Public Education published notice of the proposed adoption of Rules 10.57.207, 10.57.208 and 10.57.402 relating to Teacher Certification, at page 524 of the Montana Administrative Register, issue number 10.
2. The agency will adopt the rules of September 1, 1983.
3. No comments or testimony were received.

Harriett C. Meloy

HARRIETT C. MELOY, CHAIRMAN
BOARD OF PUBLIC EDUCATION

By *Theresa Van Dusen*

Certified to the Secretary of State July 18, 1983

BEFORE THE DEPARTMENT OF HIGHWAYS
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF THE ADOPTION
amendment of Rules 18.5.102,	)	OF TWO RULES 18.5.112 & 113;
18.5.103, 18.5.104,	)	AMENDMENT OF RULES 18.5.102,
18.5.105; the repeal of	)	18.5.103, 18.5.104,
Rules 18.5.107, 18.5.108,	)	18.5.105; AND THE
18.5.109, 18.5.110,	)	REPEAL OF RULES
18.5.111; and the adoption	)	18.5.107, 18.5.108,
of two rules relating to	)	18.5.109, 18.5.110,
approach standards for	)	18.5.111 RELATING TO
Montana highways.	)	APPROACH STANDARDS FOR
	)	MONTANA HIGHWAYS.

TO: All Interested Persons:

1. On May 26, 1983, the Department of Highways published notice of a proposed adoption of two rules; amendment of rules 18.5.102, 18.5.103, 18.5.104, 18.5.105; and the repeal of rules 18.5.107, 18.5.108, 18.5.109, 18.5.110, and 18.5.111 concerning approach standards for Montana highways at page 538 of the 1983 Montana Administrative Register, issue number 10.

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

3. No comments or testimony were received.

4. The authority for the rule is section 60-2-201, MCA, and the rule implements section 60-2-201, MCA.

Gary J. Wicks
Director of Highways

By: 

Certified to the Secretary of State July 18, 1983

BEFORE THE DIVISION OF WORKERS' COMPENSATION
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT OF
of ARM 24.29.201 and the) RULE 24.29.201, AND THE
adoption of new procedural) ADOPTION OF RULES
rules for the division of) 24.29.202, 24.29.203,
workers' compensation.) 24.29.204, 24.29.205,
24.29.206, 24.29.207,
24.29.208, 24.29.209,
AND 24.29.210 AS NEW
PROCEDURAL RULES

TO: All Interested Persons.

1. On June 16, 1983, the division of workers' compensation published notice of the proposed amendment of ARM 24.29.201 and the proposed adoption of new procedural rules at page 622 of the 1983 Montana Administrative Register, issue number 11.

2. The division has amended rule 24.29.201 as proposed. The division has adopted Rule I -- 24.29.202, Rule II -- 24.29.203, Rule III -- 24.29.204, Rule IV -- 24.29.205, Rule V -- 24.29.206, Rule VII -- 24.29.208, Rule VIII -- 24.29.209, and Rule IX -- 24.29.210 as proposed.

The division has adopted Rule VI -- 24.29.207 as proposed with the following changes:

24.29.207 CONTESTED CASES

Subsections (1) and (2) remain as proposed.

(2)(a) disputes regarding attorneys' fee agreements ~~prior to a petition being filed in the workers' compensation court~~ in accordance with section 39-71-613, MCA;

(2)(b) disputes regarding insurance premium payments to the state ~~workers'~~ compensation insurance fund;

(2)(c) disputes regarding state ~~workers'~~ compensation insurance fund premium rates;

Subsections (2)(d), (e), (f), (g), (h) and (i) remain as proposed. Subsections (3) through (7) remain as proposed.

3. On July 6, 1983, a public hearing was held by the division of workers' compensation regarding the amendment and adoption of the foregoing rules. The division has thoroughly considered all verbal and written commentary received.

COMMENT: Rule 24.29.207, Contested Cases, suggests that the division is expanding its jurisdiction into an area that is now exclusively the authority of the workers' compensation court. The court has exclusive jurisdiction over Chapter 71, according to Section 39-71-2905, MCA, dealing with benefit disputes.

RESPONSE: Section 39-71-2905, MCA, focuses the workers' compensation court's role on disputes involving benefits under Chapter 71, albeit the court's jurisdiction is broad and goes beyond simply benefits payable to a claimant. The workers' compensation court, in the past, has acted on this limitation by not accepting cases for hearing it deemed unrelated to benefits under Chapter 71. The reference to exclusive jurisdiction in Section 39-71-2905, MCA, seems to address the fact that only the workers' compensation court and no other court has jurisdiction over Chapter 71. In its exclusive role, the workers' compensation court has two functions: (1) for benefit cases under Chapter 71 it is a hearings court, and (2) for other cases under Chapter 71 it is the appeals court on disputes after hearings conducted under workers' compensation division auspices.

The items in the new rule in subsection (2) are statutory responsibilities of the division under Chapter 71 that may produce contested cases, as opposed to responsibilities of insurers regarding benefits they must pay under Chapter 71. Contested cases about insurer benefit responsibilities are heard by the Workers' Compensation Court. Contested cases about division responsibilities other than those involving the state insurance fund or uninsured employer fund benefit responsibilities, have hearings conducted under division auspices, with the workers' compensation court acting as the appeals court in those cases. The new rule is, therefore, not an expansion of division authority, but is a clarification of authority it now has.

COMMENT: How will these procedural rules affect the current rules on attorney fee agreements? Can anyone make a contested case dispute over a fee agreement filed between a client and his attorney? Do these rules repeal the attorney fee rules currently in effect?

RESPONSE: The procedural rules do not change the substance of any other division rules, including the current attorney fee rule. The reference to attorney fee agreements in the procedural rules only deals with how disputes will be handled that may arise over such agreements and does not repeal the current attorney fee rule. Although 2-4-102, MCA, allows the division to admit anyone as a party in a contested case proceeding, that discretion is for limited purposes associated with the legal rights, duties, or privileges of a party, in this situation, affected by an attorney fee agreement under division rules.

COMMENT: Would the proposed rule require a new level in the hearing process?

RESPONSE: The only new procedure in these rules is called "administrative review". It is a procedure intended to try to resolve issues at the highest level in the division and to avoid an unnecessary hearing. The rule concerning administrative review addresses both contested and uncontested cases. Since contested cases require all parties to waive formal proceedings in order to have an administrative review, there is no requirement, as such, for administrative review, and therefore, does not create a mandatory new level in the hearing process.

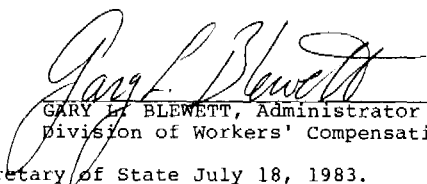
The possibility of two hearings, one by the division and one by the workers' compensation court on the same contested case seems remote since the rule directs the division's role in contested cases under Chapter 71 to those circumstances involving the division's statutory responsibilities exclusive of its state insurance fund or uninsured employer fund benefit responsibilities. Except when it concerns a state insurance fund or uninsured employer fund benefit responsibility, the division does not have a statutory responsibility to make determinations involving, for example, whether an accident was caused in the course and scope of employment, or whether an accident was intentional or malicious, and therefore, would not be heard under division auspices in any case under Chapter 71.

COMMENT: Does the term "counsel" in rule 24.29.209 refer only to any person who is licensed to practice law in Montana? If it does not, then it is suggested that the term be changed to "attorney".

RESPONSE: The attorney general's office and the legislative council inform us that the term "counsel" in the model rules means a person licensed to practice law in Montana. Since this is the practice and custom of all agencies which have adopted the model rules, a change in the term is unnecessary.

COMMENT: The wording, "(a) disputes regarding attorneys' fee agreements prior to a petition being filed in the workers' compensation court" will allow an argument to be made that a dispute concerning an attorney fee can continue to rage before the administrator or an administrative hearings officer after a petition is filed with the workers' compensation court. When the second petition is filed, such dispute is moot, because the matter is within the jurisdiction of the workers' compensation court and the administrative body's need to continue with the dispute ends.

RESPONSE: The language used does cause confusion and has been revised accordingly. The division's jurisdiction is over the agreement between the claimant and the attorney under 39-71-613, MCA, and not the fee that the court may award under 39-71-611 or 612, MCA. The division's jurisdiction over the agreement continues over the life of the agreement and that jurisdiction is independent of any fee the court may award.


GARY L. BLEWETT, Administrator
Division of Workers' Compensation

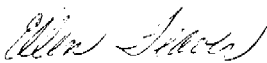
Certified to the Secretary of State July 18, 1983.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF AMENDMENT of Rule
Amendment of Rule 42.17.105	)	42.17.105 relating to the
relating to the computation	)	computation of withholding
of withholding tax.	)	tax.

TO: All Interested Persons:

1. On June 16, 1983, the Department of Revenue published notice of the proposed amendment of rule 42.17.105 relating to the computation of withholding tax at pages 628 through 630 of the 1983 Montana Administrative Register, issue number 11.
2. The Department has amended the rule as proposed.
3. No comments or testimony were received.
4. The authority for the rule is §15-30-305, MCA, and the rule implements §15-30-202, MCA.



ELLEN FEAVER, Director
Department of Revenue

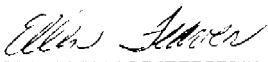
Certified to Secretary of State 07/18/83

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF AMENDMENT of Rule
AMENDMENT of Rule 42.27.401	)	42.27.401 relating to the
treatment of gaschol and the	)	treatment of gaschol and the
ADOPTION of Rule I	)	ADOPTION of Rule I (42.27.501)
(42.27.501) relating to	)	relating to alcohol
alcohol distributors.	)	distributors.

TO: All Interested Persons:

1. On June 16, 1983, the Department of Revenue published notice of the proposed amendment of rule 42.27.401 relating to the treatment of gaschol and the proposed adoption of Rule I (42.27.501) relating to alcohol distributors at pages 631 and 632 of the 1983 Montana Administrative Register, issue number 11.
2. The Department has amended rule 42.27.401 as proposed, and adopted Rule I (42.27.501) as proposed.
3. No comments or testimony were received.
4. The authority for the rules is §15-70-104, MCA, and the rules implement §§15-70-201, 15-70-204, 15-70-512, and 15-70-523, MCA.


ELLEN FEAVER, Director
Department of Revenue

Certified to Secretary of State 07/18/83

VOLUME NO. 40

OPINION NO. 14

ELECTIONS - Staggering of terms of office of directors of county water and sewer districts;
WATER AND SEWER DISTRICTS - Staggering of terms of office of directors;
MONTANA CODE ANNOTATED - Section 7-13-2234.

HELD: The provisions of section 7-13-2234(3), MCA, which provide for staggered terms of office for elected water and sewer district directors apply to all counties in which water and sewer directors are elected.

5 July 1983

James C. Nelson, Esq.
Glacier County Attorney
Glacier County Courthouse
Cut Bank, Montana 59427

Dear Mr. Nelson:

You have asked my opinion on the following question:

Does section 7-13-2234(3), MCA, apply to boards of directors of county water and sewer districts whose original boards were elected before July 1, 1979?

Section 7-13-2234(3), MCA, provides that directors elected "at the first regular election" after July 1, 1979, shall serve staggered terms, and at their first meeting they shall determine by lot which of them shall serve for a term of two years rather than for a regular term of four years. Your question concerns whether the use of the phrase "at the first regular election...after July 1, 1979" in the statute means that the staggering provision applies only to a county whose first board of directors is elected after July 1, 1979. I conclude that it does not.

Section 7-13-2234, MCA, was amended in 1979 to provide staggered terms of office for elected directors of county water and sewer districts. The relevant portions of the amendments were contained in Chapter 538, Senate

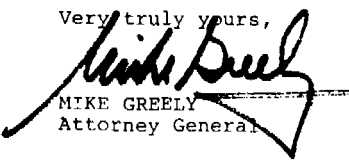
Bill No. 462 (1979). Chapter 538 was entitled "An Act to Stagger Elections and Terms of Office of Directors of County Water and Sewer Districts." The title of an act may be looked to in order to determine legislative intent. In re Coleman's Estate, 132 Mont. 339, 343, 317 P.2d 880, 882 (1957). During discussions before the House Local Government Committee on March 8, 1979, Senator Manley referred to the bill as a means of correcting an oversight in the then-existing law which contained no provision for staggered terms of directors. The discussion does not make a distinction between counties whose boards were first elected before July 1, 1979, and those whose boards were first elected after July 1, 1979. The intention of the Legislature is controlling in construing a statute. State Bar of Montana v. Krivec, 38 St. Rptr. 1322, 1324, 632 P.2d 707, 710 (1981). Both the title of the act that amended the statute as well as the committee discussions suggest that the Legislature intended staggered terms for all elected directors.

The specific terms used in section 7-13-2234(3), MCA, also support my conclusion. The statute simply speaks of "directors" elected after July 1, 1979, rather than directors in counties whose original boards were elected after July 1, 1979. I cannot impute a legislative intent to restrict the application of section 7-13-2234(3), MCA, by statutory construction.

THEREFORE, IT IS MY OPINION:

The provisions of section 7-13-2234(3), MCA, which provide for staggered terms of office for elected water and sewer district directors apply to all counties in which water and sewer directors are elected.

Very truly yours,



MIKE GREELY
Attorney General

NOTICE OF FUNCTIONS OF ADMINISTRATIVE CODE COMMITTEE

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

The Committee welcomes comments from the public and invites members of the public to appear before it or to send it written statements in order to bring to the Committee's attention any difficulties with existing or proposed rules. The address is Room 138, 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 the 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 June 30, 1983. This table includes those rules adopted during the period July 1, 1983 through September 30, 1983, 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 June 30, 1983, this table and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule and the page number at which the action is published in the 1982 and 1983 Montana Administrative Registers.

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