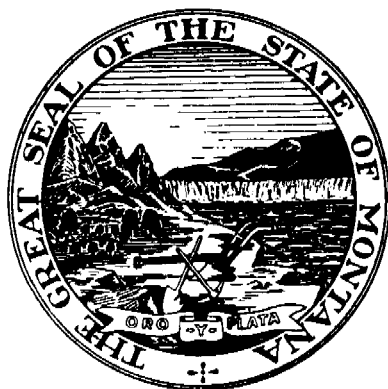


RESERVE

**MONTANA
ADMINISTRATIVE
REGISTER**

1983 ISSUE NO. 17
SEPTEMBER 15, 1983
PAGES 1219-1281



MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 17

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 The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing, and where written comments may be submitted.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 STATE AUDITOR
AND EX OFFICIO COMMISSIONER OF INSURANCE
OF THE STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF PROPOSED
of rule I defining general	)	ADOPTION OF RULE I
business practice or general	)	DEFINING GENERAL BUSINESS
course of business practice for	)	PRACTICE OR GENERAL COURSE
purposes of claim settlement	)	OF BUSINESS PRACTICE

NO PUBLIC HEARING
CONTEMPLATED

TO: All Interested Persons

1. On October 15, 1983 the Commissioner of Insurance proposes to adopt Rule I defining general business practice or general course of business practice for purposes of claims settlement.

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

Rule I GENERAL BUSINESS PRACTICE OR GENERAL COURSE OF BUSINESS PRACTICE.

(1) General Business practice or general course of business practice shall be taken to mean multiple unfair claim settlement practice violations occurring in the same claim or unfair claim settlement practice violations by the same company in different cases.

(2) This rule applies under Chapter 300, Laws of 1983 and 33-18-201, MCA.

3. The commissioner of insurance is proposing this rule to aid in implementing Chapter 300, Laws of 1983 and 33-18-201, MCA. The rule is necessary to clarify what is meant to be a general business practice or general course of business practice.

4. Interested parties may submit their data, view, or arguments concerning the proposed rule in writing no later than October 13, 1983 to:

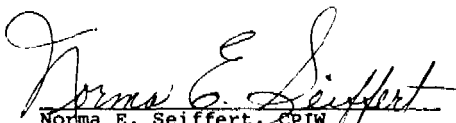
Tanya Ask	
State Auditor's Office	
Insurance Division	or P.O. Box 4009
Room 204, Mitchell Building	Helena, MT 59604
Helena, MT 59620	

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 Tanya Ask at the above address no later than October 13, 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, 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 130 persons based on approximately 1,300 insurers authorized to do business in this state.

7. The authority of the agency to adopt the proposed rule is based on Chapter 300, Laws of 1983 and 33-1-313, MCA, and the rule implements Chapter 300, Laws of 1983 and 33-18-201, MCA.


Norma E. Seiffert, CPIW
Chief Deputy Commissioner of
Insurance

Certified to the Secretary of State September 1, 1983

BEFORE THE STATE AUDITOR
AND EX OFFICIO COMMISSIONER OF INSURANCE
OF THE STATE OF MONTANA

In the matter of the adoption) NOTICE OF PUBLIC HEARING
of rules relating to examination) ON THE PROPOSED ADOPTION
licensure, bonding, and regulation) OF RULES RELATING TO
of public adjusters) PUBLIC ADJUSTERS

TO: All Interested Persons

1. On October 5, 1983 at 10:30 a.m. a public hearing will be held in Room 160 of the Mitchell Building, Fifth & Roberts Street, Helena, Montana to consider the adoption of rules relating to examination, licensure, bonding and regulation of public adjusters.

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

3. The proposed rules provide as follows:

Rule I PURPOSE. The purpose of this subchapter is to provide for the protection of consumers by examination, licensure, bonding, and regulation of public adjusters.
AUTH: 33-1-313 and 33-17-102, MCA enacted by Chapter 518, Laws of 1983
IMP: 33-17-102(1)(c), MCA

Rule II DEFINITIONS. For purposes of this subchapter, the following definitions apply:

(1) Public adjuster means an adjuster employed by and representing solely the interests of the insured named in the policy. Public adjusters shall adjust first party physical damage claims only.

AUTH: 33-1-313 and 33-17-102, MCA enacted by Chapter 518, Laws of 1983
IMP: 33-17-102(1)(c), MCA

Rule III LICENSE REQUIRED - PENALTY. (1) No person shall act or hold himself out to be a public adjuster in this state unless licensed therefor by this state.

(2) Any person who violates the provisions of this subchapter shall be punished under Sections 33-17-1004, MCA and 33-1-317, MCA.

AUTH: 33-1-313 and 33-17-102, MCA enacted by Chapter 518, Laws of 1983
IMP: 33-17-102(1)(c), MCA

Rule IV QUALIFICATIONS FOR A PUBLIC ADJUSTER'S LICENSE.

(1) Applicants for a license as a public adjuster must qualify as provided under section 33-17-301(1)(2)(3), MCA.

(2) Applicants for a public adjuster's license successfully pass an examination as required by the commissioner under Rule VI.

(3) Applicants for a public adjuster's license shall require a bond as required in Rule XI.

AUTH: 33-1-313 and 33-17-102, MCA enacted by Chapter 518, Laws of 1983

IMP: 33-17-102(1)(c), MCA

Rule V SEPARATE LICENSES. Separate licenses shall be required for independent adjusters and public adjusters. No person shall be concurrently licensed both as an independent adjuster and a public adjuster.

AUTH: 33-1-313 and 33-17-102, MCA enacted by Chapter 518, Laws of 1983

IMP: 33-17-102(1)(c), MCA

Rule VI EXAMINATION FOR PUBLIC ADJUSTER'S LICENSE.

Each applicant for a license as a public adjuster shall prior to the issuance of such license personally take and pass, to the satisfaction of the commissioner, an examination given by the commissioner as a test of his qualifications and competency.

AUTH: 33-1-313 and 33-17-102, MCA enacted by Chapter 518, Laws of 1983

IMP: 33-17-102(1)(c), MCA

Rule VII SCOPE OF EXAMINATION. (1) Each examination of a license as a public adjuster shall be as the commissioner may prescribe and shall be of sufficient scope reasonably to test the applicant's knowledge relative to the kind of insurance which may be dealt with under the license applied for and the duties and responsibilities of, and laws of this state applicable to such a licensee.

(2) The commissioner shall prepare and make available to applicants a manual or instructions specifying in general terms the subjects which may be covered in any examination for such a license.

AUTH: 33-1-313 and 33-17-102, MCA enacted by Chapter 518, Laws of 1983

IMP: 33-17-102(1)(c), MCA

Rule VIII EXAMINATIONS - FORM - TIME. (1) The answers of the applicant to any such examination shall be written by the applicant under the supervision of the division of insurance. Any such written examination may be supplemented by oral examination at the commissioner's discretion.

(2) The examination shall be given at such times and places within this state as the commissioner deems necessary to serve the convenience of both the commissioner and applicants.

(3) The commissioner may require a waiting period of reasonable duration before giving a new examination to an applicant who has failed to pass a previous similar examination.

AUTH: 33-1-313 and 33-17-102, MCA enacted by Chapter 518, Laws of 1983

IMP: 33-17-102(1)(c), MCA

Rule IX THE COMMISSIONER SHALL PRESCRIBE THE FORM OF THE ADJUSTER'S LICENSE. The license shall contain the information regularly required under an adjuster's license under section 33-17-301. The license shall also contain a statement that the person is licensed as a public adjuster.

AUTH: 33-1-313 and 33-17-102, MCA enacted by Chapter 518, Laws of 1983

IMP: 33-17-102(1)(c), MCA

Rule X THE COMMISSIONER SHALL COLLECT IN ADVANCE THE FEES FOR A PUBLIC ADJUSTER'S LICENSE AND EXAMINATION. (1) Fees as for an adjuster's license under 33-2-708(j)(1),

(2) for each examination, a fee of ten dollars.

AUTH: 33-1-313 and 33-17-102, MCA enacted by Chapter 518, Laws of 1983

IMP: 33-17-102(1)(c), MCA

Rule XI PUBLIC ADJUSTERS BOND. (1) Prior to the issuance of a license and a public adjuster, the applicant therefor shall file with the commissioner a surety bond in favor of the people of Montana, executed by a surety company authorized to do business in the state in the amount of five thousand dollars. The total aggregate liability on the bond may be limited to the payment of five thousand dollars. The bond shall be conditioned on the accounting of the adjuster to any insured whose claim he is handling for moneys or any other settlement received in connection with the claim.

(2) Any bond shall remain in force concurrently with the license, or until the surety is released from liability by the commissioner, or until canceled by the surety. Without prejudice to any liability accrued prior to the cancellation, the surety may cancel a bond upon thirty days written notice filed with the commissioner.

AUTH: 33-1-313 and 33-17-102, MCA enacted by Chapter 518, Laws of 1983

IMP: 33-17-102(1)(c), MCA

Rule XII PLACE OF BUSINESS. Every licensed public adjuster shall maintain a place of business as required under section 33-17-301(2)(e).

AUTH: 33-1-313 and 33-17-102, MCA enacted by Chapter 518, Laws of 1983

IMP: 33-17-102(1)(c), MCA

Rule XIII POWERS CONFERRED BY THE PUBLIC ADJUSTER'S LICENSE. A public adjuster has authority under his license only to investigate and report to his principal on behalf of the insured. Public adjusters shall adjust first party physical damage claims only.

AUTH: 33-1-313 and 33-17-102, MCA enacted by Chapter 518, Laws of 1983

IMP: 33-17-102(1)(c), MCA

Rule XIV DENIAL, SUSPENSION OR REVOCATION OF LICENSE.

(1) The commissioner may deny, suspend, revoke, or refuse to renew any public adjuster's license for any of the reasons stated in section 33-17-1001, MCA.

AUTH: 33-1-313 and 33-17-102, MCA enacted by Chapter 518, Laws of 1983

IMP: 33-17-102(1)(c), MCA

Rule XV PROCEDURE FOR REFUSAL, SUSPENSION OR REVOCATION.

(1) The commissioner may refuse, suspend or revoke a public adjuster's license under the procedures of sections 33-17-1001 and 33-1-701 through 33-1-711, MCA.

AUTH: 33-1-313 and 33-17-102, MCA enacted by Chapter 518, Laws of 1983

IMP: 33-17-102(1)(c), MCA

4. These rules are proposed for the purpose of providing a uniform approach to examining, licensing, bonding and regulating public adjusters in Montana.

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:

Tanya Ask

State Auditor's Office

Insurance Division

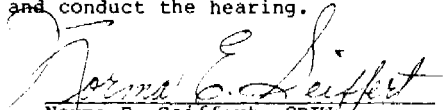
Room 204, Mitchell Building or P.O. Box 4009

Helena, MT 59620

Helena, MT 59604

by October 13, 1983.

6. Gordon D. Bruce, State Auditor's Office, Insurance Division, Mitchell Building, Helena, Montana 59620 has been designated to preside over and conduct the hearing.


Norma E. Seiffert, CPIW,
Chief Deputy Insurance
Commissioner

Certified to the Secretary of State September 1, 1983

17-9/15/83

MAR Notice No. 6-2

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF COSMETOLOGISTS

In the matter of the proposed)	NOTICE OF PROPOSED AMENDMENT
amendments of ARM 8.14.816 sub-) OF 8.14.816 SALONS, 8.14.1003	
section (1) concerning salons;) EXAMINATION, 8.14.1010 FEE	
8.14.1003 subsection (3) con-) SCHEDULE, and PROPOSED ADOP-	
cerning examinations, 8.14.1010) TION OF NEW SUB-CHAPTER 9,	
concerning fees; and proposed) ELECTROLOGY SCHOOLS AND 11,	
adoption of new rules under a) SANITARY RULES FOR ELECTROLOGY	
new sub-chapter 9 concerning) SALONS AND SCHOOLS	
electrology schools, and a new)	
sub-chapter 11 concerning sani-) NO PUBLIC HEARING CONTEMPLATED	
tary rules for electrology)	
salons and schools.)	

TO: All Interested Persons:

1. On October 15, 1983, the Board of Cosmetologists proposes to amend and adopt the above-stated rules.
2. The proposed amendment of subsection (1) of rule 8.14.816 will read as follows: (new matter underlined, deleted matter interlined)

"8.14.816 SALON (1) Definition: A cosmetology salon is an establishment wherein any branch of cosmetology is performed for compensation other than a school of cosmetology and no other function or service shall be performed other than those described in 37-31-301, MCA.

(2) ..."

3. The board is proposing to amend subsection (1) to protect the consumer from receiving any services in a licensed establishment by an unlicensed person. The board finds that when non-cosmetological services are performed in a salon by non-cosmetologists, they are unable to safeguard the consuming public against unqualified persons, who may be in an establishment, from also performing cosmetological services. The authority of the board to make the proposed amendment is based on section 37-31-203 (2) and (6), MCA and implements sections 37-31-301 (1)(a) and (2)(a), and 37-31-302 (1), MCA.

4. The proposed amendment of 8.14.1003 subsection (3) will delete that subsection in its entirety and renumber the remaining subsections: (new matter underlined, deleted matter interlined)

"8.14.1003 EXAMINATION (1)...

(3) ~~-in order to pass the examination to practice electrology, an applicant must obtain a grade of not less than 75% in the practical and not less than 75% on the written theory examination-~~

(4) Examination ..."

5. The board is proposing to delete the passing score from this rule and place it within the new sub-chapter 9. The passing score will be increased for electrology written and practical examinations for the protection of the public against

unqualified practitioners of electrology. Applicants for examination receive the maximum number of hours and training provided by a school, however, practical experience is limited in schools and prevents the students from being introduced to varied types of superfluous hair problems that will be encountered after they begin private practice. Thus, the board's opinion is that by raising scores, it will help to eliminate harm to the public sector and ensure that services being rendered by new licensees are being provided by only qualified persons. The authority of the board to make the proposed amendment is based on section 37-32-201, MCA and implements section 37-32-302 (1)(c), MCA.

6. The proposed amendment of 8.14.1010 will add a new subsection (7) and will read as follows: (new matter underlined, deleted matter interlined)

"8.14.1010 FEE SCHEDULE ...

(7) Student registration fees shall be \$5.00 for initial enrollment plus \$5.00 for each re-enrollment following a withdrawal."

7. The board finds it necessary to impose a registration fee for students enrolling in a school, plus the need to impose the same fee for each time a student re-enrolls in a school following a withdrawal, to cover administrative costs. The actual cost, per student, was pro-rated for cosmetology students by the department staff to be \$7.57 per student. The authority of the board to make the proposed amendment is based on sections 37-1-134, and 37-32-201, MCA and implements sections 37-1-134, MCA.

8. The proposed new rules under Sub-chapter 9 will read as follows:

"1. SCHOOLS - APPLICATION (1) No person, firm, partnership or corporation may operate a school for the purpose of teaching electrology for compensation unless a certificate of registration has been first obtained from the department. Application for the certificate shall be filed with the department on a form prescribed by the board.

(2) Proposed schools may not advertise in any manner until they have received their license and registration certificate. Schools shall advertise under the designation of "School" only.

(3) Students shall not be registered or admitted until such time as the school license and registration has been received by the school.

(4) Classes may start when at least 2 students have been enrolled and registered with the board.

(5) Students shall be furnished with a statement showing the cost that each student is required to pay for tuition, books, supplies, and/or any additional fees for their training.

(6) A school shall have in its employ a licensed teacher who is at all times in the immediate supervision of the

work of the school. There may not be more than 10 students per each teacher.

(7) No teacher or student teacher may be permitted to practice electrology on the public in a school.

(8) No professional electrology salon may be operated in connection with a school of electrology.

(9) No electrolysis school shall be operated in conjunction with a cosmetology school or cosmetology salon.

(10) Any change in ownership and/or location of a school requires a new application for registration and a new registration fee to be paid.

(11) School registration and instructor licenses must be displayed in a conspicuous place in the school.

(12) A detailed floor plan of the school, showing adequate floor space of at least 1,000 square feet for the first 4 students and 60 square feet for each additional student, which may include locker room and office space, subject to board approval.

(13) The clinical area shall be divided into work stations, at least 10' x 6' square feet per each, enclosed by use of partitions or curtains.

(14) A bond in the amount of \$6,000, which shall be subject to the inspection of the board and shall specifically state that in case this proposed new school goes out of business that any prepaid tuition will be refunded.

(15) A copy of student registration contract and a copy of the school rules must be submitted to the board for approval.

(16) No school shall be licensed until the board has had ample opportunity to verify the sworn statements as to the ownership and all other claims and representations as set forth on the application.

(17) The board reserves the right to deny a school license to any applicant who fails to present satisfactory evidence of his or her business and professional integrity and experience." (authority: Sec. 37-32-201, MCA, implements: Sec. 37-32-102 (1), MCA)

"II. SCHOOL REQUIREMENTS (1) Each school shall maintain a time clock for registering the hourly attendance of all students and shall require each student to register his daily record when starting and completing daily instruction and training, when leaving and returning to school premises, at the commencement and termination of lunch periods.

(2) Daily attendance records and records of all subjects taught and practiced shall be submitted to the office of the department on or before the 10th of each month, on forms furnished by the department. Records must be signed by a qualified instructor or someone designated by the owner and the student.

(3) Written and oral tests must be given at intervals to determine the status of the student.

(4) Each student must complete 50 hours of basic training before they shall be allowed to work on the public.

(5) Each student must complete 200 hours of basic training before they shall be allowed to perform facial work on the public.

(6) Students shall not be called out of class to do electrolylogy work on the public.

(7) Any student who has not been in attendance for 1 week and has not notified the school will be considered as having withdrawn and the school must submit to the department a withdrawal notice, immediately, indicating the last day of attendance and the actual hours or operations of instruction and training prior to completion of the prescribed course.

(8) Upon re-enrollment in a school, the department shall be notified of the student's re-enrollment.

(9) Schools must not enroll any transfer student from any school until a verified transcript of their hours has been received and can be verified by the department as complying with the training time required in the state of Montana.

(10) At the entrance of each school, a large legible sign with the words "School of Electrology" shall be displayed. Each classroom shall have similar signs with the words "Student Work Only", posted.

(11) A schedule of all field trips must be submitted to the department for prior approval. Credit for hours will be given for field trips only if students are accompanied by a licensed instructor and shall be limited to not more than 8 hours.

(12) No school shall be allowed to permit students to instruct or teach co-students." (authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-102 (1), MCA)

"III. INSPECTION AND EQUIPMENT (1) The school premises shall be inspected by a qualified electrologist designated by the board or by one or more members of the board before opening.

(2) A separate classroom is required and must have sufficient charts, blackboards, chairs and up-to-date books, to include:

Electrolysis, Thermolysis and the Blend, by A.R. Hinkle,

Electrolysis, by Julius Shapiro,

The Hirsute Woman, by Dr. Robert Greenblatt; and

The Pill Book, by Harold Silverman and Gilbert Simon, medical dictionary, current electrology magazines and a copy of electrology law and rules. This room may be used as a recitation, demonstration, study room and reference library.

(3) A practice workroom is required with the minimum amount of equipment necessary for students to perform all technical and practical requirements and shall include:

1 bead sterilizer

1 sink, with hot and cold running water for handwashing.

(4) A minimum of two stations shall be required for the first 3 students enrolled, with 1 station added for each additional two students thereafter.

(5) The school shall provide each station with the following equipment:

1 epilator

1 table or chair for patron

1 stool, adjustable in height

1 illuminated magnifying lamp

1 stand for placing instruments and sterilizers

1 wet sterilizer

1 dry container for sterile instruments

1 covered soiled linen container

2 pair tweezers

1 pair regular forceps for ingrown hair

1 covered garbage container

(6) One dozen needles, in various sizes, shall be provided each student upon completing 50 hours of basic training.

(7) One locker shall be provided for each student enrolled for personal items.

(8) There shall be separate rest rooms for male and female persons, which shall include lavatories with hot and cold running water convenient to students, employees and patrons.

(9) No school shall provide cups or glasses or other drinking receptacles for common usage.

(10) No professional electrology salon may be operated in connection with a school of electrology.

(11) No electrology school may be used for residential purposes.

(12) Any residence, adjacent to an electrology school, must be entirely separated by a floor to ceiling-permanent partition, closed by a locked door." (authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-102 (1), MCA)

"IV. INSTRUCTOR REQUIREMENTS (1) An instructor in a school of electrology must have a 100 hour teacher certificate and shall have not less than 3 years of continuous practical experience in the state of Montana, prior to applying for an instructor license. Practical experience shall consist of full time experience, which means experience on the basis of a minimum of 6 hours per day and 30 hours per week.

(2) An applicant for an instructor license shall provide certified proof of the required continuous practical

experience , plus teacher certificate, upon making application for a license.

(3) No instructor license shall be issued until the board has had ample opportunity to verify the certified proof of practical working experience." (authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-102 (1), MCA)

"V. STUDENT REGISTRATION (1) Upon enrollment, a student must submit to the school, the following items which the school must send to the office of the department within 10 days:

- (a) proof of high school graduation, or equivalent
- (b) photostatic copy of birth certificate
- (c) certificate of health issued by a licensed physician.

(2) Each student enrolling in a registered school of electrology shall pay a registration fee which will be made payable to the board of cosmetologists.

(3) Transfer students must submit a transcript of their training and shall pay a registration fee." (authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-102 (1), MCA)

"VI. CURRICULUM - STUDENTS (1) The hours of training courses shall consist of 600 hours of technical instruction and practical operations covering all practices of an electrologist in not less than 15 weeks or a maximum of 19 weeks.

(2) For the purposes of this section, technical instruction of not less than 200 hours, means instruction by demonstration, lecture, classroom participation or examination. Practical operation shall mean the actual performance by the student of a complete service on another person. Such technical instruction and practical operations shall include:

Curriculum Subjects	Minimum Practical Operations
Causes of Hair Problems	
Structure and Dynamics of Hair and Skin	
A Practical Analysis of Hair and Skin	
Neurology and Angiology	
Bacteriology and Disinfection	
Dermatology	
Principles of Electricity and Equipment	
Electrolysis	30 hours
Thermolysis	30 hours
The Blend	30 hours
The Needle	
General Treatment Procedure	
Treatment of Specific Areas	
State Board Law and Rules	

Development of a Practice

The 400 hours of practical operations would include a minimum of 30 hours each of electrolysis, thermolysis and the blend. The modality used, during the balance of 310 hours of practical operations, is subject to the choice of the student.

(3) The course and training shall include professional ethics, personal hygiene, good grooming, normal cleanup duties, required keeping of student records, modeling, reception desk and other related duties; and may also include guest speakers, with topics relevant to the electrolysis profession.

(4) All students shall have completed the specific minimum of required hours and operations upon completion of the 600 hour course and the school must send the record of completion to the department within 2 days.

(5) Students, upon graduation from a school and pending passing the state examination, may not engage in the practice of electrolysis." (authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-102 (1), MCA)

"VII. STUDENT REQUIREMENTS (1) Students in a school of electrology, desiring to change to another school shall notify the office of the department of such a change.

(2) A student in good standing desiring to transfer to another school must present a verified statement indicating the number of hours which the student has had in training, with all monies paid to the disenrolling school, before credit can be given for past training.

(3) Each time a student withdraws from a school, the required time stops on the last date of attendance.

(4) The student's requirement training time continues on the date of re-enrollment, unless over 60 days has lapsed from the last date of attendance.

(5) Any student, who has been out of school for a period of time in excess of 60 calendar days would forfeit 80 hours of accumulated credit for each month or fraction thereof since the last day of attendance in an electrology school, except in case of illness or extreme emergency.

(6) The student is required to furnish proof immediately of a valid reason or nature of the interruption by filing a physician's statement or other certified statement setting forth the cause for missing such time of training." (authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-102 (1), MCA)

"VIII. BRUSH-UP STUDENTS (1) Brush-up students shall not be permitted more than 400 hours of training in any consecutive twelve month period, except when such student has failed an examination, following completion of the preceding brush-up course." (authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-102 (1), MCA)

"IX. EXAMINERS - STUDENT EXAMINATIONS (1) Examinations for electrologists shall be conducted by the board or by examiners appointed by the majority of the board.

(2) All examiners shall have had at least 2 years of practical experience consisting of 30 hours per week for a minimum of 52 weeks per year and shall be a licensed electrologist of this state and shall not be connected with any school of electrology.

(3) To be eligible to take the examination, the applicant must be 18 years of age, a graduate of high school or equivalent and be of good moral character.

(4) Applicants must have completed a continuous course of theoretical study and actual practice of at least 600 hours, be in good standing and have received a diploma from a registered school of electrology.

(5) No application for examination will be accepted unless accompanied with the proper fees, credentials, final examination grades received in the school, the final hours record showing that the 600 hours have been completed and records showing that the student has been enrolled for not less than 15 weeks.

(6) An applicant must appear for examination in a clean white or pastel washable uniform and must furnish their own pencil for their written examination and all equipment necessary for performing the practical examination.

(7) Each applicant shall be examined as to his or her qualifications to be licensed as an electrologist.

(8) In order to pass the examination given by the board to practice electrology, an applicant must obtain a grade of not less than 85% in the practical examination and not less than 85% on the written theory.

(9) Applicants failing any portion of the written or practical examination will be notified of those areas causing their failure.

(10) Upon written request, filed with the board not more more than 90 days after notice of the result has been mailed, an applicant who has failed the examination may inspect his written examination papers in the office of the department, at a time designated by the board.

(11) Applicants who have been notified of failing the examination, must re-apply within 1 year of failure of the first examination and retake the complete examination.

(12) Any applicant who does not re-apply for examination within 1 year of failure of the first examination must enroll in a registered school of electrology and take a 400 hour brush-up course, to be eligible for any further examination.

(13) Applicants who have taken the examination and failed, must notify the office of the department of their desire to be re-examined 20 days before the next scheduled examination and pay the fee.

(14) Applicants registered for examination, who for good cause cannot appear, must notify the office of the department before the examination date or forfeit the fee.

(15) Examination papers are considered as board records." (authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-102 (1), MCA)

9. The board, in conjunction with the Electrologists Association, reviewed standards and requirements for schools of electrology with other states and drafted a set of rules, which they have determined set out the criteria for a course of electrology training that would best serve to protect the citizens of Montana. The authority and implementing sections are listed after each change.

10. The proposed new rules under sub-chapter 11 will read as follows:

"I. FLOORS (1) Floors in salons and schools shall be constructed to be smooth, easily cleanable and kept in good repair.

(2) Acceptable floor coverings shall be composed of a material which is capable of being maintained in a sanitary condition. The floors in the toilet area shall be of non-absorbent material." (Authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-304, MCA)

"II. WALLS AND CEILINGS (1) Walls and ceilings of all rooms shall have a smooth washable surface, kept clean, in good repair and finished in a light color." (Authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-304, MCA)

"III. LIGHTING (1) All work rooms and class rooms shall be adequately lighted.

(2) All toilet rooms shall be adequately lighted.

(3) All light fixtures shall be kept clean." (Authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-304, MCA)

"IV. TOILET FACILITIES (1) Every electrology salon or school shall provide adequate toilet facilities for its students, employees and patrons in a convenient location, with a self-closing door.

(2) Mechanical door closers or screen door springs will be considered satisfactory.

(3) Durable and legible handwashing instructions shall be posted in each toilet room used by students and employees, directing them to wash their hands before returning to work.

(4) Rooms and fixtures shall be kept clean and reasonably free of odors.

(5) No toilet room shall be used for storage." (Authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-304, MCA)

"V. HANDWASHING FACILITIES (1) Each salon and school shall provide adequate handwashing facilities, including hot and cold running water, located within or adjacent to the toilet room or rooms and in the work area.

(2) A soap dispenser, supplied with liquid soap will be considered satisfactory.

(3) Sanitary towels approved may be individual use of paper towels, sanitary type roller or approved air dryer." (Authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-304, MCA)

"VI. CONSTRUCTION, CLEANING AND SANITIZING TOOLS AND EQUIPMENT (1) All multi-use utensils and equipment, shelves, tables, sinks and other equipment used in connection with the operation of a school or salon shall be constructed to be easily cleaned and kept in good repair.

(2) All tools, utensils and equipment shall be constructed and located for easy cleaning. It is especially important that surfaces coming in contact with the skin, be in good condition and constructed for easy cleaning.

(3) All electrical equipment shall be safely installed and grounded in accordance with the National Electrical Code of the National Board of Fire Underwriters.

(4) The headrest of chairs and tables shall be covered with a clean towel or paper towel for each patron.

(5) Treatment tables and chairs must be kept clean and sanitized.

(6) Before use, each electrolysis needle or tweezer shall be first wiped clean with a 70% alcohol solution and then be sterilized by one of the following methods:

(a) saturated stems, 15 psi, and 250 F, 30 minutes

(b) dry heat, 340 F, 60 minutes

(c) boiling, submerged in distilled water, 20 minutes

(d) glass bead sterilizer, 450 F, 10 seconds

(e) quaternary ammonium compound, 2 to 3 minutes

(7) Equipment for steam, dry heat and glass bead sterilization methods must be checked weekly for determining equipment in proper working order and reaching required temperature.

(8) All bottles and containers used in a school of electrolysis or salon shall be distinctly and correctly labeled to disclose contents. All bottles containing poisonous substances shall be additionally and distinctly marked.

(9) After being subjected to the sanitizing process, all tools shall be stored in a clean dry place protected

from dust or other contamination.

(10) Tools and equipment shall be handled in such a manner as to prevent contamination as far as practicable and shall mean avoiding overhandling of a clean article before it is used on the next customer.

(11) Cream and other unguents must be removed from containers with spatulas or similar utensils.

(12) Styptic pencils and lump alum are prohibited.

(13) A dust-free cabinet shall be provided for all clean towels and linens. Single service articles shall be purchased in sanitary containers and stored above the floor in a clean dry place until used.

(14) All salon and school preparations shall be stored above the floor and kept covered to protect from dust, droplets and infection. They shall be stored, handled and applied in such a manner to protect against contamination." (Authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-304, MCA)

"VII. DISPOSAL OF WASTE (1) No school or electrolysis establishment shall permit an accumulation of waste or refuse. All refuse shall be stored in easily cleanable, leakproof, fly-tight non-absorbent containers that are supplied in sufficient numbers to accommodate all refuse, trash and rubbish removed from the premises.

(2) Refuse containers shall be kept in good repair and thoroughly cleaned after being emptied.

(3) Frequent removal of waste prevents offensive odors and the unsightly overflow of containers, that may be a menace to health.

(4) Plumbing must be in compliance with the Montana Plumbing Code." (Authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-304, MCA)

"VIII. PERSONAL HYGIENE (1) All electrolysis students and instructors shall wear clean washable white lab coats or uniforms, used for no other purpose.

(2) No blue jeans or shorts shall be permitted in an electrolysis school or salon.

(3) All persons performing electrolysis services in a school or salon shall thoroughly sanitize his hands before serving each patron. Washing hands and arms with soap and water or a solution of 70 percent alcohol will be considered satisfactory." (Authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-304, MCA)

"IX. PREMISES (1) The premises of all salons and schools shall be kept neat and clean.

(2) No operation connected with a salon or school shall be conducted in any room used as living or sleeping quarters.

(3) There shall be a self-closing door between the establishment and these private quarters.

(4) Proper storage space shall be provided for student and employees street clothing.

(5) Soiled linens, towels and aprons shall be kept in a suitable hamper provided for that purpose.

(6) Furniture shall be covered with easily cleanable covering such as leather, plastic or washable cloth and shall be kept clean.

(7) Animals are prohibited in schools and salons. No person shall bring any animal into an establishment or permit any animal to remain in an establishment, except a trained dog, accompanying a sightless person." (Authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-304, MCA)

"X. DISEASE CONTROL (1) No person who is a carrier or affected with a communicable disease shall work in any salon or school and no establishment shall employ any person or persons suspected of being a carrier or affected with a communicable disease.

(2) Any employee or student who has a discharging or infected sore on hands, arms, or any exposed portion of the body shall be excluded from the establishment.

(3) If the manager of a salon or school suspects that any employee or student has contracted any disease in a communicable form or has become a carrier, he shall notify the health officer immediately.

(4) If the possibility of transmission of infection should arise, the health officer is authorized to require any or all of the following measures:

(a) the immediate exclusion of all activity in a salon or school;

(b) the immediate closing of the establishment until threat of disease outbreak no longer exists, in the opinion of the health officer; and/or

(c) adequate medical and laboratory examinations of the employee, student or his associates as may be indicated.

(5) If any person working in a salon or school detects that a patron has pediculosis capitis, (infestation of the hair of head by lice), any of the following may apply:

(a) refuse to provide service; and

(b) provide necessary information and/or products for home self-treatment.

(6) No school or establishment shall require or allow a student or licensee to perform any service on a patron with an infestation of animal parasites or any infectious disease." (Authority: Sec. 37-32-201, MCA; Implements: Sec. 37-32-304, MCA)

11. The board is proposing to adopt sanitary rules for electrolysis salons and schools to ensure that all equipment

is installed safely and that the premises of all salons and schools are maintained in a clean and sanitary condition for the protection of the health and safety of the public. The authority and implementing sections are listed after each proposed new rule.

12. Interested persons may submit their data, views or arguments concerning the proposed amendments and adoptions in writing to the Board of Cosmetologists, 1424 9th Avenue, Helena, Montana 59620-0407, no later than October 13, 1983.

13. If a person who is directly affected by the proposed amendments 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 Cosmetologists, 1424 9th Avenue, Helena, Montana 59620-0407, no later than October 13, 1983.

14. If the department receives requests for a public hearing on the proposed amendments and adoptions from either 1% or 25, whichever is less, of those persons who are directly affected by the proposed amendments and adoptions; from the Administrative Code Committee of the legislature; from a governmental agency or subdivision; 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.

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

BOARD OF COSMETOLOGISTS
JUNE BAKER, PRESIDENT

BY: 

ROBERT WOOD, LEGAL COUNSEL
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, September 2, 1983.

STATE OF MONTANA
BEFORE THE DEPARTMENT OF COMMERCE

In the matter of the adoption) NOTICE OF PROPOSED ADOPTION
of a new rule under public) OF A NEW RULE UNDER CHAPTER
contractors regarding defini-) 115 ENTITLED DEFINITIONS
tions.)

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On October 15, 1983, the Department of Commerce proposes to adopt a new rule regarding definitions under Chapter 115, public contractors.

2. The rule as proposed will read as follows:

"1. DEFINITIONS (1) A 'public contractor' is anyone 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 \$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 \$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."

3. Senate Bill 398 transferred the licensing portion of the public contractors law from the Department of Revenue to the Department of Commerce. The Department of Revenue maintained the gross receipts payments and reporting functions.

When the Department of Commerce transferred the rules pertaining to the licensing functions from revenue's rules to commerce, the rule entitled "terminology" was not transferred as the Department of Revenue needed to maintain the rule. The rule is now being proposed for adoption by the Department of Commerce as it is necessary for this department's licensing function as well.

4. Interested persons may submit their data, views or arguments concerning the proposed adoption in writing to Brinton Markle, Consumer Affairs Division, Department of Commerce, 1424 9th Avenue, Helena, Montana 59620, no later than October 13, 1983.

5. If a person who is directly affected by the proposed adoption 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 Brinton Markle, Consumer Affairs Division, Department of Commerce, 1424 9th Avenue, Helena, Montana 59620, no later than October 13, 1983.

6. If the department receives requests for a public hearing on the proposed adoption from either 10% or 25, whichever is less, of those persons who are directly affected by the proposed adoption; from the Administrative Code Committee of the legislature; from a governmental agency or subdivision, 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.

7. The authority of the department to make the proposed adoption is based on sections 2-15-133 and 15-50-103, MCA and implements section 15-50-101, MCA.

DEPARTMENT OF COMMERCE
GARY BUCHANAN, DIRECTOR

BY:


ROBERT WOOD, LEGAL COUNSEL

Certified to the Secretary of State, September 2, 1983.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
OF THE STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PROPOSED
adoption of rules implementing	)	ADOPTION OF RULES
39-51-404(4) providing for an	)	NO PUBLIC HEARING IS
assessment on employers making	)	CONTEMPLATED.
payments in lieu of contributions)	
and the apportionment of monies)	
received by experience rated)	
employers.)	

TO: All Interested Persons

1. On November 1, 1983 the Department of Labor and Industry proposes to adopt rules implementing 39-51-404(4), MCA.

2. The proposed rules are as follows:

RULE I PURPOSE. The purpose of these rules are to implement 39-51-404(4), MCA. (AUTH 39-51-301, MCA IMP. 39-51-404(4), MCA)

RULE II LEGISLATIVE INTENT. It is the intent of the legislature in passing 39-51-404(4), MCA to provide funds to administer Job Service programs. (AUTH 39-51-301, MCA IMP 39-51-404(4), MCA)

RULE III APPORTIONMENT OF FUNDS - EXPERIENCE RATED EMPLOYERS. Contributions for experience rated employers are reduced by .1% beginning in the third quarter of 1983. An assessment equal to the amount of this reduction shall be paid by all experience rated employers and deposited in the Unemployment Insurance administrative account provided for in 39-51-406. Said .1% shall not be considered "contributions" for purposes of 39-51-401, MCA. (AUTH 39-51-301, MCA IMP 39-51-404(4), MCA)

RULE IV ASSESSMENT OF EMPLOYERS MAKING PAYMENTS IN LIEU OF CONTRIBUTIONS. Employers making payments in lieu of contributions pursuant to 39-51-1125, in addition to said payments, shall be assessed for purposes of 39-51-404(4) at the rate of .05% of total quarterly wages paid beginning in the third quarter of 1983. (AUTH 39-51-301, MCA IMP 39-51-404(4), MCA)

RULE V COLLECTION. Amounts payable pursuant to these rules will be collected and accounted for in the same manner as contributions. (AUTH 39-51-301, MCA IMP 39-51-404(4), MCA)

RULE VI PENALTY AND INTEREST. Penalty and interest on past due payments shall be assessed as provided for in 39-51-1301. For purposes of penalty and interest, the amount overdue pursuant to this subchapter will be added to any past due contributions and one penalty and interest assessment made on this aggregate amount. (AUTH 39-51-301, MCA IMP. 39-51-404(4), MCA)

17-9/15/83

MAR Notice No. 24-11-2

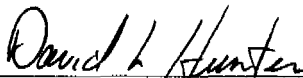
3. This rule is proposed to implement 39-51-404(4).

4. Interested parties may submit their data, views or arguments concerning the proposed rules in writing to R. Scott Currey, General Counsel, P.O. Box 1728, Helena, Montana no later than October 15, 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 October 15, 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 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.

7. The authority of the Department to make the proposed rule is based on Section 39-51-301, MCA and the rule implements 39-51-404(4), MCA.



DAVID L. HUNTER, Commissioner
Department of Labor and Industry

Certified to the Secretary of State 9/2/83

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

IN THE MATTER of the adoption)	NOTICE OF PROPOSED ADOPTION
of New Rules regarding limit-)	OF NEW RULES PERTAINING TO
ation of liability for)	CUSTOMERS' LIABILITY FOR
customers who were billed)	INCORRECT BILLINGS
incorrectly by gas and elec-)	
tric utilities.)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On October 24, 1983 the Montana Public Service Commission proposes to adopt rules pertaining to liability of natural gas and electricity customers for incorrect billings.

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

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

Rule I. DEFINITION (1) "Billing error" means any bill issued by a natural gas or electric utility that is not designated as an estimate and that understates the amount owed by a utility customer. It also means a utility's failure to bill a customer, although there was energy consumption which would, under the utility's normal billing practices, be billed to the customer.

AUTH: 69-3-103, MCA, IMP. 69-3-102, MCA

Rule II. BILLING ERRORS (1) When a billing error which is not the result of meter tampering is discovered, the utility shall submit a bill to the customer based on the corrected information for a period not to exceed six months from the date the billing error is discovered.

AUTH: 69-3-103, MCA, IMP. 69-3-102, MCA

4. These rules are being proposed to address the recurring problem of utilities mistakenly underbilling customers, discovering the error and demanding payment for what are often very large sums of money. Presently, utilities can charge for underbilling that occurred up to five years previous to the date of discovery. The intent of this rule is to balance the utility's interests with those of individual customers by giving the utilities a reasonable period of time to discover the error while limiting the time period and, therefore, the amount owed by the customer.

5. Interested parties may submit their data, views or arguments concerning the proposed adoption in writing to Eileen E. Shore, 1227 11th Avenue, Helena, Montana 59620, no later than October 17, 1983.

6. If a person who is directly affected by the proposed adoption wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Eileen E. Shore, 1227 11th Avenue, Helena, Montana 59620, no later than October 17, 1983.

7. If the agency receives requests for a public hearing on the proposed adoption from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental sub-division or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 25 persons based on the fact that because of the nature of the rule, affected persons cannot be determined.

8. The Montana Consumer Counsel, 34 West Sixth Avenue, Helena, Montana 59620 (Telephone 449-2771) is available and may be contacted to represent consumer interests in this matter.


THOMAS J. SCHNEIDER, CHAIRMAN

CERTIFIED TO THE SECRETARY OF STATE SEPTEMBER 2, 1983.

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

In the matter of the adoption	)	NOTICE OF ADOPTION OF AN
of an amendment to a federal	)	AMENDMENT TO A FEDERAL
agency rule pertaining to the	)	AGENCY RULE INCORPORATED BY
food stamp program, Rule	)	REFERENCE IN RULE 46.11.101,
46.11.101	)	FOOD STAMP PROGRAM. NO
	)	PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. The Department of Social and Rehabilitation Services hereby gives notice to the adoption and incorporation by reference of later amendments to 7 CFR 272, 273, and 274 published in 48 Fed. Reg. 28190, Tuesday, June 21, 1983. 7 CFR 272, 273, and 274 are presently incorporated by reference in Rule 46.11.101, Food Stamp Program. These amendments limit the ability of a household to switch between using an annualized standard utility allowance and the household's actual utility expenses. Under the previous rules, households were able to switch between the standard allowance and their actual utility expenses without restriction. Under the new rules, a household can choose either the standard allowance or their actual utility bills but they must use whichever they choose for 12 months from the date of their certification. The reason for the rule change is that some households were gaining benefits by choosing to use the annualized standard allowance in the warm months and then switching to actual expenses in the cold months. Montana has used an annualized utility standard since April, 1981.

These new regulations allow states to develop procedures to pro-rate the utility standard when more than one household shares the same residence. The Department intends to continue its previous procedure of dividing the utility standard equally among the parties who contribute towards meeting the utility costs.

The Department intends to implement these new regulations at the time households either apply or are recertified for benefits.

A copy of 7 CFR 272, 273, and 274 published in 48 Fed. Reg. 28190, Tuesday, June 21, 1983 may be obtained from the Department of Social and Rehabilitation Services, Economic Assistance Division, Box 4210, 111 Sanders, Helena, Montana 59604.

2. The effective date of the adoption of the later amendment concerning the standard utility allowance is October 1, 1983. This exception from the standard effective


17-9/15/83

MAR Notice No. 46-2-392

date of 30 days following publication is taken as further delay would jeopardize qualification for federal funding.

3. If the department receives requests for a public hearing under 2-4-315, MCA, on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendments; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 5,210 persons based on 52,100 food stamp recipients.

4. The authority of the department to amend the rule is based on Section 53-2-201, MCA and the rule implements 53-2-306, MCA.



Director, Social and Rehabilitation Services

Certified to the Secretary of State September 2, 1983.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the)	
ADOPTION OF RULES	)	NOTICE OF THE ADOPTION
establishing criteria	)	OF RULES 2.3.201 AND
for state emergency and	)	2.3.202.
disaster assistance to)	
governmental entities in)	
presidentially declared)	
disasters.)	

To: All Interested Persons:

1. On July 28, 1983, the Department of Administration published notice of a proposed adoption of rules 2.3.201 and 2.3.202, concerning State assistance to governmental entities in presidentially declared disasters; at page 915 of the 1983 Montana Administrative Register, issue number 14.

2. The agency has adopted the rules as proposed.

3. No comments or testimony were received.

4. The authority for the rule is Section 10-3-311, MCA and the rules implement Section 10-3-311, MCA.

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

By: Morris Brumett

Certified to the Secretary of State September 2, 1983

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF CHIROPRACTORS

In the matter of the amendments)	NOTICE OF AMENDMENT OF
of 8.12.603 concerning examina-)	ARM 8.12.603 EXAMINATION,
tions, 8.12.605 concerning)	8.12.605 RECIPROCITY, 8.12.606
reciprocity, 8.12.606 concern-)	RENEWALS, REPEAL OF 8.12.608
ing a late renewal fee, repeal)	INVESTIGATIONS AND ADOPTION
of 8.12.608 concerning investi-)	OF NEW RULES UNDER A NEW SUB-
gations and adoption of new)	CHAPTER 8, 8.12.801 through
rules concerning complaint pro-)	8.12.804
cedures.)	

TO: All Interested Persons:

1. On July 28, 1983, the Board of Chiropractors published a notice of proposed amendment, repeal and adoption of the above-stated rules at pages 924 - 928, Montana Administrative Register, issue number 14.

2. The board is amending, repealing and adopting the rules exactly as proposed with the following changes: (new matter underlined, deleted matter interlined)

"8.12.603 EXAMINATION (1) 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)...

(4) ~~Applicants failing two or less sections will only be required to retake the sections failed. The minimum passing score for the examination shall be 75% of the total questions asked. However, if an applicant scores less than 60% on one or two sections of the examination, he is not entitled to licensure but has the option of retaking the one or two sections failed, rather than the full examination. The full examination will be required for failure to pass more than two sections.~~"

"[was proposed rule IV(3)] 8.12.804 ACTION WHICH MAY BE TAKEN ON INVESTIGATION OF A COMPLAINT (1)...

(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 Procedure Act, Title 2, Chapter 4, MCA, ~~as adopted by the department of commerce, professional and occupational licensing bureau.~~ (4) ..."

3. The above changes were made in response to a letter from the Administrative Code Committee on July 26, 1983. No other comments or testimony were received.

STATE OF MONTANA
DEPARTMENT OF COMMERCE

In the matter of the adoption)	NOTICE OF ADOPTION OF RULES
of rules for grants to)	FOR STATE GRANTS TO COUNTIES
counties for District Court)	FOR DISTRICT COURT ASSISTANCE
assistance)	8.83.401 through 8.83.404

TO: All Interested Persons:

1. On May 26, 1983, the Department of Commerce published a notice of adoption of the above-stated rules at pages 519 through 521, 1983 Montana Administrative Register, issue number 10.

2. The department has adopted the rules exactly as proposed.

3. No comments or testimony were received.

DEPARTMENT OF COMMERCE
GARY BUCHANAN, DIRECTOR

BY:


ROBERT WOOD, LEGAL COUNSEL

Certified to the Secretary of State, September 2, 1983.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA


In the matter of the adoption	)	NOTICE OF THE ADOPTION
of Rules 10.66.201, 10.66.202,	)	OF RULES 10.66.201,
10.66.203, 10.66.204, 10.66.205,	)	10.66.202, 10.66.203,
10.66.206, and 10.66.207,	)	10.66.204, 10.66.205,
External Diploma Program	)	10.66.206, 10.66.207
	)	External Diploma Program

TO: All Interested Persons

1. On July 28, 1983, the Board of Public Education published notice of the proposed adoption of Rules 10.66.201, 10.66.202, 10.66.203, 10.66.204, 10.66.205, 10.66.206, and 10.66.207 relating to the External Diploma Program, at pages 930-933 of the Montana Administrative Register, issue number 14.

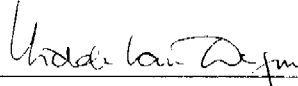
2. The agency will adopt the rules on October 1, 1983, with a few minor non-substantive changes suggested by the Administrative Code Committee staff. The authority stated in the proposed adoption of the rules is changed from 20-2-111, to 20-2-121 (10) and 20-7-131.

3. No other comments or testimony were received.



HARRIETT C. MELOY, CHAIRMAN
BOARD OF PUBLIC EDUCATION

By



Certified to the Secretary of State September 2, 1983.

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

In the matter of the adoption	)	NOTICE OF THE ADOPTION
of a rule setting fees for	)	OF RULE 16.18.207
examinations and certification	)	(Water and
of water and wastewater	)	Wastewater Operators-
operators	)	Fees)

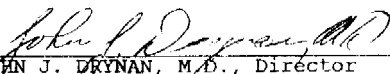
To: All Interested Persons

1. On July 28, 1983, the department published notice of a proposed adoption of rule 16.18.207 concerning fees for examinations and certification of water and wastewater operators at page 936 of the 1983 Montana Administrative Register, issue number 14.

2. The department has adopted the rule as proposed.

3. Roy Wadsworth of Montana Rural Water Systems recommended that the fees for certification should remain the same, but that a fee of approximately \$15 should be added for each individual taking examinations.

Response: The proposed fee schedule already includes an examination fee, set at \$5 per exam, and since some examinees take more than one exam, the total fee they pay may often be \$15. However, the certification fee increase was retained as well because it is necessary to cover the full costs of the certification program, as mandated by the 1983 Legislature, and reliance on the present fee schedule plus examinee fees would result in a substantial shortfall.


JOHN J. DRYNAN, M.D., Director

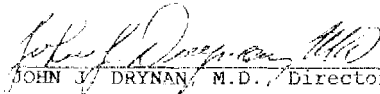
Certified to the Secretary of State September 2, 1983

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

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

To: All Interested Persons

1. On July 28, 1983, the department published notice of a proposed repeal of rule 16.30.202 concerning ambulance service licensure requirements at page 934 of the 1983 Montana Administrative Register, issue number 14.
2. The department has repealed rule 16.30.202 found on page 16-1353 of the Administrative Rules of Montana.
3. No comments or testimony were received.


JOHN J. DRYNAN, M.D., Director

Certified to the Secretary of State September 2, 1983

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

In the matter of the adoption	)	NOTICE OF ADOPTION
of new rules I through LXXII	)	OF NEW RULES
[16.44.101 through 16.44.911]	)	I THROUGH LXXII
for the management of	)	[16.44.101 - 16.44.911]
hazardous waste	)	(Hazardous Waste Management)

To: All Interested Persons

1. On July 14, 1983, the Department of Health and Environmental Sciences (Department) published notice of the proposed adoption of new rules relating to hazardous waste management at pages 797 - 799 of the 1982 Montana Administrative Register, issue no. 13. 483

2. The Department has adopted the rules as proposed with the following changes:

RULES I through III [16.44.101 through 16.44.103] Same as proposed.

RULE IV [16.44.104] PERMITTING REQUIREMENTS: EXISTING AND NEW HWM FACILITIES (1) - (6) Same as proposed.

(7) Any application submitted to EPA and deemed by EPA to be complete shall be considered to be complete by the department.

RULE V [16.44.105] TEMPORARY PERMITS (INTERIM STATUS)

(1) and (2) Same as proposed.

(3) Interim status terminates when:

(a) Final administrative disposition of a permit application is made; or

(b) Interim status is terminated by the department. Interim status may be terminated for any of the following reasons:

(i) Failure to submit a completed Part B application on time;

(ii) Failure to furnish any information required by these rules;

(iii) Falsification, misrepresentation or failure to fully disclose any information required to be kept under these rules; or

~~(iv) Violation of these rules; or~~

~~(v)~~ (iv) A determination by the department that a facility poses a significant threat to public health or the environment.

RULES VI through XIX [16.44.106 through 16.44.119] Same as proposed.

RULE XX [16.44.120] CONTENTS OF PART B

(1) Same as proposed.

(2) Except as provided in ARM 16.44.701, the following information must be submitted by an applicant in a Part B application:

(a) The owner or operator must ~~describe~~ provide general information about the facility including descriptions of the location and nature of the facility, the scope of its operation, its relationship to adjacent groundwater and ~~must include the items of general information listed other items,~~ all as specified in 40 CFR 270.14.

(b) Same as proposed.

(3) Same as proposed.

RULES XXI through LVII [16.44.121 through 16.44.911] Same as proposed.

RULE LVIII [16.44.404] MAINTENANCE OF REGISTRATION AND REGISTRATION FEES (1) through (5) Same as proposed.

(6)(a) and (b) Same as proposed.

(c) For registration year 1983, the department shall send statements by ~~September~~ October 1st, fee payments shall be due on ~~October~~ November 1st, and late payment charges shall be assessed after ~~November~~ December 1st.

(7) and (8) Same as proposed.

RULES LIX through LXXII [16.44.410 through 16.44.413] Same as proposed.

3. Comments and testimony on the proposed rules as well as the Department's responses are as follows:

COMMENT: Montana Department of Livestock, Montana Stock-growers Association. The proposed rules regulate toxaphene in a manner which imposes a severe burden on cattlemen who regularly use toxaphene dipping to control scabies. No scientific basis exists for such rigorous control of toxaphene and the department should not just copy federal regulations on an issue so important to the Montana livestock industry.

RESPONSE: Section 3009 of RCRA requires state programs to be equivalent with federal regulations and 40 CFR 271.9 requires the state program to control those hazardous wastes listed in 40 CFR Part 261. Toxaphene, which is acutely toxic and environmentally persistent, is listed in 40 CFR Part 261 and must be included in the state program. The department agrees that a uniform set of federal standards for toxaphene is needed and is coordinating efforts with other state agencies toward this end.

COMMENT: Exxon. The department should verify the apparently incorrect numbering in Rule XXIII and the reference to the non-existent "subsection (3)(d) of this rule" in Rule XXIV(2)(b).

RESPONSE: The comments are appreciated and the numbering and references have been corrected. The texts remain identical to analagous federal provisions.

COMMENT: Exxon. The department should clarify the phrase "enough information" in Rule XXIV(1)(b).

RESPONSE: As the comment correctly notes, the language in question is verbatim from 40 CFR 270.63(a)(2). The language contemplates case-by-case determinations of the propriety of issuing two-phase facility permits. These items will vary for facilities and for specific land treatment approaches.

COMMENT: Exxon. Rule XXXIV (16.44.811) requires financial test documents submitted to EPA to be provided to the department "within 30 days after the effective date of these rules". Please explain this requirement since the state currently has only interim status under RCRA.

RESPONSE: While it is correct that under current interim status requirements no financial test documents will be submitted to the department, Rule XXVIII (16.44.801) clearly carries out the mandate in 40 CFR 271.12(b) and (d) that facilities provide delegated states with financial assurance.

COMMENT: Exxon. Rule XLVIII (16.44.902(3)(a)) requires the submission of an entirely new application in cases of revoked and reissued permits. The department should change the phrase "shall require" to "may require" in the last sentence.

RESPONSE: The department acknowledges the basis of the comment. The Consolidated Permit Regulations pre-dated the Part B information requirements under RCRA, and seem to necessitate substantial duplication where permits are revoked and reissued. While it must now promulgate rules equivalent to 40 CFR Part 124, the department will negotiate with EPA to eliminate such duplication via the State-EPA Memorandum of Agreement, for example.

COMMENT: Exxon. Where do Rules XLVII through LVI appear in the federal regulations? A checklist comparing state and federal provisions would have been helpful in the early informational meetings.

RESPONSE: Rules XLVII through LVI (Public Participation) are taken virtually verbatim from 40 CFR Part 124 (Procedure for Decisionmaking) which formerly were part of the federal Consolidated Permit Regulations (now deconsolidated).

COMMENT: Exxon. Rule III(3) (16.44.103(3)) does not appear to correspond to any federal regulation and is therefore beyond RCRA equivalency. Under Rule III(4)(e) Exxon's API Separator and impoundment basins are exempt from state rules.

RESPONSE: Rule III(3) is derived directly from 40 CFR 270(1)(iii) and is fully consistent with RCRA. Wastewater

treatment units are exempt from hazardous waste licensing requirements but impoundment basins are not if they contain hazardous waste. The department generally agrees that as currently operated, Exxon's API Separator is exempt from licensing under Rule III, (16.44.103(3)). However, final determination of whether specific units or activities of a facility are exempt are made only after full review of completed hazardous waste management permit applications.

COMMENT: Exxon. Rule XXI (16.44.121) does not allow underground injection wells as provided under federal regulations. Does this preclude the future use of injection wells in Montana?

RESPONSE: Montana has not yet been delegated the federal UIC program which consequently is still administered in Montana by EPA. Therefore, the exclusion in Rule III(6) (16.44.103(6)), does not operate to prohibit the use of injection wells in the state. Also see Rule III(6).

COMMENT: ARCO Aluminum. Rule LVIII (16.44.405(5)) ties generator registration fees to the amount of waste produced but subsections (7) and (8) of the rule imply that fees also will be related to the number of generation sites. Subsections (7) and (8) should be deleted and Table I should be the sole basis for assessing fees.

RESPONSE: ARCO is directed to the ARM 16.44.202 definitions of "generator" and "individual generation site". A generator is defined by site, so a company that might own 20 Montana sites at which hazardous wastes are generated would have to obtain generator registration for each site. Under ARM 16.44.404, the department would assess an annual registration fee to each of these 20 individual generation sites. The fee for each site would be based upon the site's annual hazardous waste generation rate, using Table 1 to set each fee amount.

The sole purpose of subsections (7) and (8) of ARM 16.44.404 is to place a cap upon the total amount of fees that could be collected from a single company which owns many individual generation sites in Montana. Given this limitation, there should be no misunderstanding that the generator fee system in Montana is based upon the amount of hazardous waste generated.

COMMENT: Exxon. Permit fee systems are generally objectionable. The proposed fee system may operate to encourage large versus small facilities, and fees assessed on the amount of waste generated rather than on the amount disposed of will discourage waste reduction and waste treatment alternatives.

RESPONSE: The Legislature made clear its intent that the department assess fees upon the generation of wastes in the

state in addition to fees for permitting those facilities which treat, store or dispose of hazardous wastes. Such fees are to offset a portion of the costs to the department in maintaining its hazardous waste regulatory program. The department, in proposing the fee schedules in Rule XXV and Rule LVIII, related the amount of the fees to its projected administrative and technical workload in regulating generators and facilities. All waste management processes will require review time. Disposal processes at facilities require more lengthy review in the permitting process than storage or simple treatment processes and the proposed fee schedule reflects this.

Contrary to the assertion in the comment, the proposed fee schedule will operate to encourage waste reduction and waste recycling [e.g., see 16.44.404(2)(b)]. Incentives for waste reduction and recycling are primarily a function of the costs associated with proper waste management processes and are only incidentally related to a state fee system. The department's aim in setting fee levels is to offset a part of its costs in regulating both hazardous waste generators and hazardous waste management facilities.

COMMENT: Exxon, Burlington Northern. Wastewater treatment units are covered by state rules. There is no analogous federal provision.

RESPONSE: Wastewater treatment units are excluded under RULE III (16.44.103(4)(e)). This rule subsection is equivalent to 40 CFR 270.1(c)(1)(ii). For a discussion of this issue, see EPA's regulatory preamble at 45 FR 33320 and 45 FR 33325 (May 19, 1980).

COMMENT: Exxon. The state rules, RULES III and XXI (16.44.103(3) and 16.44.121), exempt publicly owned treatment works (POTWS) which could allow for "unpermitted" midnight dumping of hazardous wastes into municipal sewers.

RESPONSE: These provisions are equivalent to 40 CFR 270.1(C)(2)(v) and to 40 CFR 270.60(c). They exempt certain units which may be parts of a wastewater treatment system and which generate and store hazardous wastes. See EPA's preamble discussion at 45 FR 76076 (November 17, 1980). The rationale for giving permits-by-rule to POTWs and a discussion of hazardous wastes introduced into sewers versus hazardous wastes directly discharged to a POTW may be found at 45 FR 33320 and 45 FR 33325 (May 19, 1980).

COMMENT: Exxon. The state rules should provide that any Part B application which is submitted to EPA will be considered sufficient application under state rules as well.

RESPONSE: The State-EPA hazardous waste management memorandum of agreement, Section IV(H), provides that EPA will

suspend issuance of federal hazardous waste management permits at the time Montana receives Final authorization. The department agrees that a Part B application deemed complete by EPA should be considered complete by the Department. A new paragraph (7) has been added to 16.44.104 to effect this coordination.

COMMENT: Exxon. Rule IX (16.44.109) contains additional language which does not appear in the federal regulations.

RESPONSE: Rule IX (16.44.109) is virtually identical to 40 CFR 270.30. Exxon has not specified what language is additional. The department has not introduced any additional language other than minor wording necessary to provide formatting required by the Secretary of State's office.

COMMENT: Exxon. Although Rule XXIV (16.44.124) is the same as the analogous federal provision, EPA has failed to clarify its requirements for land treatment demonstrations regarding sufficiency of information and post-decontamination clean-up activities. The department should clarify these issues.

RESPONSE: Rule XXIV (16.44.124) is equivalent to 40 CFR 270.63. The Department and EPA are working with Exxon as it prepares its Part B permit application. Copies of all applicable EPA guidance have been made available to Exxon. Questions of interpretation and questions concerning the level of detail required in a Part B application will be addressed by the Department and EPA in the permitting process. These issues are specific to individual facilities.

COMMENT: ASARCO. Subsection (3)(iv) of Rule V (16.44.105) includes as grounds for termination of interim status the violation of state rules. Since no analogous federal provision exists, the basis for interim status termination should be deleted.

RESPONSE: ASARCO's comment is correct. The section proposed in Rule V as 16.44.105(3)(iv) has been deleted as grounds for termination of interim status. No analogous federal provision exists in 40 CFR.

COMMENT: ASARCO. Rule XX refers to information regarding a facility's "relationship to adjacent groundwater" which appears to establish a groundwater information requirement not found in federal provisions.

RESPONSE: The Department intended no addition to the information requirements for Part B but rather was attempting to summarize the groundwater related information items listed in 40 CFR 270.14. Acknowledging the potential for ambiguity which ASARCO has pointed out, the Department is adopting clarifying language for 16.44.120(2)(a).

COMMENT: ASARCO, ARCO Aluminum. The state rules are required to be equivalent with federal regulations and therefore the Department must provide for confidentiality of proprietary data and information.

RESPONSE: In accordance with Sections 75-10-402 and 75-10-405(8), MCA, the Department considers "equivalency with RCRA" to consist of establishing in Montana those state program requirements set forth in 40 CFR Part 271 (Requirements for Authorization of State Hazardous Waste Programs). There is no requirement in 40 CFR Part 271 that states must have confidentiality provisions for final authorization under RCRA, nor does the Department consider itself to have been granted legislative authority to adopt rules for confidentiality. However, the Department currently intends to propose an appropriate mechanism for hazardous waste management confidentiality at the next legislative session.

In the meantime, the Department may withhold disclosure of confidential business information where the demands of privacy clearly outweigh the merits of public disclosure. (Article II, sections 9 and 10, Montana Constitution) When faced with requests for public disclosure, the Department will exercise its discretion on a case-by-case basis in accordance with the guidelines established in 37 Op. Att'y Gen. No. 107, and 38 Op. Att'y's Gen. No. 1.

COMMENT: Institute of Chemical Waste Management. EPA's interim final land disposal regulations have several major shortcomings as specified in the Institute's comments submitted to EPA in January and November of 1982, copies of which are attached for the department's consideration.

RESPONSE: Since the Department is required by Section 75-10-402, MCA, to adopt minimum federal requirements in order to obtain authorization under RCRA, the Institute's comments, while of interest, cannot provide the basis for the Department to deviate from current federal requirements. In accordance with 75-10-405(8), MCA, any future changes in federal requirements will be implemented within Department rules.

COMMENT: ARCO Aluminum. Paragraphs 8(a) through (e) should be deleted since these 40 CFR 264 rules are incorporated in Rules X(6) and XXIV.

RESPONSE: RULE III is taken nearly verbatim from 40 CFR 270.1(c) and includes several references to federal regulations. Section 2-4-307, MCA, of the Administrative Procedure Act requires that incorporations by reference of federal regulations be accompanied by a notation such as that set forth in subsection (8) of Rule III.

COMMENT: ARCO Aluminum. Rule IV (16.44.404(1)) and Rule V (16.44.105(2)) say the same thing and one of them should be deleted.

RESPONSE: Given the length and complexity of the rules, repetition of the reference to sub-chapter 6 in both rules is intended to assist the reader in understanding the requirements under each rule.

COMMENT: ARCO Aluminum. Rule IX, paragraphs (3), (4), and (5) should be deleted because their language is subjective, nonenforceable and is also redundant (see Rule XX and sub-chapters 6 and 7).

RESPONSE: Paragraphs (3), (4) and (5) of Rule IX are taken verbatim from 40 CFR 270.30(c), (d) and (e). Deletion of these provisions would be inconsistent with state program requirements in 40 CFR 271.14(i) and with the Department's duty to establish a hazardous waste management program in Montana which is equivalent to the federal RCRA program. The language in subsections (3), (4) and (5) is not totally subjective or vague and simply contemplates case-by-case determinations as is the case under federal regulations. This is not uncommon in the area of administrative regulation. As for redundancy, see immediately previous response.

COMMENT: ARCO Aluminum. The requirement in Rule XII(a) that permittees notify the Department of any physical alteration or additions to the facility will deluge the Department with notifications of inconsequential physical alterations. The paragraph should be qualified or eliminated. The same principle applies to the word "significant discrepancy" in Rule IX, 16.44.109(17).

RESPONSE: See previous response.

COMMENT: ARCO Aluminum. Subsection (1)(a)(iv) does not make grammatical sense. Replace the number "(iv)" with the word "and," and in the following word "if" use the lower case "i".

RESPONSE: The language complained of is taken verbatim from 40 CFR 270.60(c) and admittedly lacks parallelism with the rule as a whole. However, the presence of the conjunction "and" currently following the semicolon in subsection (1)(a)(iii)(G) renders the subsection grammatically correct and sufficiently understandable.

COMMENT: ARCO Aluminum. Under Rule XXXIV, the Department is delegating the financial test and corporate guarantee determinations to EPA. This seems inconsistent with the Department's objective of obtaining full state authorization under RCRA.

RESPONSE: The financial test and corporate guarantee mechanisms allowed under sub-chapter 8 are based upon the application of accounting principles to extensive and detailed financial information. EPA has the equipment and

expertise to conduct the necessarily centralized and sophisticated financial analyses of those firms seeking to pass the financial test or to offer corporate guarantees. The Department is not surrendering any part of the hazardous waste management program to EPA, but is merely using EPA as its agent for this function. The state may eventually perform this function.

COMMENT: ARCO Aluminum. As currently written, Rule XXXIV limits the availability of the corporate guarantee to the parent corporation of the owner or operator of a facility. By removing this condition, the Department could allow any corporation to act as guarantor for a facility, a situation particularly useful in joint corporate ventures and ownership. Also, the statement in this rule that the "owner/operator . . . meet the provision of federal law . . ." is probably not accurate since the financial test and corporate guarantee provisions are in federal regulations, not in the federal statute.


RESPONSE: As is correctly pointed out in the comment, the Rule XXXIV limitation of guarantors to parent corporation is derived from language in 40 CFR 264.143(f)(10) and 264.145(f)(11). Modification of Rule XXXIV to expand the class of acceptable guarantors beyond that of parent corporations would be inconsistent with the requirements of equivalency set forth at 40 CFR 271.12(b). However, the Department generally agrees with ARCO's comment and, should EPA's current reevaluation of this issue allow for expanding the class of guarantors, the Department will promptly initiate appropriate rulemaking. As for the reference to "federal law", the term is commonly read to include both statutory and regulatory provisions.

COMMENT: ARCO Aluminum. Multiple financial mechanisms should be available as a financial assurance for liability coverage for sudden and non-sudden occurrences. In addition, the time period in Rule XXXIII, 16.44.806(8), should be reduced from 60 days to 15 days thereby simplifying payments to contractors for closure and post-closure projects.

RESPONSE: See immediately previous response as it relates both to state equivalency and future changes in federal requirements.

4. The Department reorganized the sequence and numbering of the rules in sub-chapter 8.

5. The Department changed the word "section" to "subsection" in the fourth line of Rule XXXIII(g) and in the last line of RULE XLI(1).


JOHN J. DRYNAN, M.D., Director

Certified to the Secretary of State September 2, 1983

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

In the matter of the amendment)	
of rules 16.44.202 through)	NOTICE OF AMENDMENT
16.44.612, except 16.44.320,)	OF RULES
16.44.323, 16.44.324, 16.44.351,)	
16.44.402, 16.44.406, 16.44.407,)	
16.44.418, 16.44.430, 16.44.501,)	
16.44.502 and 16.44.512,)	
governing the identification,)	
generation, transportation,)	
storage, treatment and)	(Hazardous Waste
disposal of hazardous waste)	Management)

TO: All Interested Persons

1. On July 14, 1983, the Department of Health and Environmental Sciences (Department) published notice of the proposed amendment of rules relating to hazardous waste management at pages 800 - 842 of the 1983 Montana Administrative Register, issue no. 13.

2. The Department has amended the rules as proposed.

3. The following comments on the proposed amendments as well as the Department's responses are as follows:

COMMENT: Exxon. Rule LVIII (16.44.404) and LXX contain definitions which should be included within 16.44.202, which is the definition section for the hazardous waste rules.

RESPONSE: The definitions contained in Rule LVIII (16.44.404) are also set forth in ARM 16.44.202 inasmuch as they are also used in other rules in chapter 44. Definitions may be repeated for the sake of clarity. Since the definitions in Rule LXX are used exclusively in sub-chapter 8 of the rules, including them in sub-chapter 8 alone is appropriate and also follows the EPA format.

COMMENT: Exxon. The definition of "disposal facility" in 16.44.202(19) is apparently intended to apply not only to Class I facilities but also to Class II facilities since certain hazardous constituents (e.g., saccharin) are disposed of in sanitary landfills.

RESPONSE: Rule III(4)(c) (16.44.103(4)(c)), Rule XXVI (3)(b) (16.44.701(3)(b)), and ARM 16.44.612(2) clarify that licensed solid waste disposal facilities which receive hazardous wastes from small quantity generators are not subject to control under Title 16, Chapter 44 of ARM.

COMMENT: Exxon. There is confusion in the rules over the use of the word "constituent". Section 16.44.202(37), Table I, refers to "contaminants" and 16.44.202(51) states "or any hazardous constituent" and 16.44.202(19) includes a reference to "hazardous constituents". The department's

terminology should be consistent with federal terminology. Also, the reference in 16.44.202(51) to "ARM 16.44.202(17)" should be "ARM 16.44.202(19)".

RESPONSE: The incorrect reference has been corrected. The definition of "constituent" in 16.44.202(37) is identical to the EPA definition as amended on July 26, 1982 (see 47 FR 32349 and 47 FR 32290). The department foresees no ambiguity in its use of the terms, constituent and contaminant, in these two rules and rejects Exxon's suggestions to use a single term in both rules.

COMMENT: Exxon. The Department's use of "hazardous constituent" in the definition of "disposal facility" (16.44.202(19)) is not identical to the federal regulations as it should be for consistency and equivalency.

RESPONSE: The wording "hazardous constituents" in 16.44.202(19) and (51) was used to make these definitions reflect the post-closure care requirements of 40 CFR 264.114, 264.228, 264.258, 264.280, 265.114, 265.228, 265.258, and 265.280. In these regulatory sections, the intent is clear that post-closure care is required for "disposal facilities"--i.e., facilities at which hazardous wastes, waste residues, contaminated materials or system components, contaminated soils or subsoils, or hazardous constituents at levels higher than background values will remain after facility closure. The department rejects Exxon's suggestion that this language renders the state rules more encompassing than the EPA regulations.

COMMENT: The date set forth in 16.44.202(74) is incorrect and should read January 26, 1983.

RESPONSE: The department concurs with Exxon's comment and has changed the date in 16.44.202(74) to read "January 26, 1983".

COMMENT: Exxon. The definition of "wastewater treatment unit" in 16.44.202(100)(c) goes beyond the scope of the federal provision and item (c) should be deleted.

RESPONSE: The department disagrees that 16.44.202(100)(c) of the wastewater treatment unit definition differs from the federal definition in 40 CFR 270(2)(c) and rejects Exxon's suggestion that it be deleted.

COMMENT: ASARCO. Rule 16.44.304(1)(e) operates to narrow the federal exclusion pertaining to mining overburden. The rule should be changed to apply the exclusion to coal and uranium mining.


RESPONSE: The proposed version of 16.44.304(1)(e) does not operate to narrow the federal exclusion pertaining

to mining overburden since "ores and minerals" are generally excluded in (2)(d) of 16.44.304.

COMMENT: ASARCO. Amendments proposed for 16.44.307 (Residues in Containers) would add several references to the term "hazardous material" which is neither defined in the state rules nor corresponds to any such federal term. As such it is either misleading or beyond federal requirements and should be deleted.

RESPONSE: The federal counterpart to ARM 16.44.307 is 40 CFR 261.7. This federal rule complements 40 CFR 261.33, and, in point of fact, was drafted to replace portions of 40 CFR 261.33 dealing with residues in containers. 40 CFR 261.33 contains two lists of "hazardous materials". It states that "the following materials or items are hazardous wastes if and when they are discarded or intended to be discarded:" [emphasis added] 40 CFR 261.7 serves to define when residues of such hazardous materials remaining in containers may be subject to regulation as hazardous wastes. It does so by defining "empty" containers.

The amended language proposed for ARM 16.44.307 is not intended to establish regulation beyond federal requirements, but is simply intended to clarify those requirements. In making decisions regarding residues in containers, one would first refer to ARM 16.44.307 to see if a container is "empty". If a container is not empty, ARM 16.44.333 lists those materials which, if discarded or intended to be discarded, become subject to regulation as hazardous wastes. The language seems clearly to be equivalent to the operation of 40 CFR Sections 261.7 and 261.33.


JOHN A. DRYNAN, M.D., Director

Certified to the Secretary of State September 2, 1983

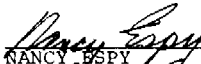
BEFORE THE BOARD OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the ADOPTION)	NOTICE OF ADOPTION OF
OF RULES I-II specifying)	RULES CONCERNING
charges for all licenses and)	DEPARTMENT OF LIVESTOCK
permits acquired from or fees)	LICENSES, PERMITS, AND
paid to the Department of)	FEES
Livestock - all to be con-)	RULE I - 32.2.401
tinued at present level; and)	RULE II - 32.2.402
allowing fines for nonrenewal)	
of required licenses)	

TO: All Interested Persons

1. On June 30, 1983, the Board of Livestock published notice of proposed adoption of rules specifying charges for all licenses, fees, and permits under the administration of the Department of Livestock and allowing a penalty to be levied for nonrenewal of required licenses. The notice was published at page 712 of the Administrative Register, Issue No. 12.

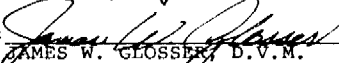
2. No comments or testimony were received.
3. The Board adopted the rules as proposed.



NANCY ESPY

Chairman, Board of Livestock

By:



JAMES W. GLOSSER, D.V.M.

Administrator, State Veterinarian

Certified to the Secretary of State September 2, 1983.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

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

TO: All Interested Persons:

1. On July 28, 1983, the Department of Revenue published notice of the proposed amendment of rules 42.15.305 and 42.15.411 relating to estates and trusts at pages 940 to 942 of the 1983 Montana Administrative Register, issue number 11.

2. The Department has amended rules 42.15.305 and 42.15.411 as proposed.

3. No comments or testimony were received.

4. The authority for the rules is §15-30-305, MCA, and the rules implement §§15-30-112 and 15-30-135, MCA.

IN THE MATTER OF THE	)	NOTICE OF ADOPTION of Rule I
Adoption of Rule 1	)	(42.15.412) relating to
(42.15.412) relating to	)	charitable contributions by
charitable contributions by	)	nonresidents.
nonresidents.)	

TO: All Interested Persons:

1. On July 28, 1983, the Department of Revenue published notice of the proposed adoption of Rule I (42.15.412) relating to charitable contributions by nonresidents at pages 943 and 944 of the 1983 Montana Administrative Register, issue number 14.

2. The Department has adopted Rule I (42.15.412) as proposed.

3. No comments or testimony were received.

4. The authority for the rule is §15-30-305, MCA, and the rule implements §15-30-131, MCA.

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

TO: All Interested Persons:

1. On July 28, 1983, the Department of Revenue published notice of the proposed amendment of rule 42.15.506 relating to the elderly property tax credit at pages 950 and 951 of the 1983 Montana Administrative Register, issue number 14.

2. The Department has amended rule 42.15.506 as proposed.

3. No comments or testimony were received.
4. The authority for the rule is §15-30-305, MCA, and the rule implements §15-30-176, MCA.

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

TO: All Interested Persons:

1. On July 28, 1983, the Department of Revenue published notice of the proposed amendment of rule 42.15.511 relating to credit for nonfossil energy generation systems (alternative energy credit) at pages 948 and 949 of the 1983 Montana Administrative Register, issue number 14.
2. The Department has amended rule 42.15.511 as proposed.
3. No comments or testimony were received.
4. The authority for the rule is §15-32-203, MCA, and the rule implements §§15-32-201 and 15-31-202, MCA.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

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

TO: All Interested Persons:

1. On July 28, 1983, the Department of Revenue published notice of the proposed amendment of rules 42.21.101, 42.21.102, 42.21.104, 42.21.106, 42.21.107, 42.21.123, 42.21.131, and the proposed repeal of rules 42.21.108, 42.21.135, 42.21.136, 42.21.152, 42.21.1101, 42.21.1102, 42.21.1103, and 42.21.1104 relating to the valuation of personal property at pages 956 through 969 of the 1983 Montana Administrative Register, issue number 14.

2. The Department has amended the rules as proposed and repealed the rules as proposed.

3. On August 18, 1983, a public hearing was held regarding the Department's proposed action on these rules. Sarah Power, Agency Legal Services, presided over and conducted the hearing. Mr. Jesse Munro, Personal Property Bureau Chief, presented testimony on behalf of the Department. Mr. Ken Harmon, representing the Anaconda Mining Company was present at the hearing but did not orally testify. Mr. Harmon did offer written comment in the form of a letter. His major concern was that the multiplier contained in former ARM 42.21.131 was being removed. In his view, the type of heavy equipment which is valued pursuant to that rule is run on a multiple shift basis and should, therefore, be afforded an additional degree of depreciation. The Department has concluded that affording one particular type of personal property a reduction in value based upon usage when a similar reduction factor is not applied to other types of property in the same legislative classification is discriminatory and cannot be countenanced. For that reason, the same assessment methodology will be applied to all similar personal property in a uniform manner.

The Hearing Officer concluded that the Department has demonstrated an ample rationale for amending the rules.

4. The authority of the Department to repeal the rules and to make the amendments is found in §15-1-201, MCA. The amended rules implement §§15-6-138, 15-6-139, 15-6-140, and 15-8-111, MCA.


ELLEN FEAVER,
Director of Revenue

Certified to Secretary of State 09/02/83

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 ADOPTION, REPEAL AND
AMENDMENT OF RULES PERTAINING
TO GENERAL PROVISIONS AND
FORMAT - MONTANA ADMINISTRATIVE
REGISTER AND ADMINISTRATIVE
RULES OF MONTANA

TO: All Interested Persons.

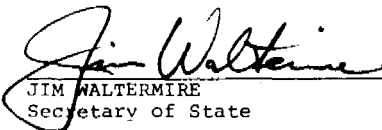
1. On July 28, 1983, the Secretary of State published notice of proposed adoption, repeal and amendment of rules concerning format requirements at page 975 of the 1983 Montana Administrative Register, issue number 14.

2. The agency has adopted, repealed and amended the rules as proposed. Rule I - Basic Format Instructions has been assigned ARM rule number 1.2.519. The authority and implementing citations for ARM 1.2.420 are corrected to read - AUTH: 2-4-306, MCA IMP: 2-4-311, MCA.

3. Comment - Correspondence was received from the State Bar of Montana and the Law Offices of Church, Harris, Johnson and Williams, Great Falls, Montana, objecting to the removal of the individual indices from the Administrative Rules of Montana.

Response - The proposed amendments which deleted reference to the individual indices were directed to state rulemaking agencies and eliminated the requirement that each agency provide updates for its individual index. The individual indices will be removed because the Secretary of State has completed a comprehensive topical index covering all titles in ARM. The index will be mailed to ARM subscribers in October along with the next set of replacement pages.

4. The adoption, repeal and amendments will become effective October 1, 1983.


JIM WALTERMIRE
Secretary of State

Dated this second day of September, 1983.

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

In the matter of the amend-	)	NOTICE OF THE AMENDMENT OF
ment of Rule 46.5.1204	)	RULE 46.5.1204 PERTAINING
pertaining to payment	)	TO PAYMENT STANDARDS FOR
standards for recipients of	)	RECIPIENTS OF STATE SUPPLE-
state supplemental payments.	)	MENTAL PAYMENTS

TO: All Interested Persons

1. On July 14, 1983, the Department of Social and Rehabilitation Services published notice of the amendment of Rule 46.5.1204 pertaining to payment standards for recipients of state supplemental payments at page 843 of the Montana Administrative Register, issue number 13.

2. The Department has amended the rule as proposed.

3. The Department has thoroughly considered all verbal and written commentary:

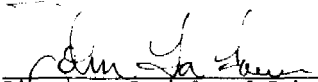
COMMENT: All comments received stated that they could not afford the \$10 reduction and that client services could suffer as a result of the reduction.

RESPONSE: A Congressionally mandated federal benefit rate increase of \$20 for SSI recipients was effective July 1, 1983. The federal government indicated that the state would have to fund the entire increase for those persons receiving state supplement who are not SSI recipients as well. The total cost to the state in doing so is calculated to be \$10,000. The federal government did allow a state to reduce, if the state chooses to do so, that state's supplement by \$10 which in effect allows the state to reduce the total expenditure even as the actual benefit levels for the recipients increases. Montana chose to reduce by \$10 the state supplement benefit rate. This was done to make up the \$10,000 needed for the increase to state supplement only cases and also to make up for a \$69,079 projected deficit as a result of under-funding by the legislature.

The rationale for not passing on the \$10 at this time is first, that an increase of ten dollars would still be realized; second, that since the full increase had not yet been received by recipient, it would not have been a part of their budget and thus would not be missed as much; and third, due to the under-funding a reduction in payments would have to be made later possibly at a higher rate and without the benefit of increases to cushion the reduction.

COMMENT: In one letter, there was a comment about the late notice of the rule change in that the change was already effectuated prior to the hearing.

RESPONSE: The federal notification and final determination on how states were to handle the federal benefit rate increase was not received until early June and the effective date for changes in the state's contract with the Social Security Administration regarding this issue had to be July 1, 1983. The agency did change its contract with the Social Security Administration to not pass on \$10 of the federal benefit rate increase effective July 1, 1983. The federal actions made it necessary to implement changes in their system prior to possible dates of formal implementation by the state.



Director, Social and Rehabilitation Services

Certified to the Secretary of State September 2, 1983.

VOLUME NO. 40

OPINION NO. 19

CITIES AND TOWNS - Use of gasoline tax allocations for constructing storm sewers and drains;
HIGHWAYS - City streets included in Highway Code;
HIGHWAYS - Use of gasoline tax allocations for construction, maintenance and repair;
MUNICIPAL CORPORATIONS - Authority to use gasoline tax allocations in general obligation bond sinking fund;
TAXATION AND REVENUE - Use of gasoline tax allocations for city streets;
MONTANA CODE ANNOTATED - Title 60, chapter 1; sections 1-2-101, 7-7-4201 to 4275, 15-70-101, 60-1-103(4), 60-1-103(17), 60-1-103(18), 60-1-103(20).

- HELD: 1. A city may use its share of gasoline tax allocation under section 15-70-101(2), MCA, for construction of storm sewers and drains in and under city streets for removal of runoff water.
2. The gasoline tax allocation moneys may be put into a sinking fund for general obligation bonds which are sold specifically for the purpose of constructing the storm sewers and drains in and under city streets.

23 August 1983

James R. Weaver
City Attorney
City of Columbia Falls
P.O. Box 329
Columbia Falls, Montana 59912

Dear Mr. Weaver:

You requested an opinion as to whether the city of Columbia Falls can use its share of gasoline tax allocation under section 15-70-101, MCA, for construction of storm drains or sewers in and under city streets. You stated that the storm drains or sewers are to prevent damage to those streets.

Section 15-70-101, MCA, describes the disposition and allocation of gasoline and fuel tax revenues to state and local governments. Subsection (2) provides:

All funds hereby allocated to counties, cities, and towns shall be used exclusively for the construction, reconstruction, maintenance, and repair of rural roads, city or town streets and alleys or for the share which such city, town, or county might otherwise expend for proportionate matching of federal funds allocated for the construction of roads or streets which are part of the federal-aid primary or secondary highway system or urban extensions thereto.

The rules of statutory construction limit the uses of the money in question to those listed in this subsection. § 1-2-101, MCA; Chennault v. Sager, 37 St. Rptr. 857, 610 P.2d 173, 176 (1980). The question, therefore, is whether "construction, reconstruction, maintenance, and repair" of the streets includes constructing storm sewers and drains in and under the streets.

The Montana Highway Code, Title 60, chapter 1, MCA, contains definitions pertinent to construction and repair of city streets:

"Construction" means supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, mapping, and costs of right-of-way or other interests in land and elimination of hazards at railway grade crossings. [§ 60-1-103(4), MCA.]

"Maintenance" means the preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for its safe and efficient utilization. [§ 60-1-103(20), MCA.]

"Highway" includes rights-of-way or other interests in land, embankments, retaining walls, culverts, sluices, drainage structures,

bridges, railroad-highway crossings, tunnels, signs, guardrails, and protective structures. [Emphasis added.] [§ 60-1-103(17).]

A city street is a highway within the context of these definitions. §§ 60-1-103(17)-(18), MCA.

The question now is whether the term "drainage structures" includes storm sewers and storm drains. Statutory construction requires words to be given their usual and ordinary meaning. Matter of McCabe, 168 Mont. 334, 544 P.2d 825, 828 (1975). Clearly, storm drains are drainage structures. A storm sewer is generally defined as an artificial water course for draining away surface waters from the streets. DiLorenzo v. Village of Endicott, 333 N.Y.S.2d 456, 458 (1972); American Heritage Dictionary, New College Edition. "Drainage structure" has been defined as an "artificial channel or trench constructed for drainage purposes." Jefferson Davis County v. Riley, 130 So. 283, 285 (Miss. 1930). It is my opinion that "highway" within the Montana highway code includes storm drains and storm sewers constructed to drain water runoff away from the streets. Therefore, the construction of those sewers and drains falls within the permissible scope for expenditure of gasoline tax allocations under section 15-70-101, MCA.

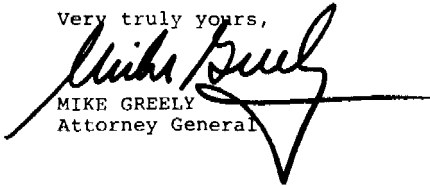
You also ask whether the allocation funds may be used to fund a sinking fund for a general obligation bond issue to construct the storm drains and sewers. The statutes describing the disposition of the gasoline tax allocations do not restrict the use of the funds except that they must be used exclusively for city streets. The statutes governing municipal financing do not appear to prohibit the use of such moneys in a sinking fund for general obligation bonds. See §§ 7-7-4201 to 4275, MCA. It thus appears that such an arrangement is legal, as long as the bonds issued are for the specific purpose of constructing storm sewers and drains.

THEREFORE, IT IS MY OPINION:

1. A city may use its share of gasoline tax allocation under section 15-70-101(2), MCA, for construction of storm sewers and drains in and under city streets for removal of runoff water.

2. The gasoline tax allocation moneys may be put into a sinking fund for general obligation bonds which are sold specifically for the purpose of constructing the storm sewers and drains in and under city streets.

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 bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt or amend 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 I through 46, page i, Volume I, ARM, to determine title number of department's or board's rules.
3. Locate volume and title. |
| Subject Matter and Title | 4. Refer to topical index, end of title, to locate rule number and catchphrase. |
| Title Number and Department | 5. Refer to table of contents, page 1 of title. Locate page number of chapter. |
| Title Number and Chapter | 6. Go to table of contents of Chapter, locate rule number by reading catchphrase (short phrase describing 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 1983 Montana Administrative Registers.

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