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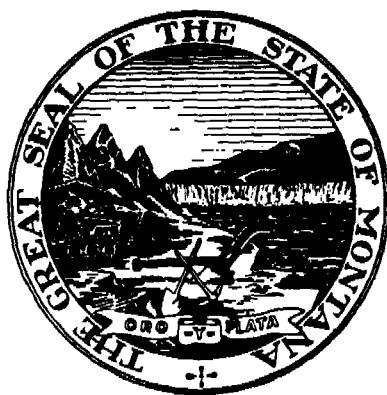
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**RESERVE**

**MONTANA  
ADMINISTRATIVE  
REGISTER**

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OCT 1 1983  
OF MONTANA

**1983 ISSUE NO. 18  
SEPTEMBER 29, 1983  
PAGES 1282-1393**



# MONTANA ADMINISTRATIVE REGISTER

## ISSUE NO. 18

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 The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing, and where written comments may be submitted.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

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

In the matter of the proposed ) NOTICE OF PROPOSED AMENDMENT  
amendment of 8.34.414 concern- ) OF ARM 8.34.414 EXAMINATIONS  
ing examinations. )

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On October 29, 1983, the Board of Nursing Home Administrators proposes to amend rule 8.34.414 concerning examinations.
2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.34.414 EXAMINATION (1)...

~~(4) Any one or a combination of the following will establish eligibility for admission to the examination:~~  
After November 11, 1983, applicants for nursing home administrator examinations will be required to:

(a) at least an Associate Degree or its equivalent in hospital or nursing home administration, subject to board approval, have completed 2 years of formal education in an accredited college or university or have an associate degree from an accredited college or university.

(b) presenting evidence satisfactory to the board of sufficient education, training or experience in the foregoing fields to administer, supervise and manage a long term care facility; and In addition, 2 years out of the last 4 years of administrative experience in a hospital or nursing home will be required.

(c) four of the last six years as an administrator or assistant in a licensed health care facility. Applicants holding a BA or BS degree in hospital or nursing home administration will not be required to have working experience.

(5) ..."

3. The board is proposing the amendment as a result of comments received at a hearing held on August 18, 1983 at the Department of Commerce, Helena, Montana. The rule was originally proposed for amendment at pages 516 - 518, 1983 Montana Administrative Register, issue number 10, on May 26, 1983. A hearing was requested on the proposed change and duly held. The changes are being proposed because Montana licensees are being refused reciprocity because of Montana's low standards for licensure. Our surrounding states, (i.e., Colorado, Idaho, Iowa, Kansas, Minnesota, Nebraska, North Dakota, South Dakota, and Washington) are requiring either 2 years college related courses, associate degrees or baccalaureate degrees for licensure in their states. In addition, the board feels they must increase the standards for Montana to be comparable to those standards of our surrounding states not only for reciprocity purposes, but to ensure quality care for Montana residents.
4. Interested persons may submit their data, views or

arguments concerning the proposed amendment in writing to the Board of Nursing Home Administrators, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than October 27, 1983.

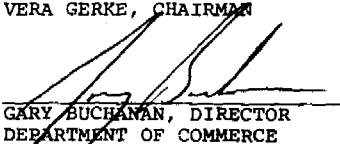
5. If a person who is directly affected by the proposed amendment wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Board of Nursing Home Administrators, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than October 27, 1983.

6. If the board receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of those persons who are directly affected by the proposed amendment; 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 board to make the proposed change is based on section 37-9-301, MCA and implements sections 37-9-202, 203, and 301, MCA.

BOARD OF NURSING HOME  
ADMINISTRATORS  
VERA GERKE, CHAIRMAN

BY:

  
GARY BUCHANAN, DIRECTOR  
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, September 19, 1983.

STATE OF MONTANA  
DEPARTMENT OF COMMERCE  
BEFORE THE BOARD OF RADIOLOGIC TECHNOLOGISTS

In the matter of the proposed ) NOTICE OF PROPOSED AMENDMENT  
amendments of ARM 8.56.402 con-) OF ARM 8.56.402 APPLICATIONS  
cerning applications and 8.56. ) and 8.56.409 FEE SCHEDULE  
409 concerning the fee schedule)

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On October 29, 1983, the Board of Radiologic Technologists proposes to amend rules 8.56.402 concerning applications and 8.34.409 concerning the fee schedule.

2. The proposed amendment of 8.56.402 will read as follows: (new matter underlined, deleted matter interlined)

"8.56.402 APPLICATIONS (1) ...

(2) The board further requires that all applications for a license shall be submitted to the board office with copies of the following documents:

(a) ...

(d) \$15-00 original certificate fee; and

(e) renewal license fee ~~of \$20-00 for odd-numbered years~~ ~~or \$10-00 for even-numbered years~~ (based on biennial renewals).

(3) ...

(e) original permit fee ~~of \$10-00~~.

(4) ..."

3. The change is being proposed to eliminate fee amounts from the rule and places them under a separate rule relating to fee schedules. Currently, if a fee is changed it must be changed twice, once under the fee schedule and again in any rule where the fee amount is specified. The authority of the board to make the proposed change is based on sections 37-1-134, & 37-14-202, MCA & implements Sec. 37-1-134, 37-14-305, 310, MCA.

4. The proposed amendment to 8.56.409 will read as follows: (new matter underlined, deleted matter interlined)

"8.56.409 FEE SCHEDULE (1) Fees shall be transmitted by money order or check payable to the board of radiologic technologists. The board assumes no responsibility for loss in transit of such remittances. All fees are nonrefundable.

(a) Examination fee.....\$10-00 \$15.00

(b) Certificate fee..... 15.00

(c) Permits

(i) Initial Original.....10-00 20.00

(ii) Renewal.....10-00 20.00

(d) ...

(e) Renewal license fee.....20-00 40.00

(f) ..."

5. The board is proposing the fee increases to cover increased program area costs. Section 37-1-134, MCA states that the licensing boards will set fees commensurate with program area costs. These are the costs the board has determined necessary to cover the administrative costs. The authority



of the board to make the proposed change is based on sections 37-1-134 and 37-14-202, MCA and implments sections 37-1-134, 37-14-303, 305, 306, 309 and 310, MCA.

6. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Radiologic Technologists, 1424 9th Avenue, Helena, Montana 59620-0407, no later than October 27, 1983.


7. If a person who is directly affected by the proposed amendments 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 Radiologic Technologists, 1424 9th Avenue, Helena, Montana 59620-0407, no later than October 27, 1983.

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

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

BOARD OF RADIOLOGIC TECHNOLOGISTS  
ALICE O'DONNELL, ACTING CHAIRMAN

BY:

  
GARY BUCHANAN, DIRECTOR  
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, September 19, 1983.

STATE OF MONTANA  
DEPARTMENT OF COMMERCE  
BEFORE THE BOARD OF VETERINARIANS

In the matter of the proposed ) NOTICE OF AMENDMENT OF ARM  
amendment of ARM 8.64.501 con- ) 8.64.501 APPLICATION REQUIRE-  
cerning application require- ) MENTS  
ments. )

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On October 29, 1983, the Board of Veterinarians proposes to amend rule 8.64.501 to add a new subsection (5).

2. The proposed amendment will read as follows: (new matter underlined)

"8.64.501 APPLICATION REQUIREMENTS (1)...

(5) An application for examination shall expire two years from the date of the application. An applicant who, for any reason, fails or neglects to take the examination within the two years shall be required to file another application and submit another application for examination fee."

3. The board is proposing the change to allow for an expiration of the application for examination. After two years, the information on the application is not current and the applicant who, for any reason, does not take the examination in two years should be required to file another application and submit another examination fee to provide for processing and scheduling for the examination to demonstrate his/her sincerity. Automatic removal from the register of examination candidates after a reasonable period of time eases the clerical burden on the staff.

4. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Veterinarians, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than October 27, 1983.

5. If a person who is directly affected by the proposed amendment 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 Veterinarians, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than October 27, 1983.

6. If the board receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of those persons who are directly affected by the proposed amendment, from the Administrative Code Committee of the legislature, from a governmental agency or subdivision, or from an association having no less than 25 members who will be directly affected, a public 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 board to make the proposed amendment is based on section 37-18-202, MCA and implements section 37-18-302, MCA.

-1287-

BOARD OF VETERINARIANS  
DUANE M. DOUGLAS, D.V.M.  
PRESIDENT

BY: 

GARY BUCHANAN, DIRECTOR  
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, September 19, 1983.

STATE OF MONTANA  
DEPARTMENT OF COMMERCE  
BEFORE THE HEALTH FACILITY AUTHORITY  
OF THE STATE OF MONTANA

In the Matter of the Adoption )	NOTICE OF PUBLIC
of Substantive and Procedural )	HEARING pertaining to
Rules )	Montana Health
	Facility Authority

To: All Interested Persons.

1. On October 19, 1983 at 10:00 a.m, the Montana Health Facility Authority (the "Authority") will hold a hearing in the first floor conference room in the Commerce Department Building at 1430 9th Avenue, Helena, Montana, to consider the adoption of substantive and procedural rules.

2. The proposed rules are the first rules to be proposed by the Authority. They do not replace or modify any section currently found in the Administrative Rules of Montana.

3. The proposed rules provide as follows:

RULE I DEFINITIONS (1) When used in these rules, unless the context clearly requires a different meaning:

(a) The "Act" means the Montana Health Facility Authority Act, 1983 Montana Laws Chapter 703, H.B. 721.

(b) "Authority" means the Montana Health Facility Authority created by MCA Section 2-15-1815.

(c) "Board" means the seven-member board created by MCA Section 2-15-1815 as the governing body of the Montana Health Facility Authority.

(d) "Department" means the Montana Department of Commerce.

(e) "Eligible Health Facility" means "any structure or building used as a hospital, clinic, nursing home, or other health care facility as defined in 50-5-101; center for developmentally disabled; center for the handicapped; chemical dependency treatment center; nursing school; medical teaching facility; laboratory; dental care facility; or other structure or facility related to any of the foregoing or required or useful for the operation of a health facility. These related facilities include supporting service structures and all necessary, useful, and related equipment, furnishings, and appurtenances and include without limitation the acquisition, preparation, and development of all lands and real and personal property necessary or convenient as a site for any of the foregoing. An eligible health facility does not include such items as food, fuel, supplies, or other items that are customarily

considered as current operating expenses; an eligible health facility does not include a structure used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship." MCA Section 90-7-103.

(f) "Health Institution" means "any public or private nonprofit hospital, corporation or other organization authorized to provide or operate a health facility in this state." MCA Section 90-7-102(4).

AUTH: 90-7-202(3), MCA                      IMP: 90-7-202(3), MCA

RULE II PROCEDURAL RULES (1) The Authority hereby adopts and incorporates by reference Rules 1 through 28 of the Attorney General's Model Procedural Rules. A copy of these rules may be obtained from the Chairman of the Board of the Montana Health Facility Authority, c/o the Montana Department of Commerce, 1424 9th Avenue, Helena, Montana 59620.

AUTH: 90-7-202(3), MCA                      IMP: 2-4-201, MCA

RULE III CITIZEN PARTICIPATION RULES (1) The Authority hereby adopts and incorporates by reference the citizen participation rules of the Department as set forth in ARM Sections 8.2.201 through 8.2.206. A copy of these rules can be obtained from the Chairman of the Board of the Montana Health Facility Authority, c/o the Montana Department of Commerce, 1424 9th Avenue, Helena, Montana 59620.

AUTH: 90-7-202(3), MCA                      IMP: 2-4-201, MCA

RULE IV APPLICATION PROCEDURE (1) Any Health Institution may apply to the Authority for financing for an Eligible Health Facility by submitting an application to the Authority. The application must contain the information required by ARM Section 8.120.205. Ten copies of the application should be submitted to the Authority.

(2) Applicants are encouraged to meet with the staff of the Authority at an early stage in the preparation of an application to discuss its content.

(3) Before accepting an application for consideration, the staff of the Authority will review it to determine whether it meets the requirements of ARM Section 8.120.205. If an application is rejected as incomplete or insufficient, the Authority will inform the applicant of the reasons for rejection of the application and provide the applicant with a description of the information needed to make the application complete and satisfactory. If this

information is not provided, the application will not be reviewed by the Board.

(4) After an application has been accepted for consideration, the Authority will notify the applicant of the acceptance and will set a date for a meeting of the Board to consider the application. The meeting will be held in compliance with the requirements of the Montana Open Meeting Act, MCA Section 2-3-101 through 2-3-221, and the applicant and interested members of the public will be given an opportunity to present views, data and arguments in support of or in opposition to the application.

(5) If the Board determines that the application meets all of the requirements of ARM Section 8.120.301, it will find that the application is eligible for financing. This determination does not constitute a commitment to extend financing to the applicant.

(6) If any information in an application is or becomes out of date, incorrect, or misleading, the applicant must amend or supplement its application to correct the shortcoming. The Authority may at any time request that an applicant revise or provide further information in support of its application.

(7) The Board will meet from time to time to decide which eligible applications to accept for financing. In making this decision the Board will consider the factors listed in ARM Section 8.120.302. The meeting will be held in compliance with the requirements of the Montana Open Meeting Act. A decision to accept an application for financing is subject to preparation of definitive contracts, to the successful completion of a sale of bonds of the Authority on terms satisfactory to it; to final approval of the definitive terms of the transaction by the Board and to such other conditions as the Authority deems necessary or appropriate.

(8) If the Authority is able to arrange satisfactory financing for an applicant, the Board will adopt a bond resolution and such other documents as may be necessary and appropriate to carry out the transaction.

AUTH: 90-7-202, MCA

IMP: 90-7-202, MCA

RULE V CONTENT OF APPLICATION (1) An application should be in the form of a letter and should contain the following information:

- (a) The name and address of the applicant;
- (b) The names, addresses and telephone numbers of the individuals responsible for maintaining liaison with the Authority;
- (c) The name, address and telephone number of the applicant's legal counsel;

(d) A brief description of the existing facilities and programs of the applicant;

(e) Short biographies of the principal officers of the applicant;

(f) A brief description of the proposed facility or financing;

(g) If the application involves new construction or remodeling,

(i) The name and address of the architect,

(ii) The manner in which the architect will manage the construction,

(iii) The proposed date for construction contract bid advertising,

(iv) The proposed date for contract award,

(v) The proposed date for completion and occupancy of the facility, and

(vi) The name of the contractor, if a contractor has already been selected;

(h) Total costs of the proposed facility by category;

(i) A list of the sources of all funds, including any grants, loans, gifts, and retained earnings, that the applicant proposes to use to pay for or finance the facility;

(j) A brief description of all present debts of the applicant, including leases;

(k) A cash flow analysis showing the projected revenues from the proposed facility;

(l) A list of all certificates of need and other regulatory approvals which have been or must be obtained for the proposed facility, with a description of the present status of any outstanding applications for approval;

(m) Any other information that the Authority may request or that the applicant believes will assist the Authority in its evaluation of the application.

(n) Copies of the following documents should be attached to or incorporated into the application:

(i) The articles of incorporation and the bylaws of the applicant;

(ii) Audited financial statements of the applicant for the previous five years;

(iii) An interim financial statement of the applicant for the current period;

(iv) Documents indicating that the Internal Revenue Service has designated the applicant as a 501(c)(3) organization;

(v) All regulatory or planning agency approvals obtained with respect to the facility;

(vi) Any feasibility or planning studies pertinent to the proposed project.

AUTH: 9-7-202, MCA

IMP, 90-7-202, MCA

RULE VI FEES (1) The Authority may establish and charge fees in the following areas:

(a) A non-refundable initial planning service fee, due at the time the application is submitted to the Authority, to defray the costs of initial processing of the application;

(b) A financing service fee, collected at the closing of each financing, to defray the costs of issuing the bonds; and

(c) An annual planning service fee, to be paid each year by each applicant who receives financing through the Authority, to defray the administrative expenses of the Authority.

AUTH: 90-7-202(3), MCA

IMP: 90-7-211, MCA

RULE VII CRITERIA FOR DETERMINING WHETHER AN APPLICATION IS QUALIFIED FOR FINANCING (1) The Board shall not determine that an application is eligible for financing unless it finds that:

(a) The applicant is a Health Institution, as that term is defined in MCA Section 90-7-102(4);

(b) The project proposed and described in the application is an Eligible Health Facility, as that term is defined in MCA Section 90-7-103;

(c) The facility proposed in the application will be operated by the applicant to fulfil its obligation to provide health care facilities, as required by MCA Section 90-7-212(1)(a);

(d) The facility proposed in the application has been reviewed and approved by the appropriate regional and state health planning boards and has received any approval required by MCA Title 50, Chapter 5, Part 3, as required by MCA Section 90-7-303(1)(b);

(e) The facility proposed in the application is financially feasible, and there will be sufficient revenues to assure that principal and interest payments will be made when they come due, as required by MCA Section 90-7-212(2);

(f) The applicant proposes to use the proceeds of any financing provided by the Authority solely to pay allowable costs, as that term is defined in MCA Section 90-7-103;

(g) The financing requested by the applicant will not exceed the total cost of the facility proposed in the application, as required by MCA Section 90-7-213;



(h) The applicant has sufficient experience and expertise to operate the facility proposed in the application, as required by MCA Section 90-7-303(3); and

(i) The financing requested by the applicant will have the effect of containing the costs of the health care provided by the applicant.

AUTH: 90-7-202, MCA

IMP: 90-7-202, MCA

RULE VIII CRITERIA FOR DECIDING WHICH QUALIFIED PROJECTS TO FINANCE (1) When deciding which qualified projects to finance, the Board shall consider the following factors:

(a) The extent to which the financing requested by the applicant will have the effect of containing the costs of health care provided by the applicant;

(b) The extent to which the applicant has the experience and expertise to operate the facility proposed in the application;

(c) The financial viability of the facility and the degree of security that the proposed financing will provide to bondholders;

(d) The health care and economic benefits that the facility will provide to the citizens of the state of Montana;

(e) The amount of financing authority available to the Authority.

AUTH: 90-7-202, MCA

IMP: 90-7-202, MCA

4. The Authority is proposing the rules to implement the provisions of the Montana Health Facility Authority Act, 1983 Montana Laws Chapter 703 (the "Act").

5. The Authority was given the authority to promulgate the proposed rules by Section 7(3) of the Act (MCA Section 90-7-202(3)).

6. Interested persons may present views, arguments or data at the hearing either orally or in writing. Written views, arguments and data may also be submitted to the Chairman of the Board of the Montana Health Facility Authority, c/o the Montana Department of Commerce, 1424 9th Avenue, Helena, Montana 59620, no later than October 29.

7. Larry Fasbender, the Chairman of the Board of the Montana Health Facility Authority, has been designated to preside over and conduct the meeting.

*Larry Fasbender*

LARRY FASBENDER, Chairman  
Montana Health Facility Authority

By *John J. Oitzinger*

JOHN J. OITZINGER, Authorized  
Signatory

Certified to the Secretary of State September 19, 1983

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

In the matter of the adoption ) NOTICE OF PUBLIC HEARING  
of rules relating to decision ) FOR ADOPTION OF RULES  
criteria for certificates of )  
need for health care facilities ) (Certificate of Need)

To: All Interested Persons

1. On October 24, 1983 at 9:00 a.m., a public hearing will be held in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the adoption of rules which will set forth decision criteria for certificate of need reviews for acute and long-term care beds and CT-scanners.

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

3. The proposed rules provide as follows:

RULE I ACUTE CARE BED NEED (1) Except as provided in subsections (2) and (3), acute care bed need projections will be based on the following formulas:

Expected bed-need in target year =  $\frac{\text{Average daily census in target year}}{\text{occupancy factor}}$

Where (i) Average daily census in target year =  
 $\frac{(\text{use rate}) (\text{projected population of service area in target year})}{365}$

(ii) Use rate =  $\frac{\text{current 3-year average of patient-days in service area}}{\text{current population of service area}}$

(iii) Occupancy factors are as follows:

<u>Facility size</u>	<u>Occupancy Factor</u>
under 30 beds	40 percent
30 - 89 beds	60 percent
90 beds and over	80 percent

(2) Inpatient alcohol treatment beds are not addressed by the formula in subsection (1), and are subject to a different bed-need projection methodology. Bed-need projections for acute-care facilities with alcohol treatment beds will be adjusted accordingly.

(3) While the formulas defined in subsection (1) establish a starting-point for bed-need analysis, certificate of need review will also take into account other factors, such as provision of special services and historic institution-specific occupancy rates. Final decisions are not based entirely on projections from the formulas.

AUTHORITY: Section 50-5-304, MCA

IMPLEMENTING: Section 50-5-304, MCA

RULE II LONG-TERM CARE BED NEED (1) Except as provided in subsection (4), regional long-term care bed-need projections for 1990 will be based on the following formulas:

Bed Need in 1990 =  $\frac{(\text{Adjusted average daily census})(1990 \text{ regional population, 65 year and older})}{(1980 \text{ regional population, 65 years and older}) (.925)}$

Where Adjusted Average Daily Census =  $\frac{(1979-1980 \text{ Average yearly patient-days for region}) (.85)}{365}$

(2) The bed-need projections will be calculated separately for each health-care region, as defined in the state health plan.

(3) In determining the appropriate geographical distribution of beds within each region, the department will consider local population trends, local patient-day history, and other relevant factors.

(4) While the formulas defined in subsection (1) establish a starting point for bed-need analysis, certificate of need review will also take into account other factors such as local need and availability of alternative modes of care. Final decisions are not based entirely on projections from the formulas.

AUTHORITY: Section 50-5-304, MCA

IMPLEMENTING: Section 50-5-304, MCA

**RULE III CT-SCANNERS; NEED CRITERIA** (1) The service region for a CT-scanner is that geographic area in which the CT-scanner is closer than any other CT-scanner.

(2) An applicant is eligible for a CT-scanner if, in addition to satisfying all other applicable criteria, the following criteria are satisfied:

(a)(i) There are 20,000 patient-days per year in the community in which the applicant is located; or

(ii) There are 15,000 patient-days per year in the community and 30,000 patient-days per year in the service region to be served by the applicant's CT-scanner.

(b) Addition of applicant's scanner will not change adjoining service region boundaries so as to reduce adjoining service regions below 30,000 patient-days per year.

(c) Existing CT-scanners in the same service region as the applicant are performing and will continue to perform at least 1500 scans per year.

(d) Appropriately skilled physicians and appropriate facilities for providing medical care in areas of surgery, urology, oncology, gynecology, and other specialties which can make beneficial use of CT-scanners are present in the community.

AUTHORITY: Section 50-5-304 MCA IMP:Section 50-5-304, MCA

4. The Department is proposing these rules at this time because revisions to the State Health Plan which have been adopted by the State Health Coordinating Council will not be published until the new State Health Plan is complete, which may not be until mid-to-late 1984. In order for the Department to base certificate of need decisions on the new criteria

prior to publication of the new State Health Plan, it is necessary to promulgate these revisions as rules.

5. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Robert L. Solomon, Cogswell Building, Capitol Complex, Helena, MT, no later than October 28, 1983.

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

7. The authority of the Department to make the proposed rules is based on section 50-5-304, MCA, and the rules implement section 50-5-304, MCA.

  
JOHN J. DRYNAN, M.D., Director

Certified to the Secretary of State September 19, 1983

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

In the matter of the adoption	)	NOTICE OF ADOPTION
of emergency rules implementing	)	OF EMERGENCY RULES
39-51-404(4), MCA providing for	)	
an assessment on employers in	)	
lieu of contributions and the	)	
apportionment of monies received	)	
by experience rated employers.	)	

TO: All Interested Persons

1. Pursuant to 26 USC 3304 and 42 USC 501 et seq, the Secretary of the U.S. Department of Labor must on or before October 31 of each taxable year, certify that a state's unemployment insurance law is in compliance with the Federal Unemployment Tax Act (FUTA) and the Social Security Act (SSA). If, after an opportunity for hearing, the Secretary finds a state out of compliance with either FUTA or SSA requirements, employers of that state may no longer take advantage of valuable FUTA tax credits. In addition, the state may be ineligible for certain federal grants. The Department of Labor and Industry believes that the adoption on September 30, 1983 of rules implementing 39-51-404(4) will facilitate the Secretary's certification of Montana's unemployment insurance law, as amended, and avoid the above mentioned consequences which would drastically effect the welfare of the people of Montana.

2. Therefore, the Department intends to adopt the following emergency rules without public hearing on September 30, 1983, one day after publication of this issue of the register. Comments received on or before that date will be considered prior to the adopting of the rule. The Department reserves the right to revise the rule. Rules adopted will be mailed to all commenting parties and other persons requesting the same.

3. These emergency rules are substantially the same as those proposed regular rules published at 1983 Montana Administrative Register pages 1240-1241 and implementing 39-51-404(4), MCA.

4. These emergency rules will be effective until those proposed regular rules referred to in paragraph 3 are adopted but not longer than 120 days from the adoption of these emergency rules.

5. The text of the proposed emergency rules are as follows:

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

RULE II LEGISLATIVE INTENT. It was 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, in the discretion of the Department, 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)

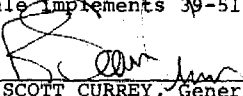
RULE IV ASSESSMENT OF EMPLOYERS MAKING PAYMENTS IN LIEU OF CONTRIBUTIONS. Employers making payments in lieu of contributions pursuant to 39-51-1125, in addition to said payments, shall, at the discretion of the Department, be assessed for purposes of 39-51-404(4) at the rate of .05% of total quarterly 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)

6. The purpose of these rules is to clarify the stated legislative intent underlying 39-51-404(4) and to provide a procedure for carrying out the same.

7. The authority of the Department to adopt the proposed rule is 39-51-301, MCA. The rule implements 39-51-404(4), MCA.

  
R. SCOTT CURREY, General Counsel  
for the Commissioner  
Department of Labor and Industry

Certified to the Secretary of State 9-19-83

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

In the matter of the proposed	)	NOTICE OF PUBLIC HEARING
adoption of new rules concern-	)	ON PROPOSED ADOPTION OF
ing licensing requirements	)	RULES CONCERNING LICENSING
for hoisting operators and	)	REQUIREMENTS FOR HOISTING
crane operators.	)	OPERATORS AND CRANE
	)	OPERATORS

TO: All Interested Persons:

1. On October 21, 1983, at 9:30 a.m., a public hearing will be held in the Workers' Compensation Division Conference Room located at 842 Front Street, Helena, Montana, to consider the proposed adoption of the above stated rules.

2. The proposed rules provide as follows:

RULE I. PURPOSE The Workers' Compensation Division has the statutory duty to enforce all laws concerning the safety and protection of workers, and has the responsibility to license hoisting operators, mine hoisting operators, and crane operators.

AUTH: Sec. 2-15-1702, MCA, and Sec. 50-71-106, MCA.

IMP: Secs. 50-71-106, 50-76-102 and 50-76-103, MCA.

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

(1) "Division" means the Workers' Compensation Division of the Department of Labor and Industry.

(2) "Hoist" means a power driven apparatus capable of lifting and lowering loads involving no horizontal movement.

(3) "Crane" means a machine for lifting and lowering a load and moving it horizontally, with the hoisting mechanism an integral part of the machine. It may be fixed or mobile.

(4) "Gantry crane" or "trolley crane" mean a crane similar to an overhead crane except that the bridge for carrying the trolley or trolleys is rigidly supported on two or more legs running on fixed rails or other runway.

(5) "Line truck" means a truck with a standard manufacturer's truck chassis equipped with a hydraulically operated telescoping boom and may be equipped with a rotary digging device.

(6) "Bucket truck" is a truck with a personnel lifting device designed to lift personnel to work stations above ground.

AUTH: Sec. 2-15-1702, MCA, and Sec. 50-71-106, MCA.

IMP: Secs. 50-71-106, 50-76-101, 50-76-102 and 50-76-103, MCA.



RULE III. HOISTING OPERATORS LICENSE REQUIREMENTS

(1) No person shall operate any hoisting equipment except as listed under subsection (7) of this rule, without first obtaining a hoisting operator's license from the division.

(2) The following hoisting licenses are issued under section 50-76-102, MCA, that are applicable to other than mine hoisting equipment:

- (a) first-class hoisting license;
- (b) second-class hoisting license.

(3) A person applying for a hoisting operator's license under section 50-76-102, MCA, shall meet the following requirements:

- (a) have passed their 18th birthday;
- (b) have passed a physical examination within 30 days prior to a new application or license renewal each year;
- (c) pass a written or oral examination as prescribed by the division.

(4) An applicant for a first-class hoisting operator's license shall have no less than three (3) years experience in the operation of hoisting equipment covered by this section and under the direct supervision of a licensed hoisting operator; or if between one (1) and three (3) years of such supervised experience, the applicant must pass an actual performance test on the applicable hoisting equipment. This test is conducted by the division to determine equivalent competency and is in addition to the written or oral examination. Applicants with less than one (1) year of experience do not qualify for a first-class hoisting operator's license as described above. Applicants with work experience gained in states that have no licensing requirements will qualify if their notarized certificate of experience indicates they have the required work experience on the applicable equipment.

(a) The holder of a first-class hoisting operator's license can operate types of hoists which include but are not limited to the following:

- (i) elevators in buildings under construction with engines delivering unlimited brake horsepower;
- (ii) multiple drum hoists with engines delivering unlimited brake horsepower;
- (iii) single drum hoists with engines delivering unlimited brake horsepower;
- (iv) all hoists allowed by second-class hoisting operator's licenses.

(5) An applicant for a second-class hoisting operator's license shall have no less than two (2) years experience in the operation of hoisting equipment covered by this section and under the direct supervision of a licensed hoisting operator; or if between one (1) and two (2) years of such supervised experience, the applicant must

pass an actual performance test on the applicable hoisting equipment. This test is conducted by the division to determine equivalent competency and is in addition to the written or oral examination. Applicants with less than one (1) year of experience do not qualify for a second-class hoisting operator's license as described above. Applicants with work experience gained in states that have no licensing requirements will qualify if their notarized certificate of experience indicates they have the required work experience on the applicable equipment.

(a) The holder of a second-class hoisting operator's license can operate the following types of hoists:

(i) elevators in buildings under construction with engines delivering up to 100 brake horsepower;

(ii) single drum and multiple drum hoists with engines delivering up to 100 brake horsepower.

(6) Application for any license must be accompanied by the following:

(a) A notarized certificate of experience provided by the division and signed by a person having actual knowledge of the applicant's past work experience. See RULE VII STANDARD FORMS.

(b) A report of physical examination filled out and signed by the physician having given the examination. The form is provided by the division. An alternate form may be used if approved by the division. This physical examination form must also be filled out and submitted for license renewals. See RULE VII STANDARD FORMS.

(c) A qualification and experience information form provided by the division. See RULE VII STANDARD FORMS.

(d) One-half of the license fee. The balance shall be paid upon issuance of the license. In the event the license is not issued, the one-half fee will be forfeited. The fees for licensing are as follows:

(i) first-class hoisting - - - - - \$30;

(ii) second-class hoisting - - - - - \$20;

(iii) renewals - - - - - \$ 4. (The

license must be renewed within 13 months of obtaining the previous license. If not renewed within this period the fee will be the same as for the original license. Failure to renew a license within 12 months of the date of expiration will require application procedure as for a new license.)

(7) Hoisting operator's licenses need not be obtained to operate the following types of equipment:

(a) stiff legs;

(b) front-end and rear-end loaders;

(c) forklifts;

(d) hoists and elevators in completed private and public buildings.

AUTH: Sec. 2-15-1702, MCA, and Sec. 50-71-106, MCA.

IMP: Secs. 50-71-106 and 50-76-102, MCA.

RULE IV. MINE HOISTING OPERATORS LICENSE REQUIREMENTS

(1) No person shall operate mine hoisting equipment when used in raising or lowering persons or materials in underground mines without first obtaining a mine hoisting operator's license from the division.

(2) The following hoisting licenses are issued under section 50-76-102, MCA, that are applicable to mine hoisting equipment:

(a) mine hoisting operator's license only.

(3) A person applying for a mine hoisting operator's license shall meet the following requirements:

(a) have passed their 18th birthday;

(b) have passed a physical examination within 30 days prior to a new application or license renewal each year;

(c) pass a written or oral examination as prescribed by the division.

(4) An applicant for a mine hoisting operator's license shall have no less than three (3) years experience in the operation of mine hoisting equipment under the supervision of a licensed operator, or if between one (1) and three (3) years of such supervised experience, the applicant must pass an actual performance test operating the applicable mine hoisting equipment. The test is conducted by the division to determine equivalent competency and is in addition to the written or oral examination. An applicant with less than one (1) year of experience in the operation of mine hoisting equipment does not qualify for a mine hoisting operator's license as described above. Mines using automatic hoists must have a licensed mine hoist operator readily available. Applicants with work experience gained in states that have no licensing requirements will qualify if their notarized certificate of experience indicates they have the required work experience on the applicable equipment.

(5) The holder of a mine hoisting operator's license can operate mine hoists only.

(6) Application for a license must be accompanied by the following:

(a) A notarized certificate of experience signed by a person having actual knowledge of the applicant's past work experience. See RULE VII STANDARD FORMS.

(b) A report of physical examination filled out and signed by the physician having given the examination. The form is provided by the division upon request. An alternate form may be used if approved by the division. This physical examination form must also be filled out and submitted for license renewals. See RULE VII STANDARD FORMS.

(c) A qualification and experience information form provided by the division. See RULE VII STANDARD FORMS.

(d) One-half of the license fee. The balance shall be

paid upon issuance of the license. In the event the license is not issued, the one-half fee will be forfeited. The fees for licensing are as follows:

- (i) mine hoisting license - - - - \$30;
- (ii) renewals - - - - - \$4 (The license must be renewed within 13 months of obtaining the previous license. If not renewed within this period the fee will be the same as for the original license. Failure to renew a license within 12 months of the date of expiration will require application procedures as for a new license.)
- (iii) lost replacement license - - - \$2.

AUTH: Sec. 50-71-106, MCA, and Sec. 50-73-302, MCA.  
IMP: Sec. 50-73-302, MCA.

RULE V. CRANE HOISTING OPERATORS LICENSE REQUIREMENTS

(1) No person shall operate any crane hoisting equipment except as listed in subsection (8) of this rule without first obtaining a crane hoisting operator's license from the division.

(2) The following crane hoisting operator's licenses are issued under section 50-76-103, MCA:

- (a) first-class crane hoisting;
- (b) first-class crane hydraulic hoisting;
- (c) first-class crane gantry and trolley;
- (d) second-class crane hoisting;
- (e) second-class boom truck;
- (f) third-class crane oiler.

(3) A person applying for a crane hoisting operator's license under section 50-76-103, MCA, shall meet the following requirements:

- (a) have passed their 18th birthday;
- (b) have passed a physical examination within 30 days prior to a new application or license renewal each year;
- (c) pass a written or oral examination as prescribed by the division.

(4) An applicant for a first-class crane hoisting license, first-class crane hydraulic license, or a first-class gantry and trolley license shall have no less than three (3) years experience in the operation of crane hoist equipment covered by this section and under the supervision of a licensed crane hoisting operator, or if between one (1) and three (3) years of such supervised experience, the applicant must pass an actual performance test on the applicable equipment. This test is conducted by the division to determine equivalent competency and is in addition to the written or oral examination. Applicants with less than one (1) year of experience do not qualify for a first-class crane hoisting license as described above. Applicants with work experience gained in states that have no

licensing requirements will qualify if their notarized certificate of experience indicates they have the required work experience on the applicable equipment.

(a) The holder of a first-class crane hoisting license can operate all classes of cranes and hoists except mine hoists.

(b) The holder of a first-class hydraulic crane license can operate all classes of hydraulic cranes and hydraulic hoist equipment only.

(c) The holder of a first-class crane license for gantry and trolley cranes can operate gantry and trolley cranes only.

(5) An applicant for a second-class crane hoisting license or second-class boom truck license shall have no less than two (2) years experience in the operation of crane hoisting equipment covered by this section, and under the supervision of a licensed crane hoisting operator, or if between (1) or two (2) years of such supervised experience, the applicant must pass an actual performance test on the applicable crane hoisting equipment. This test is conducted by the division to determine equivalent competency and is in addition to the written or oral examination. Applicants with less than one (1) year of experience do not qualify for second-class crane hoisting licenses as described above. Applicants with work experience gained in states that have no licensing requirements will qualify if their notarized certificate of experience indicates they have the required work experience on the applicable equipment.

(a) The holder of a second-class crane hoist license can operate cranes up to 15 tons and 60 feet of boom, and hoists with engines delivering up to 100 brake horsepower, except mine hoists.

(b) The holder of a second-class boom truck license can operate boom trucks only up to 15 tons and 60 feet of boom.

(6) A third-class crane oiler's license requires no experience or physical examination. A third-class crane license authorizes the holder to move truck cranes only.

(7) Application for a license must be accompanied by the following:

(a) A notarized certificate of experience signed by a person having actual knowledge of the applicant's past work experience. See RULE VII STANDARD FORMS.

(b) A report of physical examination filled out and signed by the physician having given the physical examination. The form is provided by the division upon request. An alternate form may be used if approved by the division. This physical examination form must also be filled out and submitted for license renewals. See RULE VII STANDARD FORMS.

(c) A qualification and experience information form

provided by the division. See RULE VII STANDARD FORMS.

(d) One-half of the license fee. The balance shall be paid upon issuance of the license. In the event the license is not issued, the one-half fee will be forfeited. The fees for licensing are as follows:

(i) first-class crane hoisting - - - - - \$30;  
(ii) second-class crane hoisting - - - - - \$20;  
(iii) third-class crane hoisting - - - - - \$12;  
(iv) renewals - - - - - \$ 4; (The license must be renewed within 13 months of obtaining the previous license. If not renewed within this period the fee will be the same as for the original license. Failure to renew a license within 12 months of the date of expiration will require application procedures as for a new license.)

(v) lost license replacement - - - - - \$ 2.

(8) Crane hoisting operator's licenses need not be obtained to operate the following types of equipment:

(a) crane hoisting equipment that has a manufacturer's rating of 6 tons or less and a boom length of 25 feet or less;

(b) overhead trolley cranes of any size not used in construction;

(c) equipment with excavation attachments or log loading equipment. This includes backhoes except those with a manufacturer's rating of more than 6 tons and a boom length of more than 25 feet and used for hoisting.

(d) Line trucks and bucket trucks (excluded by H.B. 655).

AUTH: Secs. 2-15-1702 and 50-71-106, MCA.

IMP: Sec. 50-71-106, MCA.

RULE VI. PROCEDURE TO PROHIBIT USE OF EQUIPMENT IN VIOLATION OF TITLE 50 CHAPTER 76 CONCERNING HOISTING ENGINES AND CRANE OPERATORS

(1) The division, upon finding the use of equipment without a licensed operator, as defined in Rules I, II, III, IV or V, shall attach to such equipment notice of violation under section 50-71-325, MCA, and shall prohibit the further use of the machine until a licensed operator is available to operate the machine. The division may also proceed under section 50-76-109, MCA, if there is not compliance under 50-71-325, MCA.

(2) Any person aggrieved by an order prohibiting the use of a machine under these rules or any other order affecting the licensing of an operator may request an administrative review before the division in Helena. The review may be by telephone and shall be governed by ARM 1.3.212 through 1.3.225 and ARM 1.3.233. Following the review, the division shall affirm, modify, or revoke the order.

(3) All rehearing and appeal rights shall be as stated in sections 50-71-331, 50-71-332, 50-71-333 and 50-71-334, MCA.

(4) In addition to all other remedies, the division may bring an action in an appropriate court to enjoin any violation of Title 50, Chapter 76, Hoisting Engines, as provided in section 50-71-326, MCA.

AUTH: Secs. 2-15-1702 and 50-71-106, MCA.

IMP: Secs. 50-71-325 and 50-76-109, MCA.

RULE VII. STANDARD FORMS The following forms are provided by the Workers' Compensation Division and are listed as follows:

(1) Form 643 - "Certificate of Experience". This form is filled out and signed by persons who have knowledge of the applicant's specific work experience involving cranes or hoists. The Certificate of Experience must be notarized.

(2) Form 642 - "Report of Physical Examination". The front of the form is filled out and signed by the physician who examined the applicant. The back of the form is filled out and signed by the applicant. It is a brief summary of the medical history of the applicant.

(3) Form 638 - "Qualification and Experience Information Required". The front of the form includes the applicant's present employer, type of license applied for, plus data to be filled out later by the boiler inspector regarding examination grades. The back of the form is filled out by the applicant and includes types of actual work experience.

(4) These forms may be obtained from the Bureau of Safety, Workers' Compensation Division, 510 Logan Street, Helena, Montana 59601.

AUTH: Sec. 2-15-1702, MCA, and Sec. 50-71-106, MCA.

IMP: Sec. 50-71-106, MCA.

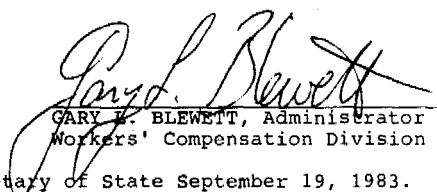
3. The Workers' Compensation Division is proposing to adopt rules concerning licensing requirements for hoisting operators and crane operators in order to more clearly define the intent of the statutory requirements listed in Title 50, Chapter 76, MCA. Procedures for insuring that these licensing requirements are met are defined by rules which will enable the Safety Bureau to provide a consistent approach to carry out the intent of the statutes.

4. Interested persons may present their data, views and arguments either orally or in writing at the hearing. Written arguments, views or data may also be submitted to the Workers' Compensation Division, 815 Front Street, Helena, Montana 59604,

no later than October 31, 1983.

6. William R. Palmer, 842 Front St., Helena, MT, has been designated to preside over and conduct the hearing.

7. The authority of the division to adopt the proposed new rules is based on sections 2-15-1702 and 50-71-106, Montana Code Annotated, and implements sections 50-71-106, 50-76-101, 50-76-102, 50-76-103, 50-73-302, 50-71-325 and 50-76-109, Montana Code Annotated.



GARY L. BLEWETT, Administrator  
Workers' Compensation Division

Certified to the Secretary of State September 19, 1983.



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

IN THE MATTER of Proposed	)	NOTICE OF PROPOSED ADOPTION
Adoption of new rules for	)	OF NEW RULES FOR ELECTRIC
electric and gas line	)	AND GAS LINE EXTENSIONS
extensions.	)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On January 1, 1984, the Department of Public Service Regulation proposes to adopt new rules for electric and gas line extensions that will establish cost responsibility between a utility and a prospective customer for new lines required to serve new customers.

2. The proposed rules provide as follows:

Rule I. DEFINITIONS

(1) "Prospective customer" shall mean any individual, partnership, association, firm, public or private corporation or governmental agency who wishes to receive natural gas or electric service from a public utility.

(2) "Meter" is utility-owned equipment that measures energy flow and/or demand.

(3) "Free extension allowance" is the portion of a line extension, in terms of footage, provided by the utility with no direct cost assessed the customer.

(4) "Refund" is an amount of money that a utility must repay a line extension customer.

(5) "Electric line extension" is an extension of transmission, primary or secondary voltage beyond previously existing points of service.

(6) "Electric service drop" is secondary voltage overhead or underground wire to a customer's point of service, and includes the necessary transformer and meter.

(7) "Electric service drop" is connected to a customer's meter at the point of service and to either a transmission primary or secondary voltage wire at the other end.

(8) "Gas line extension" is an extension of a gas main beyond previously existing points of service.

(9) "Gas stub" is the service line from a gas main to the prospective customer's point of service and includes the meter.

AUTH: 69-3-103, MCA, IMP: 69-3-602, MCA

Rule II. GRANDFATHERED AGREEMENTS (1) These rules shall not affect line extension agreements signed prior to December 31, 1983.

AUTH: 69-3-103, MCA, IMP: 69-3-602, MCA

Rule III. GENERAL LINE EXTENSION POLICY (1) Any prospective customer requiring an electric or gas line extension shall be informed in writing by the individual utility of his/her option to obtain bids from and have a private contractor construct the line extension in excess of the free extension allowance. It is the utility's responsibility to construct the

free extension allowance; the free extension allowance must apply to the first section of the line extension.

(2) The jurisdictional utility shall provide the prospective customer a definitive list, in writing, of all estimated labor, capital, materials and other costs for the line extension in excess of the free extension allowance.

(3) A prospective customer shall be responsible for providing all necessary easements, routes and rights-of-way to complete a line extension.

(4) The accounting treatment for customer contributed capital shall be in accordance with the Uniform System of Accounts No. 252, "Customer Advances for Construction."

(5) A free extension allowance shall be allowed for each individual meter; an apartment complex with four units or a trailer park with four trailers, for example, shall receive a free extension allowance equal to four times the allowance for a single metered customer.

(6) Refund(s) to an initial line extension customer shall be made for each subsequent line extension or service drop (service drop if electric and stub if gas) that attaches to the initial customer's line extension. Each refund shall equal the dollar amount of the initial customer's free extension allowance. An initial customer shall not receive refunds in excess of the total costs incurred for his/her line extension.

AUTH: 69-3-103, MCA, IMP: 69-3-602, MCA

Rule IV. GAS LINE EXTENSION POLICY (1) If a gas line (main) extension is required to provide service to a prospective customer, the new customer shall receive a free extension allowance equal to 300 feet of 3 inch diameter main.

(2) If a gas line extension in excess of 300 feet is required and provided by the utility, the prospective customer requiring such extension, must reimburse the utility upon completion of construction, an amount equal to the differential between the total cost of the line extension and the cost related to the free extension allowance.

(3) In addition to the costs identified in Rule IV(2) above, the prospective customer requiring a main extension in excess of three inches in diameter shall be required to advance the differential in the cost of the larger main and the three inch main for the full length of the extension.

AUTH: 69-3-103, MCA, IMP: 69-3-602, MCA

Rule V. ELECTRIC LINE EXTENSION POLICY (1) If a line extension is required to provide service to a prospective customer, the prospective customer shall receive a free extension allowance equal to 150 feet of primary voltage (110 volt) wire.

(2) If an electric line extension in excess of 150 is required and is provided by the utility, the prospective customer must reimburse the utility upon completion of construction, an amount equal to the differential between the total cost of the line extension and the cost related to the free extension allowance.

(3) A customer requiring an underground electric line extension shall be totally responsible for the additional costs of this type of extension in excess of an overhead line extension.

AUTH: 69-3-103, MCA, IMP: 69-3-602, MCA

3. The Commission is proposing these rules to assure that all electric and gas utilities have uniform policies regarding line extension costs. The Commission also seeks by these rules to balance a utility's obligation to serve with a limitation of existing customers' contribution to new service outside the area where the utility has plant in place.

4. 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 November 1, 1983.

5. 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 November 1, 1983.

6. 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.

7. 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 19, 1983.

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

IN THE MATTER of the repeal )	NOTICE OF PROPOSED REPEAL
of Rules 38.5.201, 38.5.202, )	OF RULES 38.5.201, 38.5.202,
38.5.203, 38.5.204 concerning )	38.5.203, 38.5.204
compensation for consumer )	
intervenor in PURPA-related )	NO PUBLIC HEARING
proceedings. )	CONTEMPLATED

TO: All Interested Persons

1. On October 31, 1983 the Montana Public Service Commission proposes to repeal rules concerning compensation for consumer intervenors in Public Utility Regulatory Policies Act (PURPA)-Related proceedings (Sub-Chapter 2).

2. The rules proposed to be repealed are found on pages 38-456 through 38-458 of the Administrative Rules of Montana.

The authority of the department to repeal these rules is Section 69-3-103, MCA.

3. The department proposes to repeal these rules because the district Court in the case of Montana-Dakota Utilities versus Action for Eastern Montana and the Public Service Commission, Cause No. 47413, declared them to be void.

4. Interested parties may submit their data, views or arguments concerning the proposed repeal in writing to Eileen E. Shore, 1227 11th Avenue, Helena, Montana 59620, no later than October 31, 1983.

5. If a person who is directly affected by the proposed repeal wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Eileen E. Shore, 1227 11th Avenue, Helena, Montana 59620, no later than October 31, 1983.

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

7. 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 19, 1983.

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

IN THE MATTER of Proposed	)	NOTICE OF PROPOSED AMENDMENT,
amendments, repeal and adop-	)	REPEAL AND ADOPTION OF RULES
tion of rules concerning reg-	)	CONCERNING REGULATION OF
ulation of intrastate and	)	INTRASTATE AND INTERSTATE
interstate carriers.	)	CARRIERS
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On October 31, 1983 the Montana Public Service Commission proposes to amend, repeal and adopt new rules concerning regulation of intrastate and interstate carriers.

2. The rules proposed to be repealed are 38.3.119 COPIES OF COMMISSION RULES, found on page 38-165 of the Administrative Rules of Montana, AUTH: 69-12-201, and 69-12-204, MCA; and 38.3.2004 EXEMPTIONS, found on page 38-202 of the Administrative Rules of Montana, AUTH: 69-12-611, MCA.

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

Rule I. FILING BUSINESS ADDRESSES AND TELEPHONE NUMBERS

(1) All intrastate and interstate motor carriers shall maintain current business mailing addresses and business telephone numbers on file with the Commission at all times. Intrastate motor carriers shall also maintain on file with the Commission at all times a current business address where the business records of the carrier are maintained and may be inspected by the Commission or its personnel.

AUTH: 69-12-201, 69-12-204, MCA, IMP. 69-12-201, 69-12-204, MCA

Rule II. NOTICE OF PUBLIC HEARING ON APPLICATION FOR OPERATING AUTHORITY (1) If it is necessary to conduct a public hearing on the application of a motor carrier for a certificate of operating authority, individual notice of the public hearing will be provided to only the applicant and the protestants to the application, except as otherwise required by law.

AUTH: 69-12-201, 69-12-204, MCA, IMP. 69-12-321, 69-12-322, MCA

Rule III. NOTICE OF PUBLIC HEARING ON APPLICATION FOR SALE OR TRANSFER OF CERTIFICATE OF AUTHORITY (1) If it is necessary to conduct a public hearing on an application for the sale or transfer of a motor carrier operating authority, individual notice of the public hearing will be provided to only the seller, the purchaser and the protestants to the application, except as otherwise required by law.

AUTH: 69-12-201, 69-12-204, MCA, IMP. 69-12-322, 69-12-325, MCA

Rule IV. BONA FIDE FARMER, RANCHER, OR RAISER OF LIVE-STOCK (1) For the purposes of 69-12-405(2)(a), MCA, the term

"bona fide farmer, rancher, or raiser of livestock" shall include all persons earning greater than 50 percent of their income from farming, ranching, or raising livestock.

AUTH: 69-12-201, MCA, IMP. 69-12-405, MCA

Rule V. INTRASTATE MOTOR CARRIERS (1) Every intrastate motor common carrier which transports C.O.D., cash on delivery, shipments of property by motor vehicle must publish and file with the Commission the tariffs which contain the rates to be changed for such service.

AUTH: Title 69, Chapter 11, 69-12-201, MCA, IMP. 69-12-501 et seq., MCA

Rule VI. REMITTANCE OF C.O.D. COLLECTION (1) Every intrastate motor carrier shall remit each C.O.D. collection directly to the consignor or other person designated by the consignor as payee promptly and within ten (10) days after delivery of the C.O.D. shipment to the consignee.

(2) If the C.O.D. shipment moved in interline service, the delivering carrier shall, at the time of the remittance of the C.O.D. collection to the consignor or payee, notify the originating carrier of such remittance.

AUTH: Title 69, Chapter 11, 69-12-201, MCA, IMP. 69-12-201, MCA

Rule VII. SHIPMENT RECORDS (1) Every intrastate motor carrier which ships property and handles C.O.D. shipments as a delivering carrier shall maintain a record of all C.O.D. shipments received for delivery to indicate the following information for each shipment:

- (a) Number and date of freight bill;
- (b) Name and address of shipper or other person designated as payee;
- (c) Name and address of consignee;
- (d) Date shipment was delivered;
- (e) Amount of C.O.D.;
- (f) Date C.O.D. collected by delivering carrier;
- (g) Date C.O.D. remitted to payee; and
- (h) Check number or other identification of remittance to payee.

AUTH: Title 69, Chapter 11, 69-12-201, MCA, IMP. 69-12-501 et seq., MCA

Rule VIII. APPLICATION OF SAFETY RULES TO LIGHTWEIGHT VEHICLES (1) The Department of Transportation safety regulations adopted by reference in ARM 38.3.1902 provides certain exemptions for vehicles having a gross vehicle weight of less than 10,000 pounds. For the purposes of intrastate motor carrier safety enforcement in Montana, such lightweight vehicles shall not be exempt from Department of Transportation safety regulations otherwise adopted in ARM 38.3.1902 if the lightweight vehicle in question is being directly utilized in a regulated movement.

(2) For the purposes of this rule, "directly utilized in a regulated movement" means a vehicle actually carrying passengers or items in a regulated movement. "Directly utilized

in a regulated movement" does not mean a vehicle owned by a regulated carrier if it is carrying passengers or materials that do not constitute a regulated movement but are only incidental to the carriers' regulated operations.

AUTH: 69-12-201, MCA, IMP: 69-12-201(1)(c), MCA

Rule IX. EXEMPTION FROM DRIVER SAFETY STANDARDS FOR LOCAL COMMERCIAL VEHICLES (1) ARM 38.3.1902 requires that regulated motor carriers and certain commercial vehicles comply with Department of Transportation safety regulations including driver safety standards. Such driver safety standards do not apply to commercial vehicles operated exclusively within a 200-mile radius of their work reporting location. This local exemption does not apply to drivers for motor carriers.

AUTH: 69-12-201, MCA, IMP: 69-12-201(2), MCA

Rule X. SAFETY INSPECTION PROGRAM (1) In order to enforce the Federal Motor Carrier Safety Regulations of the Department of Transportation adopted by reference in ARM 38.3.1902, the Montana Public Service Commission has implemented a safety inspection program. The Commission's safety inspection program is intended to focus on those mechanical factors most often blamed for accidents involving trucks, passenger carriers, and hazardous material transporters. The safety inspection program is designed to remove potentially unsafe drivers and imminently hazardous vehicles from Montana's highways.

AUTH: 69-12-201, MCA, IMP: 69-12-201(1), (2), MCA

Rule XI. COMMERCIAL VEHICLE SAFETY ALLIANCE (1) In order to provide for more uniform and efficient safety inspection, the Montana Public Service Commission has become a member of the Commercial Vehicle Safety Alliance (CVSA). The CVSA is made up of several western states and provinces.

(2) As a member of the CVSA the Montana Public Service Commission observes the following goals with respect to its safety inspection program:

(a) To bring about an overall improvement in commercial vehicle operation.

(b) To avoid duplication of inspection efforts by various jurisdictions.

(c) To minimize delays for the operating industry.

(d) To increase the number of on-highway inspections.

(e) To improve the safety of equipment being operated on our highways.

AUTH: 69-12-201, MCA, IMP: 69-12-201(1), (2), MCA

Rule XII. CRITICAL ITEM INSPECTION (1) In order to focus on those mechanical and driver conditions most often blamed for accidents and at the same time minimize the delay to the operator, safety inspection will be limited to the following items unless otherwise warranted:

(a) Brakes, including:

(i) Adjustment,

(ii) Air loss,

(iii) Low air pressure warning device,

- (iv) Air brake hose and air brake lines,
- (v) Brake drums,
- (vi) Brake shoes.
- (b) Steering mechanism, including:
  - (i) Steering column,
  - (ii) Tie rod ends,
  - (iii) Idler arm,
  - (iv) Pitman arm.
- (c) Tires and wheels, including:
  - (i) Matching of tires and rims,
  - (ii) Tire load limits,
  - (iii) Regrooved limits,
  - (iv) Tread depth,
  - (v) Defects,
  - (vi) Recapped tires,
  - (vii) Tires on dual wheels.
- (d) Drawbars, fifth wheels and suspension, including:
  - (i) Locking devices,
  - (ii) Play between mounting and frame,
  - (iii) Structural integrity of fifth wheel and drawbars,
  - (iv) Axle positioning parts,
  - (v) Spring assemblies,
  - (vi) Torsion bar torque arms.
- (e) Fuel system,
- (f) Exhaust system,
- (g) Lighting devices,
- (h) Windshield wipers,
- (i) Proper securement of load and/or dunnage,
- (j) Driver, including:
  - (i) Driver's license,
  - (ii) Medical certificate,
  - (iii) Log requirements.

(2) Inspections focusing on the items identified in paragraph (1) are commonly referred to as a Critical Item Inspection or an Essential Element Examination.

(3) Items enumerated in paragraph (1) represent those items that will be focussed upon at each safety inspection. However, nothing in these rules is to be interpreted as precluding a safety officer from inspecting other items if he has observed some condition that leads him to believe further inspection is warranted in order to achieve the basic goals enumerated in Rule X.

AUTH: 69-12-201, MCA, IMP: 69-12-201(1), (2), MCA

Rule XIII. INSPECTION REPORT (1) At the conclusion of the safety inspection, the safety officer will issue to the driver of the vehicle a copy of a State of Montana Driver-Vehicle Examination Report, Form PSC-63. Thereon the safety officer shall identify and list any violations discovered. The report shall include notification of vehicle or driver out of service declarations where warranted.

(2) The driver is required to present the report to the motor carrier or operator of the commercial vehicle.



(3) The motor carrier or operator of the commercial vehicle is required to certify to the Montana Public Service Commission, 1227 11th Avenue, Helena, Montana 59620, by returning the report within 15 days, that all violations noted on the report have been corrected.

AUTH: 69-12-201, MCA, IMP: 69-12-201(1), (2), MCA

Rule XIV. OUT OF SERVICE ORDERS (1) It is unlawful to operate any vehicle which has been placed out of service until such time as the out of service safety violations have been corrected.

(2) Only those safety violations which pose an imminent threat to public safety shall warrant an out of service order.

AUTH: 69-12-201, MCA, IMP: 69-12-201(1), (2), MCA

Rule XV. SAFETY INSPECTION IDENTIFICATION DECALS

(1) Safety officers will place a CVSA colored decal on those vehicles which pass safety inspections. The decals will be color coded for each quarter of the year. The month of issuance will be depicted by corner trimming. All participating CVSA states and provinces will use the same color and style of decal.

(2) CVSA inspection decals will be honored during the month of issuance plus the following two months. The decals will be honored in each participating CVSA state or province regardless of the jurisdiction of issuance.

AUTH: 69-12-201, MCA, IMP: 69-12-201(1), (2), MCA

Rule XVI. LOCATION OF INSPECTIONS (1) Safety inspections are to be conducted only at locations which allow sufficient space so as to allow the parking of large over-the-road vehicles in a safe nonhazardous manner.

(2) To the extent possible, safety inspections are to be conducted at locations which are within a reasonable distance of food, lodging and repair facilities.

AUTH: 69-12-201, MCA, IMP: 69-12-201(1), (2), MCA

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

38.3.203 REGISTRATION OF INTERSTATE AUTHORITIES

(1) Prior to operation upon the public highways of this state, every interstate or foreign carrier authorized to transact business under provisions of the Interstate Commerce Act or the U.S. Department of Transportation, and which performs a transportation service for compensation on the public highways of the State of Montana, is, required to register its interstate authority, permits, orders and appropriate vehicles with this Commission within 30 days after the carrier has notified the Commission that it has been granted interstate or foreign carrier authority.

(2) It shall also be unlawful for a motor carrier to perform a transportation service for compensation on the public highways of this state as an interstate carrier of commodities including the exemptions provided in Section 203(b) of the Interstate Commerce Act without having first registered as such a carrier with this Commission.

(3) (2) Such registration of certificate and vehicle

shall be accepted and permit granted upon payment of the appropriate filing fee, as prescribed by the Interstate Commerce Commission rules under PL 89-170.

(3) If the interstate or foreign carrier fails to register with the Commission within the 30 day period, the carrier will be subject to citation for operating without proper authority.

AUTH: 69-12-201, 69-12-204, MCA, IMP. 69-12-103, 69-12-401, 69-12-402, MCA

### 38.3.502 APPLICATIONS FOR TEMPORARY OPERATING AUTHORITY

(1) All temporary operating authority applications shall be in writing and filed with this Commission at its offices in Helena, Montana.

(2) Any application for temporary operating authority must be filed in conjunction with an application for permanent operating authority.

(3) (2) A separate application and application fee must be filed for each temporary operating authority sought.

(4) (3) Fees applicable to an application for permanent operating authority are applicable to requests an application for temporary operating authority.

(5) (4) No particular form requesting temporary operating authority need be utilized, however, the specific commodity or commodities to be transported and the points or areas to be served should be expressly and clearly indicated.

AUTH: 69-12-201, 69-12-204, MCA, IMP. 69-12-207, MCA

### 38.3.601 OPERATION UPON GRANTING OF CERTIFICATE

(1) Every person or corporation who is granted a certificate of public convenience and necessity to operate as a motor carrier by the Commission must:

(a) within 30 days after the date of the issuance of the order to grant the certificate comply with all rules and regulations of the Commission and the laws of the State of Montana necessary to begin actual operations as a motor carrier, and

(b) within 30 days after the necessary operating compliance has been met begin actual operations as a motor carrier in the manner set forth in the application and by the Commission, or suffer the revocation of the certificate.

(2) If a motor carrier fails to meet the necessary operating compliance or to begin actual operations within the required time periods, the failure will result in the revocation of the certificate of public convenience and necessity granted by the Commission to the person or corporation.

AUTH: 69-12-201, 69-12-204, MCA, IMP. 69-12-327, 69-12-401, 69-12-402, MCA

### 38.3.602 OPERATION AFTER SALE OR TRANSFER OF CERTIFICATE

(1) Every person or corporation who, with the approval of the Commission, procures any right, privilege or certificate of public convenience and necessity as a motor carrier either by sale, assignment, lease, transfer or inheritance must,

(a) within 30 days after the mailing of the notice of

such approval by the Commission, begin actual operations as a motor carrier and must comply within the 30 day period with all of the rules and regulations of the Commission and the laws of the state of Montana necessary to begin actual operations as a motor carrier, and

(b) within 30 days after the necessary operating compliance has been met, a motor carrier must begin actual operations as a motor carrier.

(2) If a motor carrier fails to meet the necessary operating compliance or to begin actual operations within the required time periods, the failure will result in the or suffer a revocation of such the right, privilege or certificate held by the motor carrier.

AUTH: 69-12-201, 69-12-204, MCA, IMP. 69-12-327, 69-12-401, 69-12-402, MCA

38.3.1902 DEPARTMENT OF TRANSPORTATION AND I.C.C. RULES

(1) All motor carriers and motor vehicles operating under the jurisdiction of this Commission shall comply with the motor carrier and motor vehicle safety regulations and noise emission requirements of the U.S. Department of Transportation and the Interstate Commerce Commission, as amended from time to time; and this Commission, by reference, hereby adopts the motor carrier and motor vehicle safety regulations promulgated and adopted by the Department of Transportation and the Interstate Commerce Commission, as amended from time to time. These regulations may be found in the Code of Federal Regulations, Title 49, Chapter III; they may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

AUTH: 69-12-101, 69-12-103, 69-12-201, MCA, IMP. 69-12-103, 69-12-201, MCA

38.3.2001 LEASING OF POWER EQUIPMENT - GENERAL (1) No change.

(2) No change.

(3) The leasing of power units equipment by a certificated carrier to a noncertificated carrier is prohibited.

AUTH: 69-12-201, 69-12-204, MCA, IMP. 69-12-611, MCA

38.3.2002 APPROVED EQUIPMENT LEASE AGREEMENT FORM AND REQUIRED PROVISIONS (1) Interested parties may contact the Commission office for information concerning where an approved equipment lease agreement form may be obtained. In addition, any equipment lease conforming to the provisions of (2) below, may be submitted for approval in lieu of the above-mentioned approved lease agreement form.

(2) The following are required equipment lease provisions:

(a) No change.

(b) No change.

(c) No change.

(d) The lease shall state the terms of the compensation to be paid for use of the vehicle while under lease and the method by which such compensation is determined. All methods

for computing compensation must be realistic and cover entire compensation paid to lessor for total use of the vehicle by lessee. There may be no agreement or understanding between lessee and lessor other than that fully set forth in the lease agreement, on file with the Commission.

(e) The lease shall state the date of execution, the term length and renewal conditions, if any, of the lease, however, no lease shall be made for a period of less than 30 days except after proper application for relief, and the granting of same by the Commission, under provisions of ARM 38-3-2004.

(f) No change.

(g) The parties to the equipment lease agreement may insert therein any other provisions not contrary to law, and not inconsistent with the rules and regulations of the Commission.

AUTH: 69-12-201, 69-12-204, MCA, IMP. 69-12-611; MCA

38.3.2003 DUTIES AND OBLIGATIONS OF LESSOR AND LESSEE

UNDER EQUIPMENT LEASE (1) No change.

(a) The lease shall be executed by the parties in five three copies: and submitted to the Commission for acceptance and certification. Upon certification, three copies shall be returned. One each for the lessor and lessee, and one copy to be carried in the leased equipment during the entire term of the lease. The remaining two copies shall be for Commission use and files. No lease will be effective except upon specific approval of the Commission, and movement of such leased equipment without prior approval is prohibited.

(b) Each power equipment unit so leased must display in a conspicuous place on both sides of the cab the identity and address of the lessor, and lessee, and the certificate number under which the power unit is operating.

(c) During the time the equipment under lease is operated by the lessee, there shall be carried in such vehicle, in addition to a certified copy of the lease; bills of lading, way-bills, freight bills, manifests, or other papers identifying the lading, and which clearly indicates that the transportation of the property carried is under the responsibility of the lessee as the authorized carrier.

(d) No change.

(e) No change.

(f) No change.

(g) No lease shall be assigned or re-leased by either party without the written consent of both parties signatory thereto, and the written approval of the Commission.

(h) Any lease may be terminated at any time after an initial 30 day period upon 30 days' notice in writing, by registered mail, addressed by either one of the parties to the other at the address shown on the lease agreement, and by like written notice to the Commission. Failure to so notify the Commission will result in the continuance of the lease and the responsibilities thereunder until proper notification is received by the Commission.

(i) It shall be the duty of the lessee upon termination of any lease to immediately surrender and deliver over to the offices of the Commission, 1227 11th Avenue, Helena, Montana, at lessee's expense, all property of the Commission utilized during the term of the lease.

(j) Any violations of this sub-chapter, or failure to comply with all provisions of any lease approved and certified by this Commission shall be considered specific violations of the terms of the Montana Motor Carrier Act, subject to the applicable penalty provisions thereof.

(h) (k) Nothing in these regulations shall be construed to relieve the lessee, the lessor or the driver of any leased equipment from compliance with the laws, rules and regulations pertaining to the operation of motor vehicles on Montana highways.

AUTH: 69-12-201, 69-12-204, MCA, IMP. 69-12-611, MCA

38.3.2011 INTERCHANGE OF POWER EQUIPMENT (1) Interchange of power equipment may be authorized for common carriers (Class A and B) operating upon the public highways of the state pursuant to the terms and conditions of 69-12-612, MCA.

AUTH: 69-12-201, 69-12-204, MCA, IMP. 69-12-612, MCA

38.3.2014 LEASE OF CERTIFICATES OF OPERATING AUTHORITY - GENERAL (1) Leasing of Montana Public Service Commission operating certificates of public convenience and necessity or permits may be authorized as required by 69-12-326, MCA.

(2) No change.

(3) In the event a certificate or permit lease is cancelled for any cause whatever or is terminated by expiration in accordance with the terms of said certificate or permit lease, notice of such cancellation or expiration thereof shall be given immediately to the Commission in writing.

AUTH: 69-12-201, 69-12-204, MCA, IMP. 69-12-326, MCA

5. RATIONALE: Repeal of rule 38.3.119 is sought as it is unduly burdensome to require a carrier to carry a copy of Commission rules in each of its vehicles.

Repeal of Rule 38.3.2004 is sought because the exemptions it authorizes are no longer necessary. The 1983 legislative amendments to Section 69-12-611, MCA, allow motor carriers to begin operations immediately upon the execution of an equipment lease agreement. The amendments eliminate the requirements that the carrier file the lease with the Commission, that the Commission must approve the lease prior to the carrier beginning to operate, and that the lease must have a duration of at least 30 days.

Rule 1. Due to the number of motor carriers registered with the PSC, it is essential that the Commission have available current addresses and telephone numbers in order to monitor the carriers and to provide them with informational materials. It is necessary for the Commission to know where the business records are located to conduct intrastate carrier audits.

Rule II. This proposed rule allows the Commission to limit the provision of notices of public hearings to only the applicant and those motor carriers which have become protestants to the application. The numbers of regulated motor carriers makes it impractical and unduly expensive to provide each carrier a notice of every public hearing that involves an application for authority. The Commission assumes that the motor carriers which protest are the carriers affected by the application, and are therefore the only carriers interested in knowing when the public hearing on the particular application will be held. Notice of the public hearings will be provided to the Montana Consumer Counsel and others as required by law.

Rule III. This proposed rule is sought for the same reasons as indicated in the rationale for Rule II above.

Rule IV. The Commission is proposing this rule in order to provide consistent standards for identifying those persons exempt from the certification requirements of 69-12-405(1), MCA.

Rules V, VI, VII. The proposed rules all deal with cash on delivery, C.O.D., service and payments. Previously the Commission did not have any rules concerning C.O.D. shipments, but complaints have been received from shippers that their C.O.D. payments have not been remitted in a timely manner, or have not been paid at all by the hauling motor carrier.

The proposed rules are nearly identical to the Interstate Commerce Commission rules specially concerning how and when remittance is to be made, and the necessary records to be kept.

The adoption of these rules will allow the Commission to more easily enforce and supervise motor carriers providing this service and insure proper payment.

Rule VIII. This proposed rule extends the Federal Motor Carrier Safety Regulations to lightweight vehicles of intra-state motor carriers. The Commission has perceived a need for such safety controls even on lightweight vehicles, particularly with regard to driver safety.

Rule IX. This proposed rule acknowledges that the legislature has exempted commercial vehicles (as opposed to regulated motor carriers) from the driver safety standards in the Federal Motor Carrier Safety Regulations if those vehicles are operated exclusively within a 200 mile radius of their work reporting location.

Rule X. This proposed rule notifies the public of the existence of the Commission's safety inspection program and outlines its purpose and goals.

Rule XI. This proposed rule states the Commission's intention to participate in the Commercial Vehicle Safety Alliance for the purpose of developing more uniform safety standards and avoiding duplicative inspection efforts through a cooperative effort of western states and provinces.

Rule XII. This proposed rule identifies those items which will be the subject of the Commission's critical item or essential element safety inspections. Pursuant to legislative

intent expressed in the compiler's comments to 69-12-201, MCA, the items have been limited to those which have been most often blamed for accidents. The rule explains that other items will not be examined unless there is some grounds for doing so.

Rule XIII. This proposed rule states the Commission's intent to utilize state of Montana Driver-Vehicle Examination Report, Form PSC-63 for the purposes of notifying the driver and carrier of safety violations at the time of the safety inspection. The form would also be utilized as a vehicle for the carrier or operator to notify the Commission of corrective actions.

Rule XIV. This proposed rule emphasizes that it is unlawful to operate a vehicle which has been placed out of service. It also implements the legislature's intent stated in the Compiler's Comments to 69-12-201, MCA, that safety infractions posing no imminent threat to public safety shall not result in an "out of service" order.

Rule XV. This proposed rule implements the legislature's desire, stated in the Compiler's Comments to 69-12-201, MCA, for a vehicle identification program acknowledging inspections.

Rule XVI. This proposed rule acknowledges that it would be unwise to create a hazard by parking large vehicles at unsafe locations in order to conduct an inspection that is designed to prevent safety hazards. The rule also states the Commission's intention not to conduct inspections at locations that would create undue hardships for drivers if their vehicle was put out of service as the result of an inspection.

38.3.203. The rule amendments remove language that requires a motor carrier to register its interstate or foreign authority prior to operating within the state of Montana. The amendment addresses the practical problem experienced by interstate motor carriers which have the ICC authority to operate in the state of Montana but have not yet been able to register that authority with the Commission. The rule requires the carrier to register its interstate or foreign authority within 30 days of notifying the Commission that it has such authority to operate in the state. If the carrier fails to register within the time period, then the carrier is subject to penalty. Subsection (2) is repealed because it is redundant of the new language in Subsection (2).

38.3.502. Proposed amendments to this rule clarify that any temporary operating authority applications must be accompanied by an application fee, and that the Commission will not accept a temporary application not accompanied by an application for permanent operating authority. This amendment will prevent carriers from operating under a temporary authority for the maximum 120 days without ever applying for permanent authority.

38.3.601. The proposed amendments clarify that a motor carrier has a maximum period of 60 days in which to begin operating. The original rule was confusing as it implied that even if a carrier had not yet met the compliance requirements,

it had to begin operating within 30 days after issuance of the Commission's order granting the certificate of operating authority or lose the certificate. The amendments clarify that the carrier has 30 days to meet compliance and another 30 days thereafter to begin operation.

38.3.602. The proposed amendments clarify that a motor carrier involved in a sale or transfer has a maximum period of 60 days in which to begin operating. The same rationale as discussed in Rule 38.3.601 above applies for Rule 38.3.602.

38.3.1902. Proposed amendments include the term "motor vehicles" in addition to "motor carriers." Under Montana statute, motor carriers are defined as carriers which are subject to Public Service Commission regulatory jurisdiction, and motor vehicles can include both regulated and unregulated carrier equipment. The Montana Legislature has granted the Public Service Commission safety enforcement jurisdiction over both motor carriers and motor vehicles, and the rule amendments clarify that both types are regulated for safety enforcement and noise emission control.

38.3.2001. The change of the term "units" for the term "equipment" is to provide language uniformity throughout Sub-Chapter 20.

38.3.2002. The insertion of the term "equipment" is to provide both language uniformity throughout Sub-Chapter 20, and to clarify that the regulation applies only to equipment leases and not also leases of certificates of operating authority. Proposed amendments to this Rule are to remove the requirement that equipment leases must be filed with the Commission, and to eliminate the requirement that equipment leases must have a 30 day minimum duration. The 48th Montana Legislature in Senate Bill No. 436 removed the lease filing requirement. Motor carriers are, however, expected to provide the lease or a copy thereof at the request of the Commission or its personnel. The removal of the 30 day minimum duration for a lease will allow motor carriers to execute trip leases.

38.3.2003. Due to the fact that equipment leases need no longer be approved by or filed with the Commission, the parties to the lease need only execute three rather than five copies. Language that has been removed clarifies that leased equipment may now be operated or moved immediately upon execution of an equipment lease agreement between the two parties.

Insertion of language "UNDER EQUIPMENT LEASE" in the rule title and the term "equipment" in (1)(b) is for clarification and language uniformity in Sub-Chapter 20.

Removal of the word "certified" from (1)(c) and removal of language in (1)(g) is consistent with the elimination of Commission approval and certification of lease agreement.

Repeal of subsections (1)(h) and (1)(i) are required to indicate the elimination of a specific time duration for an equipment lease, and the elimination of Commission approval of lease agreements and the filing requirement. Subsection (1)(i) is repealed because a lessee no longer has in his possession



any Commission property. Previously the Commission issued a metal license-type plate to a lessee to be displayed on the leased equipment, and the lessee was required to return the plate to the Commission when the lease expired.

Subsection (1)(j) is repealed as the rule is redundant. The Commission's statutory and rule schemes already require motor carriers to abide by all Montana transportation laws and rules or be subject to the appropriate penalties for such violations.

38.3.2011. The inclusion of the term "POWER" is for clarification and language uniformity throughout Sub-Chapter 20.

38.3.2014. The insertion of the phrase "of public convenience and necessity or permits" and "certificate or permit" is for clarification and language uniformity throughout Sub-Chapter 20.

6. Interested parties may submit their data, views or arguments concerning the proposed adoption in writing to Opal Winebrenner, 1227 11th Avenue, Helena, Montana 59620, no later than October 31, 1983.

7. If a person who is directly affected by the proposed adoption, amendment and repeal wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Opal Winebrenner, 1227 11th Avenue, Helena, Montana 59620, no later than October 31, 1983.

8. If the agency receives requests for a public hearing on the proposed adoption, amendment and repeal from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 100 persons based on the fact that there are approximately 700 intrastate carriers and approximately 5000 interstate carriers.

9. 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, 19, 1983.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF PROPOSED Adoption
Adoption of Rule I relating	)	Pule I relating to the
to the deduction of the wind-	)	deduction of the windfall
fall profits tax from net	)	profits tax from net proceeds.
proceeds.	)	

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On November 1, 1983, the Department of Revenue proposes to adopt Rule I relating to the deduction of the windfall profits tax from net proceeds.

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

RULE I WINDFALL PROFITS TAX (1) Effective for production years beginning on or after January 1, 1980, the amount of the windfall profits tax deduction allowed in the computation of the oil net proceeds is 70% of the amount paid or withheld in satisfaction of the liability for windfall profits tax or the actual windfall profits tax.

(2) The base to which the 70% factor will be applied is the amount withheld or payment made incident to a bonafide and orderly discharge of the actual tax liability during the production year. It will not include duplicate withholding or withholding for nontaxable royalty interests without regard to whether or not these interests have filed exemption certificates. It will include any adjustments from prior tax periods. No attempt will be made to allocate adjustments to prior periods.

(3) In lieu of adjusting amounts claimed as a deduction for windfall profits tax in production years 1980, 1981, and 1982, to the actual liability after refunds, credits, other adjustments, etc., the department will reduce the deductions claimed for windfall profit tax in 1980, 1981, and 1982, by 30%. The retroactive adjustments will be assessed in 1984 using the mill levy in effect for the year adjusted.

(4) In the event it is determined (by either the taxpayer or the department) that 70% of the amount withheld does not reflect the actual windfall profit tax liability, the taxpayer-operator will provide the following applicable information for each interest owner in the producing property:

(a) Form 6248, Annual Information Return of Windfall Profits Tax;

(b) Form 6249, Computation of Overpaid Windfall Profit Tax, or form 6249-A Royalty Owner's Credit for Overpaid Windfall Profit Tax;

(c) Form 720, Quarterly Federal Excise Tax Return;

(d) Form 843 Claim (for refund) and any other federal form

documenting refund claims relating to the windfall profits tax liability; and

(e) Supporting workpapers for the above forms with sufficient detail and any other documentation necessary to enable the department to determine the amount of windfall profits tax paid and the amounts refunded or allowed as a credit for each lease.

5. No individual interest owner can request an adjustment, nor can the department require an individual interest owner to adjust the windfall profit tax deduction, without considering all interests in the property and their respective windfall profit tax liability.

AUTH: 15-23-108, MCA; IMP: 15-23-603, 15-23-605, 15-23-615, and 15-23-616, MCA.

3. The Department of Revenue is proposing this rule because Chapter 383 of the 1983 Laws of Montana provides that either 70% of the windfall profits taxes withheld and paid by an operator or the actual windfall profits tax liability after considering all refunds and credits due each working interest or royalty owner is deductible in computing net proceeds taxes on oil and gas. This rule sets forth the base to which the 70% factor is to be applied and lists the specific information which must be provided if the 70% factor is not used. Further, the rule clarifies the mill levies that will be used in implementing the retroactive provisions of Chapter 383.

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

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

no later than October 31, 1983.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Ann Kenny at the above address no later than October 31, 1983.

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

  
ELLEN FEAFFER, Director  
Department of Revenue

Certified to Secretary of State 09/19/83

18-9/29/83

MAR Notice No. 42-2-240

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

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

TO: All Interested Persons:

1. On July 28, 1983, the Department of Revenue published notice of the proposed adoption of Rule I relating to voluntary refund checkoff for nongame wildlife fund at pages 970 and 971 of the Montana Administrative Register, issue no. 14.

2. The Department, at the request of the Revenue Oversight Committee, hereby withdraws this proposed rule. The proposed rule would have allowed persons to overpay their taxes in an amount equal to a contribution to the nongame wildlife fund. The Revenue Oversight Committee advised that only those persons who are owed a refund should be allowed to participate in the checkoff program. The Department will continue to seek comments from interested persons on this matter.

  
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ELLEN FEAVER, Director  
Department of Revenue

Certified to Secretary of State 09/19/83

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

IN THE MATTER OF THE )  
Adoption of Rule I relating )  
to the imputed value of coal.)

NOTICE OF PROPOSED ADOPTION OF  
Rule I relating to the imputed  
value of coal.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On November 1, 1983, the Department of Revenue proposes to adopt Rule I relating to the imputed value of coal.
2. The rule as proposed to be adopted provides as follows:

RULE I IMPUTED VALUATION FOR REFINED COAL (1) For purposes of the coal severance tax and the coal gross proceeds tax, the department may, or shall at the request of the taxpayer, impute the value of coal which has been refined by drying, cleaning, or other processing designed to improve the quality of the coal. Refined or refining does not include transportation of the coal from the point of extraction to the point of shipment or to the boiler, nor any normal preparation process leading to shipment of coal.

(2) The imputed value of refined coal will approximate market value f.o.b. mine of similar type coal after primary and secondary crushing where drying, cleaning, or other further processing has not occurred. The f.o.b. mine price of similar type coal means the price of such coal as established by the market place at the time the sale for the refined coal occurs. The price will reflect the selling price of coal with like characteristics within the region, as determined by spot sales or other methods which reliably reflect the market value of unrefined coal at the time the sale of refined coal occurs.

(a) Example: Refined coal is sold for \$12/ton. The f.o.b. price of similar type coal where drying, cleaning, or further processing has not occurred is \$10/ton. The imputed value is \$10/ton.

AUTH: 15-35-111, MCA; IMP: 15-35-107, MCA.

3. The Department is proposing this rule because Chapter 326 of the 1983 Laws of Montana provides for an adjustment to the contract sales of coal for coal severance tax purposes when such coal is subject to further processing. This rule further explains how the valuation of processed coal is imputed and provides an example for illustrative purposes.

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

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

no later than October 31, 1983.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Ann Kenny at the above address no later than October 31, 1983.

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

7. The authority of the agency to make the proposed amendment is based on §15-35-111, MCA, and the rule implements §15-35-107, MCA.

  
\_\_\_\_\_  
ELLEN FEAVER, Director  
Department of Revenue

Certified to Secretary of State 09/19/83

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

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

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

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

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

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

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

(3) Taxpayers not entitled to a refund may not overpay their tax due and designate the overpayment as a contribution to this fund.

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

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

3. The Department is proposing this new rule because Chapter 627 of the 1983 Laws of Montana established a "nongame wildlife account" to aid in the management of nongame wildlife. Section 3 of Chapter 627 establishes a voluntary income tax refund checkoff for the funding of nongame wildlife programs. This section has been codified as 15-30-150, MCA. The rule is necessary to implement this new law. The new rule also clarifies what action the Department is to take when a taxpayer who is not entitled to a refund wishes to contribute to the fund. In this case, the taxpayer may not contribute. The rule is consistent with guidance provided by the Legislature's Revenue Oversight Committee concerning the interpretation of Chapter 627. The Revenue Oversight Committee's action on this subject is reflected in a motion unanimously adopted at its meeting of August 26, 1983. The Committee's motion advised that only persons who are due a refund should be allowed to participate in the checkoff program.

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

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

no later than October 31, 1983.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Ann Kenny at the above address no later than October 31, 1983.

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

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

  
ELLEN FEAVER, Director  
Department of Revenue

Certified to Secretary of State 09/19/83



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

In the matter of the repeal	)	NOTICE OF PUBLIC HEARING ON
of Rules 46.5.505, 46.5.506	)	THE PROPOSED REPEAL OF
and 46.5.507; the adoption	)	RULES 46.5.505, 46.5.506,
of rules; and the amendment	)	AND 46.5.507; THE ADOPTION
of Rules 46.5.604, 46.5.606	)	OF RULES; AND THE AMENDMENT
and 46.5.610 pertaining to	)	OF RULES 46.5.604, 46.5.606
licensing of youth foster	)	AND 46.5.610 PERTAINING TO
homes.	)	YOUTH FOSTER HOMES

TO: All Interested Persons

1. On October 21, 1983, at 9:30 a.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana, to consider the repeal of Rules 46.5.505, 46.5.506 and 46.5.507; the amendment of Rules 46.5.604, 46.5.606 and 46.5.610 and the adoption of rules pertaining to the licensing of youth foster homes.

2. Rule 46.5.505 proposed to be repealed is on page 46-229 of the Administrative Rules of Montana.

AUTH: HB 24, Ch. 465, L. 1983 and 53-4-111(1) MCA

IMP: 53-2-201(1)(b)(ii), MCA, 53-4-113(4), MCA and HB 24, Ch. 465, L. 1983.

3. Rule 46.5.506 proposed to be repealed is on pages 46-229 and 46-231 of the Administrative Rules of Montana.

AUTH: HB 24, Ch. 465, L. 1983 and 53-4-111(1) MCA

IMP: 53-2-201(1)(b)(ii), MCA, 53-4-113(4), MCA and HB 24, Ch. 465, L. 1983.

4. Rule 46.5.507 proposed to be repealed is on page 46-231 of the Administrative Rules of Montana.

AUTH: HB 24, Ch. 465, L. 1983 and 53-4-111(1) MCA

IMP: 53-2-201(1)(b)(ii), MCA, 53-4-113(4), MCA and HB 24, Ch. 465, L. 1983.

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

RULE I YOUTH FOSTER HOME, PROGRAM REQUIREMENTS (1) The foster parent(s) shall provide care and custody including:

(a) provision of regular, well-balanced meals, maintenance of home, and clothing, and supervision of child's health and dental care;

(b) personal care, supervision and attention appropriate to age;

(c) provision of opportunities for educational, social and cultural growth, through suitable reading materials, toys, and equipment;

(d) associations with peer groups and opportunities for experiences in school and community;

(e) cooperation with the placing agency and participation in case conferences and in-service training; and

(f) cooperation in arranging for contact with child's own family, when appropriate.

(2) Education: The foster parent shall participate in arranging an education, employment or training program appropriate for each child.

(a) The foster parent(s) shall participate with the social worker and, when appropriate, the biological parent in providing or arranging for the educational needs of the child in social living, sex education, consumer education, and career planning.

(b) Each foster parent shall assure that all children attend a school unless otherwise approved by the department.

(3) Religion: All children in foster care shall have the opportunity to voluntarily practice their religion. Children shall be permitted by the foster parent(s) to attend religious services of their choice in the community and to visit with representatives of their respective faiths.

(4) Culture: Each child shall be given the opportunity to identify with his cultural heritage and shall be encouraged to do so.

(5) Clothing: The foster parent(s) shall ensure that each child is supplied with his own clothing suitable to the child's age and size.

(a) Clothing shall be comparable to the clothing of other children in the household or community.

(b) Children shall have some choice in the selection of their clothing.

(6) Personal hygiene: Children shall be given training by the foster parent(s) in personal care, hygiene, and grooming and shall be provided with the necessary supplies.

(7) Privacy: The foster parent(s) shall allow privacy for the child and shall provide appropriate sleeping arrangements, separate storage space for clothing and personal articles, and a place to display the child's socially appropriate creative works and symbols of identity.

(8) Money: Money earned by a child or received as a gift or allowance shall be his personal property and accounted for separately from foster home funds.

(9) Job-training and employment: The foster parent(s) shall encourage and assist each teenaged child in preparation for future economic independence.

(a) The foster parent(s) shall assist the placing agency and the child in the selection of an appropriate occupational or training course.

(b) The foster parent(s) shall assist the placing agency and the child in finding appropriate employment for the child.

(c) The foster parent(s) shall distinguish between tasks which children are expected to perform as part of living together, jobs to earn spending money, and jobs performed for vocational training.

(d) Children in care shall not be used as employees of the foster home.

AUTH: HB 24, Ch. 465, L. 1983, and 53-4-111(1), MCA

IMP: 53-4-113(4), MCA and HB 24, Ch. 465, L. 1983.

RULE II YOUTH FOSTER HOME, PHYSICAL CARE (1) The foster parent(s) shall ensure quality physical care of children in residence.

(a) Every foster home shall have available the services of a physician.

(b) Medical and dental care including examination and treatment shall be obtained for children as needed.

(i) The child shall have a complete physical examination within 30 days after admission to foster care and yearly thereafter.

(ii) A child who has not had a dental examination within a year prior to placement shall have one within 90 days after admission. Reexamination shall be done at least annually.

(c) Psychiatric, psychological and counseling services including diagnosis and treatment shall be obtained for children as needed.

(d) Treatment of diseases, remedial defects or deformities, and malnutrition upon a physician's recommendation shall be made known to the placing agency by notification by the foster parent(s).

(e) All medication shall be kept in a place inaccessible to children, in their original containers, labeled with the original prescription label.

(f) All children residing in the home under 12 years of age shall be immunized against rubella, tetanus, diphtheria, polio, measles, and, if under 5 years of age, whooping cough. Any child with a history of measles is considered immunized. The medical and immunization history of the child will be recorded on forms provided by the department and kept on file in both the foster home and placing agency.

(g) In an emergency, the foster parent(s) shall make arrangements for emergency care at a nearby hospital, clinic, or doctor's office and, as soon as possible thereafter, notify the placing agency.

(h) The foster parent(s) shall report to the county welfare department any evidence of suspected child abuse.

(i) The foster parent(s) shall sign a placement agreement with the placing agency that includes the responsibilities of each and shall abide by the provisions therein.

(j) When a preschool child is in foster care one of the foster parents shall not be employed outside of the home.

AUTH: HB 24, Ch. 465, L. 1983, and 53-4-111(1), MCA  
IMP: 53-4-113(4), MCA and HB 24, Ch. 465, L. 1983.

RULE III YOUTH FOSTER HOME, DISCIPLINE (1) The foster parent(s) must be able to show evidence of ability to work with children without recourse to physical punishment or psychological abuse and must be positive in their approach to discipline.

(2) Any discipline or control must be appropriate to the child's age and development level.

(3) No child in care shall be subjected to unusual, severe, cruel, capricious, humiliating or unnecessary punishment.

(4) Foster parents shall not punish children for bed wetting or actions in regard to toilet training.

(5) No child in care shall be subjected to verbal abuse, sexual contact or abuse, derogatory remarks about himself or members of his family or threats to expel the child from the foster home.

(6) No child shall be deprived of meals, mail or family visits as a method of discipline.

(7) Children must not be placed in a locked room.

(8) Participation or nonparticipation in the religious activities of the foster family shall not be used as a form of discipline.

(9) Medication shall never be used to discipline or threaten children.

(10) A report shall be completed and sent to the placing agency by any foster parent involved in physical punishment.

AUTH: HB 24, Ch. 465, L. 1983, and 53-4-111(1), MCA  
IMP: 53-4-113(4), MCA and HB 24, Ch. 465, L. 1983.

RULE IV YOUTH FOSTER HOME, ENVIRONMENTAL REQUIREMENTS

(1) An adequate and safe sewage system and water supply shall be provided by the foster home.

(2) The home shall be comparable to other homes and premises of the community in which it is located.

(3) All foster homes shall be equipped with a telephone. Exceptions may be granted by the department. Telephone numbers of the parents, placing agency, hospital, police department, fire department, ambulance, and poison control center must be posted by each telephone.

(4) Every bathroom door shall be designed to permit the opening of the locked door from the outside in an emergency.

(5) Protective plugs shall be installed on electrical outlets in all homes occupied by children under five years of age.

(6) The foster parent(s) shall keep the home clean and in good repair and the premises shall be kept free from objects, materials, and conditions which constitute a danger to the occupants.

AUTH: HB 24, Ch. 465, L. 1983, and 53-4-111(1), MCA  
IMP: 53-4-113(4), MCA and HB 24, Ch. 465, L. 1983.

RULE V YOUTH FOSTER HOME, FIRE SAFETY (1) If the sleeping room is on the second story, there shall be a plan to rescue children if the stairway is blocked.

(2) A smoke detector approved by a recognized testing laboratory, which is properly maintained and regularly tested, shall be located on each level of the foster home. Mobile homes shall have smoke detectors near all sleeping areas.

(3) A workable portable fire extinguisher with a minimum rating of 2A10BC is required. Extinguishers shall be readily accessible at all times.

(4) No unvented fuel-fired heating devices are allowed.

(5) No stove will be so located as to block escape in case of malfunctioning of the stove or heater.

AUTH: HB 24, Ch. 465, L. 1983, and 53-4-111(1), MCA  
IMP: 53-4-113(4), MCA and HB 24, Ch. 465, L. 1983.

RULE VI YOUTH FOSTER HOME, OTHER SAFETY REQUIREMENTS

(1) Cleaning materials, flammable liquids, detergents, aerosol cans, and other poisonous and toxic materials shall be kept in their original containers and in a place inaccessible to children. They shall be used in such a way that will not contaminate play surfaces, food, food preparation areas, or constitute a hazard to the children.

(2) No new paint containing lead in excess of .06% shall be used.

(3) No extension cord shall be used as permanent wiring.

(4) Any pet or animal, present at the home, with the foster parent's permission, shall show no evidence of carrying disease, and shall be a friendly companion of the children.

(5) Guns and ammunition shall be kept in locked storage or out of the reach of children and with guns stored separate from ammunition.

(6) Any outdoor play area shall be maintained free from hazards such as wells and machinery. If any part of the play area is adjacent to a highway, drainage ditch, holes, or other hazardous areas, the play area shall be enclosed with fencing or natural barriers when pre-school children are in placement to restrict these children from these areas.

(7) Outdoor equipment, such as climbing apparatus, slides, and swings, shall be anchored firmly, and placed in a safe location.

(8) The foster parent(s) shall make swimming and wading pools inaccessible to children except when supervised.

AUTH: HB 24, Ch. 465, L. 1983, and 53-4-111(1), MCA  
IMP: 53-4-113(4), MCA and HB 24, Ch. 465, L. 1983.

RULE VII YOUTH FOSTER HOME, TRANSPORTATION (1) Foster parents transporting children in care shall possess a valid Montana driver's license and liability insurance coverage.

(2) Appropriate child restraints shall be used when transporting children under four (4) years of age.

AUTH: HB 24, Ch. 465, L. 1983, and 53-4-111(1), MCA  
IMP: 53-4-113(4), MCA and HB 24, Ch. 465, L. 1983.

RULE VIII YOUTH FOSTER HOME, TRAINING REQUIRED

(1) Unless a special exemption has been approved by the department the foster parent(s) shall attend an orientation session prior to licensure, and at least 15 hours of training annually for relicensure, provided or approved by the department and including training in the following topics:

- (a) separation and grieving;
- (b) alternatives to physical discipline and a definition of the department's policy on physical discipline;
- (c) department's and foster parents' roles and responsibilities;
- (d) biological family rights and responsibilities;
- (e) how and why children come into foster care;
- (f) types and behaviors of children in care;
- (g) placement process;
- (h) confidentiality;
- (i) sexual abuse;
- (j) drugs and alcohol; and
- (k) foster parent insurance.

AUTH: HB 24, Ch. 465, L. 1983, and 53-4-111(1), MCA  
IMP: 53-4-113(4), MCA and HB 24, Ch. 465, L. 1983.

6. The rules proposed to be amended are as follows:

46.5.604 LICENSES Subsections (1) through (4) remain the same.

(5) No applicant(s) shall be newly licensed for a youth foster home if any one of the following has occurred within twelve months of the application, unless an exception is granted by the department:

- (a) a death of a spouse or child in the applicant's family;
- (b) a marital separation or divorce of the applicant(s);
- (c) an adoption of a child who has not been living with the adoptive parent(s);

(d) the birth of a child to the applicant(s); or

(e) loss of employment by the applicant.

(f) If subsections (a), (b), (c), (d) or (e) happen in a licensed foster home, the foster parent(s) shall notify the licensing social worker within 48 hours.

(6) If a couple, the applicant(s) shall have been together for at least 24 months.

(7) Any applicant who has received services for documented abuse or neglect of a child shall be denied a foster care license.

AUTH: HB 24, Ch. 465, L. 1983, and 53-4-111(1), MCA

IMP: 53-4-113(4), MCA and HB 24, Ch. 465, L. 1983.

46.5.606 LICENSE REVOCATION AND DENIAL (1) The department,

after written notice to the applicant or licensee, may in its discretion deny, suspend, restrict, revoke or reduce to a provisional status a license if the department determines upon finding that:

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

(d) the YCF has failed to use the foster care payments for the support of the foster child.

AUTH: HB 24, Ch. 465, L. 1983, and 53-4-111(1), MCA

IMP: 53-4-113(4), MCA and HB 24, Ch. 465, L. 1983.

46.5.610 REPORTS Subsections (1) through (2)(d) remain the same.

(3) Youth foster homes shall report a change of residence to the department prior to moving and the department shall evaluate the new residence within 30 days of receiving the report.

(4) As required by section 41-3-201 MCA, the provider and each staff member shall report any incidents of known or suspected child abuse or neglect to the local county welfare office or the state child abuse hot line 1-800-332-6100. If no action is taken on the referral, or if the above resources are not available at the time, reports shall be made to the social and rehabilitation services district or state office. The provider shall inform each new employee, within the first 24 hours of employment, of the child abuse and neglect reporting statute and responsibilities of staff relative to this law.

AUTH: HB 24, Ch. 465, L. 1983, and 53-4-111(1), MCA

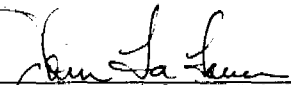
IMP: 53-4-113(4), MCA and HB 24, Ch. 465, L. 1983.

7. The proposed repeal, amendment and adoption of rules are necessary to provide for licensing standards for youth foster homes. The 48th Legislature anticipated that the

Department would adopt rules to implement the statutory changes contained in HB 24, Ch. 465, L. 1983 and so stated in the Statement of Intent.

8. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, Montana 59604, no later than October 31, 1983.

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

  
\_\_\_\_\_  
Director, Social and Rehabilitation Services

Certified to the Secretary of State September 19, 1983.



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

In the matter of the amend-	)	NOTICE OF THE PROPOSED
ment of Rule 46.14.304 per-	)	AMENDMENT OF RULE 46.14.304
taining to the low income	)	PERTAINING TO THE LOW
weatherization assistance	)	INCOME WEATHERIZATION
program; income	)	ASSISTANCE PROGRAM. NO
	)	PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On October 31, 1983, the Department of Social and Rehabilitation Services proposes to amend Rule 46.14.304 pertaining to the low income weatherization assistance program; income.

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

46.14.304 INCOME (1) Definitions:

(a) Annual gross income applies to households with income from all non-excluded income before deductions, including but not limited to wages, salaries, commissions, tips, profits, gifts, interest or dividends, retirement pay, worker's compensation, unemployment compensation, and capital gains received by the members of the household in the ~~twelve~~ six months multiplied by two (6 months x 2) immediately preceding the month of application.

(b) Annual gross receipts apply to households with income from self-employment and mean all income before any deductions, including any non-excluded income not from self-employment, which was received by members of the household in the ~~twelve~~ six months multiplied by two (6 months x 2) immediately preceding the month of application.

Subsections (1)(c) through (3) remain the same.

AUTH: Sec. 53-2-201, MCA

IMP: Sec. 90-4-201 and 90-4-202, MCA

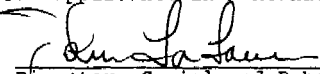
3. Weatherization applications are generated through the same process as LIEAP. To be consistent, weatherization will have the same application criteria.

4. Interested parties may submit their data, views, or arguments concerning the proposed amendment in writing to the Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, Montana 59604, no later than October 27, 1983.

6. If a person who is directly affected by the proposed amendment wishes to express his data, views, and arguments orally or in writing at a public hearing, he must make written

request along with any written comments he has to the Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, Montana 59604, no later than October 27, 1983.

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

  
Director, Social and Rehabilitation Services

Certified to the Secretary of State September 19, 1983.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF THE ADOPTION
adoption of rules	)	OF RULES 2.21.1401
relating to the	)	THROUGH 2.21.1408 AND
administration of the	)	2.21.1411 RELATING TO THE
veteran's and disabled	)	ADMINISTRATION OF
civilian's preference	)	VETERAN'S AND DISABLED
	)	CIVILIAN'S PREFERENCE.

TO: All Interested Persons.

1. On July 28, 1983, the Department of Administration published notice of the proposed adoption of rules 2.21.1401 through 2.21.1408 and 2.21.1411 relating to the administration of veteran's and disabled civilian's preference at page 918 of the 1983 Montana Administrative Register, issue number 14.

2. The rules have been adopted with the following changes:

2.21.1401 SHORT TITLE (1) This sub-chapter may be cited as the veteran's and handicapped disabled civilian's preference policy.

2.21.1402 POLICY AND OBJECTIVES (1) It is the policy of the state of Montana to provide preference in employment to veterans and handicapped disabled civilians who are eligible for and meet the criteria described in 10-2-201, et. seq. MCA.

(2) Same as proposed rule.

2.21.1403 DEFINITIONS (1) - (4) Same as proposed rule.

(5) "Disabled veteran" means a veteran who has a disability admitted by the Veterans Administration of the United States to have been incurred during-time-of-war-or-declared-national-emergency, in service in any of the wars, military expeditions, or police actions.

(6) Same as proposed rule.

(7) "Dependent" means a person who in the year prior to application for the preference received more than half of his or her support from a veteran or-a-disabled-veteran-and-is-a-relative-or-member-of-the-veteran's-household--as-defined-in-15-30-1137-MCA, and who

(a) is a child of the veteran and is under 19 years of age, or

(b) is a child of the veteran and is a full-time student, or

(c) is a member of the veteran's household and has had an income from all sources of less than \$800 during the year prior to application.

(8) - (11) Same as proposed rule.

(12) "Student" means a person who during each of 5 calendar months in the year prior to application was enrolled full-time at an education institution. The 5 calendar months need not be consecutive. Full-time is the number of courses or hours considered by the institution to be full-time.

2.21.1404 ENTITLEMENT TO PREFERENCE (1) No person is entitled to preference described in this rule who has not resided in Montana for at least 1 year immediately preceding an appointment.

(2) - (3) Same as proposed rule.

(4) As provided in 10-2-204, MCA, when an oral or written exam is used, the following persons shall have 10 percentage points added to any the passing scores of any individual test or group of tests at the point in the selection process when such scores are used to rank or to disqualify applicants: disabled veterans and spouses and surviving spouses of disabled veterans and dependents of disabled veterans.

(5) As provided in 10-2-204, MCA, the following persons shall have 5 percentage points added to any the passing scores of any individual test or group of tests at the point in the selection process when such scores are used to rank or to disqualify applicants: other veterans; spouses and surviving spouses of other veterans and dependents of other veterans.

(6) - (8) Same as proposed rule.

2.21.1405 RANKING PREFERRED PERSONS (1) - (2) Same as proposed rule.

(3) Among equally preferred persons, relative qualifications and affirmative action goals should be considered.

2.21.1406 DOCUMENTATION (1) - (3) (a) Same as proposed rule.

(b) From all preferred persons, proof of 1 year's residence. Typical documentation includes a Montana State Income Tax Return (persons who paid income tax in another state while claiming residency in Montana should have also filed in Montana), voter registration (persons residing out-of-state who claim Montana residency must vote by absentee ballot, if they vote) or resident hunting and fishing license. The payment of property tax is not proof of residency, since property can be held simultaneously in any number of states. Veterans and their dependents who served in the military service elsewhere, but who continued to declare Montana as their place of residence, are

considered Montana residents. Persons who have been residents, but have left the state other than for a temporary purpose must reestablish residency for 1 year before being eligible for the preference.

(c) - (e) Same as proposed rule.

(4) - (5) Same as proposed rule.

2.21.1407 APPLICATION OF PREFERENCE TO INITIAL APPOINTMENT (1) The preference shall be applied to initial appointment only. Any personnel action where applications are solicited from outside a specific agency are considered initial appointments and the preference must be applied for all persons in the applicant pool.

(2) Personnel actions limited to current employees of a specific agency or employees in a reduction-in-force pool, who have been laid off from a specific agency, are not considered initial appointments.

2.21.1408 RECRUITMENT AND SELECTION PROCEDURES (1) Agencies shall not routinely copy minimum qualifications statements from class specifications as listed on the class specification, because they are not developed for selection use and most cases are too general to be more than rough indications for any specific position.

(2) - (5) Same as proposed rules.

3. Public hearings on the proposed rules were conducted on August 19 and 25, 1983. The following comments and testimony were received during the comment period and at the hearings.

COMMENT: In 2.21.1403 (Rule III), two comments addressed coverage of National Guard and Reserve members by the preference act. One comment requests that if guard and reserve members are covered, the definition of "armed services" should state this directly. The second comment states that under federal law, the guard and reserve are included in the definition of armed services and the commenter would oppose an effort to exclude members from coverage by the state's preference act.

RESPONSE: The Attorney General has been asked by the Department of Military Affairs to address this issue. The department defers to his judgment.

COMMENT: Two comments requested that the definitions be expanded to include the mentally handicapped.

RESPONSE: The determination of who is disabled lies in the hands of the Department of Social and Rehabilitation Services.

COMMENT: In 2.21.1403 (Rule III), expand the definition of disabled veteran to include any veteran admitted as disabled by the Veteran's Administration and not just those whose

disability was incurred in time of war or national emergency.

RESPONSE: The definition is established by statute.

COMMENT: In 2.21.1404 (Rule IV), amend to read, "the following persons shall have added to any passing scores 10 percentage points of the total possible scores for particular tests," and also revise section (5) in the same manner.

RESPONSE: The department agrees revision for clarity is needed and new language has been as added to the rule.

COMMENT: In 2.21.1404 (Rule IV), the commenter questions whether absolute preference must be provided to spouses and surviving spouses under 10-2-203, MCA, or may be limited to "dependent spouses" and "dependent surviving spouses."

RESPONSE: There is no language in 10-2-203, MCA, which distinguishes the preference received by spouses from the preference received by veterans. A plain reading of the statute includes all spouses and surviving spouses of veterans and disabled veterans.

COMMENT: In 2.21.1404 (Rule IV), there are conflicting comments regarding application of points and absolute preference. One commenter agrees with the rule as proposed; a second commenter believes that the rule may not exclude dependents of non-disabled veterans from both points and the preference.

RESPONSE: The rule applies the preferences in 10-2-203 and 10-2-204, MCA, separately to each of those groups listed in those sections. Section 10-2-203, MCA, does not include dependents of non-disabled veterans as eligible for the absolute preference.

COMMENT: In 2.21.1404 (Rule IV), persons with status as conscientious objector veterans should also be covered by the preference act.

RESPONSE: Section 10-2-205, MCA, states, "None of the benefits of 10-2-201 through 10-2-206 accrue to any person who refuses to serve on active duty in the military service to which attached or to take up arms in the defense of the United States." (emphasis added). Because by definition a conscientious objector is one who refuses to take up arms, the clear reading of the statute indicates it is the intent of the Legislature to exclude such persons.

COMMENT: Some language should be added to the rules regarding consideration of affirmative action goals.

RESPONSE: Such language has been added to 2.21.1405.

COMMENT: Where a disabled civilian can show a vocational handicap, the preference should be retained throughout the person's career. In 2.21.1406, (Rule VI) certification by

the Department of Social and Rehabilitation Services should only certify that a person is eligible for employment preference; the agency should not determine if a person is qualified for a particular position. The disabled civilian should receive preference at the time of hire and also should receive 10 percentage points or something similar to the benefit granted to disabled veterans.

RESPONSE: The determination of disability is made by the Department of Social and Rehabilitation Services, however, the department does not recommend disabled persons for particular positions. The granting of points is by statute and the law does not provide additional points for disabled civilians.

COMMENT: In 2.21.1406 (Rule VI), residency requirements should be required for both addition of points and application of preference.

RESPONSE: The rule has been amended to reflect the fact that residency requirements must be met to receive any of the benefits of the act.

COMMENT: In 2.21.1407 (Rule VII), six commenters support restricting application of the preference to initial appointment only; two commenters support restricting preference to initial appointment only in order to avoid interference with the administration of union contracts; two commenters, representing several organizations, oppose restriction of the preference to initial appointment only.

RESPONSE: The department will continue to restrict application of the preference to initial appointment only.

COMMENT: In 2.21.1407 (Rule VII), state agencies are also covered by requirements regarding receipt of federal funds and must comply with those requirements in employing disabled veterans and Vietnam-era veterans.

RESPONSE: The department does not find the state's rules in conflict with federal requirements.

COMMENT: In 2.21.1407 (Rule VII), the concept of initial appointment should be clarified to indicate whether it means to state employment, agency employment, to any type of employment in any public works, and this should be administered consistently.

RESPONSE: Initial appointment means within an individual agency. Any personnel action which takes place across agency lines should not be exempt from application of these rules. The rule has been amended to clarify this question.

COMMENT: In 2.21.1408, (Rule VIII), add the following language to section (5): "Whenever state agencies have qualified employees available, recruitment may be limited to

that agency or to all state government agencies as internal recruitment to all state agencies."

RESPONSE: The rules provide for internal recruitment within an individual agency, but the department disagrees with expansion of the concept of internal recruitment to include all state agencies.

COMMENT: Several groups oppose any effort to restrict the rights of veterans to apply for any position.

RESPONSE: The department feels the practice of limited recruitment is consistent with law and necessary to good personnel practice.

COMMENT: The following language should be added to 2.21.1408, (Rule VIII),: "Agencies shall make a brief written summary in the case of each preferred applicant for a position, whether in the exercise of the agency's judgment and discretion, the applicant is qualified mentally and physically, and possesses the business capacity, competency and education to discharge the duties of the position."

RESPONSE: While the department finds that this practice is highly desirable, in cases where there are large numbers of preferred applicants, the practice may be unwieldy. The department will not require the practice by rule, but will encourage its implementation.

COMMENT: A number of comments addressed the issue of whether the concept of a preference is appropriate, is in conflict with other law, or with perceived conflicts within the existing law.

RESPONSE: The purpose of these rules is to provide consistent administration by state agencies of the existing preference law. These comments have been forwarded to the Legislature's Interim Committee on Veteran's and Disabled Civilian's preference for its consideration.

By: Morris L. Brusett  
Morris L. Brusett, Director  
Department of Administration

Certified to the Secretary of State September 17, 1983.



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

In the matter of the amendments) NOTICE OF AMENDMENT OF ARM  
of ARM 8.34.416 concerning con-) 8.34.416 CONTINUING EDUCATION  
tinuing education, and 8.34.418) and 8.34.418 FEE SCHEDULE  
concerning the fee schedule. )

TO: All Interested Persons:

1. On May 26, 1983 and July 28, 1983, the Board of Nursing Home Administrators published notices of proposed amendments and hearing regarding the above-stated rules at pages 516 - 518, 1983 Montana Administrative Register, issue number 10 and page 929, 1983 Montana Administrative Register, issue number 14.

2. A hearing was held on these rules as well as rule 8.34.414 on August 18, 1983, in the conference room of the Department of Commerce, 1430 9th Avenue, Helena, Montana. Based on comments regarding rule 8.34.414, it is being renoticed in the notice section of this register. No comments or testimony were given at the hearing or received by mail on the amendments of 8.34.416 and 8.34.418, other than a phone call from the Administrative Code Committee regarding authority sections for the rules changes. These should have been cited as 37-9-203 and 305, MCA for the change in rule 8.34.416 and 37-1-134 and 37-9-302, MCA for the change in 8.34.418.

3. The board has amended rules 8.34.416 and 8.34.418 exactly as proposed.

BOARD OF NURSING HOME  
ADMINISTRATORS  
VERA GERKE, CHAIRMAN

BY: 

GARY BUCHANAN, DIRECTOR  
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, September 19, 1983.

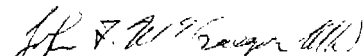
BEFORE THE DEPARTMENT AND BOARD OF HEALTH AND ENVIRONMENTAL  
SCIENCES OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF  
of rule 16.2.101 relating to ) AMENDMENT OF ARM 16.2.101  
rulemaking procedures ) (Rulemaking Procedures)

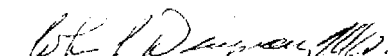
TO: All Interested Persons

1. On August 11, 1983, the department published notice of the proposed amendment of rule 16.2.101 relating to rule-making procedures at page 1009 of the 1983 Montana Administrative Register, issue no. 15.
2. The department has amended the rule as proposed.
3. No comments or testimony were received.

FOR THE BOARD OF HEALTH AND  
ENVIRONMENTAL SCIENCES

  
JOHN F. MCGREGOR, M.D., Chairman

FOR THE DEPARTMENT OF HEALTH  
AND ENVIRONMENTAL SCIENCES

  
JOHN J. DRYNAN, M.D., Director

By: 

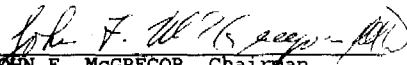
Certified to the Secretary of State September 19, 1983


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

In the matter of the adoption	)	NOTICE OF
of an interpretive rule 16.6.125	)	ADOPTION OF AN
concerning access to vital	)	INTERPRETIVE RULE
statistics records	)	(Vital Statistics)

To: All Interested Persons

1. On June 16, 1983, the board published notice of a proposed adoption of rule 16.6.125 concerning access to vital statistics records at page 618 of the 1983 Montana Administrative Register, issue number 11.
2. The board has adopted the rule as proposed.
3. No comments or testimony were received.

  
JOHN F. MCGREGOR, Chairman

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

Certified to the Secretary of State September 19, 1983

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

In the matter of the	)	NOTICE OF THE REPEAL
repeal of rule 16.18.102,	)	OF RULE 16.18.102
procedural rules	)	(Water and Wastewater Operators)

TO: All Interested Persons

1. On August 11, 1983, the department published notice of a proposed repeal of rule 16.18.102, concerning procedural rules for the board of water and wastewater operators at page 1013 of the 1983 Montana Administrative Register, issue number 15.
2. The department has repealed rule 16.18.102 found on page 16-871 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 19, 1983

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

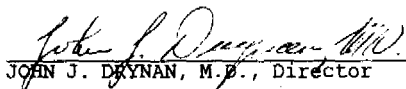
In the matter of the repeal of	)	NOTICE OF
rules 16.38.501, 16.38.502, and	)	REPEAL OF RULES 16.38.501,
16.38.503, and the adoption of	)	16.38.502, and 16.38.503,
new rules 16.38.505, 16.38.506,	)	AND THE ADOPTION OF
and 16.38.507, relating to	)	NEW RULES
pre-marital serological tests	)	(Serological Tests)

To: All Interested Persons

1. On August 11, 1983, the department published notice of a proposed repeal of rules 16.38.501, 16.38.502 and 16.38.503 and the adoption of new rules 16.38.505 [RULE I], 16.38.506 [RULE II], and 16.38.507 [RULE III], concerning pre-marital serological tests at page 1006 of the 1983 Montana Administrative Register, issue number 15.

2. The department has repealed rules 16.38.501, 16.38.502, and 16.38.503, found at page 16-1865 of the Administrative Rules of Montana. The department has adopted rules 16.38.505, 16.38.506 and 16.38.507 as proposed.

3. No comments or testimony were received.

  
JOHN J. DRYNAN, M.P., Director

Certified to the Secretary of State September 19, 1983

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

IN THE MATTER of Adoption	)	NOTICE OF ADOPTION OF NEW
of New Rules Regarding	)	RULES REGARDING INTRASTATE
Standards and Procedures	)	RAIL RATE PROCEEDINGS AND
for Intrastate Rail Rate	)	REPEAL OF RULES 38.4.101
Regulation.	)	THROUGH 38.4.104

TO: All Interested Persons

1. On March 31, 1983 the Department of Public Service Regulation published notice of a proposed adoption of new rules regarding standards and procedures for regulation of intrastate rail rates and repeal of Rules 38.4.101 through 38.4.104 concerning rail tariff filing at pages 252-271 of the 1983 Montana Administrative Register Issue Number 6.

2. Rules 38.4.101 through 38.4.104 have been repealed.

3. The Commission has adopted the following rules as proposed:

Rule I. 38.4.105 NOTICE PERIOD FOR FILING RAILROAD TARIFFS

Rule II. 38.4.106 CONTENT OF NOTICE

Rule III. 38.4.107 CONSEQUENCE OF DEFECTIVE NOTICE

Rule IV. 38.4.110 COMMENCEMENT OF INVESTIGATION AND SUSPENSION PROCEEDINGS

Rule V. 38.4.111 DURATION OF SUSPENSION PERIOD

Rule VI. 38.4.112 GROUNDS FOR SUSPENSION

Rule VII. 38.4.113 MARKET DOMINANCE

Rule X. 38.4.116 ZONE OF RATE FLEXIBILITY

Rule XI. 38.4.117 MONETARY ADJUSTMENTS FOR SUSPENSION ACTIONS

Rule XIII. 38.4.119 REFUND OR COLLECTION OF FREIGHT CHARGES

Rule XIV. 38.4.120 WAIVER OF MONIES DUE TO RAILROAD

Rule XV. 38.4.125 INTRAMODAL COMPETITION

Rule XVI. 38.4.126 INTERMODAL COMPETITION

Rule XVII. 38.4.127 GEOGRAPHIC COMPETITION

Rule XVIII. 38.4.128 PRODUCT COMPETITION

Rule XIX. 38.4.132 ZONE OF RATE FLEXIBILITY

Rule XX. 38.4.133 MARKET DOMINANCE

Rule XXI. 38.4.134 REASONABLENESS OF RATES

Rule XXII. 38.4.135 BURDEN OF PROOF

Rule XXIII. 38.4.136 NONAPPLICABILITY

Rule XXIV. 38.4.141 CONTRACTS

Rule XXV. 38.4.142 GROUNDS FOR REVIEW OF CONTRACTS

Rule XXVI. 38.4.143 FILING OF COMPLAINTS

Rule XXVII. 38.4.144 COMMISSION DECISION UPON REVIEW OF CONTRACT

Rule XXVIII. 38.4.145 APPROVAL DATE OF CONTRACTS

Rule XXIX. 38.4.146 LIMITATION OF RIGHTS OF A RAIL CARRIER TO ENTER FUTURE CONTRACTS

Rule XXX. 38.4.147 ENFORCEMENT

Rule XXXI. 38.4.148 LIMITATION ON AGRICULTURAL EQUIPMENT  
AND RELIEF

Rule XXXII. 38.4.149 SPECIAL TARIFF RULES FOR CONTRACTS

Rule XXXIII. 38.4.150 CONTRACT TARIFF TITLE PAGE

Rule XXXIV. 38.4.151 CONTRACT TARIFF NUMBERING SYSTEM

Rule XXXVI. 38.4.156 EXEMPTIONS

4. The Commission has adopted the proposed rules with the following changes:

Rule VIII. 38.4.114 REASONABLENESS (1)(a), (b), (c) (Same as proposed)

(2) A rate of nonferrous recyclable material is presumed to be unreasonable when it is set at a revenue to variable cost ratio greater than ~~146 percent~~ that established by the Interstate Commerce Commission pursuant to 49 U.S.C. §10731(e).

Rule IX. 38.4.115 BURDEN OF PROOF (1), (2)(a), (b), (c), (3)(a)(i), (ii), (b)(i), (ii), (iii) (Same as proposed)

(4) A party protesting a rate decrease shall bear the burden of demonstrating that the rate does not contribute to the going concern value of the railroad, and is therefore unreasonably low. A party may meet its burden by making a showing that the rate is less than the directly variable cost for the transportation to which the rate applies.

Rule XII. 38.4.118 FILING PROCEDURES (1), (2), (3)(a), (b) (Same as proposed)

(4) A protest against and a request for suspension of a tariff filed by a railroad or its publishing agent shall be received by the Commission and the railroad or its publishing agent at least:

(a), (b), (5), (6)(a), (b), (7), (8) (Same as proposed)

Rule XXXV. 38.4.152 CONTRACT TARIFF CONTENT (1)(a), (b), (c), (d), (e) (Same as proposed)

(f) The number of cars, by major car type, owned or leased by the carrier(s) listed in (a) above, or the number of car days, by major car type, used in or dedicated to providing the transportation covered by the contract or by options to the contract. Also, the maximum number of cars to be used during any single (peak) month shall be specified. In addition, if the commodity identified is an agricultural commodity then the participating rail carrier(s) shall certify:

(i), (ii), (g), (h), (i) (Same as proposed)

5. Comments: No comments were received regarding Rules I through VII, X, XI, XIII through XXXIV and XXXVI, and they are adopted as proposed.

Rule VIII. Burlington Northern Railroad and Union Pacific Railroad stated that Rule VIII(2) should be amended to replace the fixed 146 percent standard with a flexible ceiling more consistent with 49 U.S.C. §10731(e). In addition, they contended that variable cost ratios should be averaged rather than viewed on a case-by-case basis. The Commission agrees that Federal standards contemplate a variable ceiling consistent with a required ICC determination. To avoid the necessity of

future rule changes to adopt these determinations, Rule VIII(2) is changed to reflect the flexible ceiling. The Commission, however, reads 49 U.S.C. §10731(e) as requiring each rate to be viewed on an individual basis.

Rule IX. Montana Power commented that Rule IX(c) should require the railroad to bear the burden of proof in all cases, since the railroad is uniquely in possession of all data upon which the threshold and rate determinations are made. Since there is no Rule IX(c), the Commission believes that reference is made to Rule IX(2)(c), the only "c" designation in that rule. Once a railroad identifies product or geographic competition for transportation of a product, it is reasonable that the protestant then be required to show why that competition is not effective. This involves relating the asserted competition to the protestant's circumstances, and would typically require information within the protestant's possession. The comment, therefore, was not adopted.

Burlington Northern Railroad and Union Pacific Railroad request that the word "directly" be inserted before "variable cost" in Rule IX(4) to ensure conformity with Federal standards. This is the required Federal standard, and the Commission will adopt the proposed language change in order to clarify the rule.

Rule XII. Burlington Northern Railroad and Union Pacific Railroad request that, in view of time constraints, a method for service of a protest upon a railroad be specified. The Commission agrees that this would help expedite proceedings under strict time requirements, and Rule XII does now contain such service requirements.

Rule XXXV. Burlington Northern Railroad and Union Pacific Railroad request the option of specifying either the number of cars by car type dedicated to the contract service, or the car days by major car type. This change would not affect the Commission's regulatory duties, and would conform to existing Federal requirements. Rule XXV(f) is, therefore, amended to provide this option.

  
THOMAS J. SCHNEIDER, Chairman

CERTIFIED TO THE SECRETARY OF STATE SEPTEMBER 19, 1983.



BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

IN THE MATTER OF THE	)	NOTICE OF AMENDMENT of Rule
AMENDMENT of Rule 42.15.425	)	42.15.425 relating to con-
relating to conformance to	)	formance to federal filing
federal filing status re-	)	status required in certain
quired in certain cases.	)	cases.

TO: All Interested Persons:

1. On August 11, 1983, the Department of Revenue published notice of the proposed amendment of rule 42.15.425 relating to conformance to federal filing status required in certain cases at pages 1035 and 1036 of the 1983 Administrative Register, issue number 15.

2. The Department has amended rule 42.15.425 as proposed.

3. No comments or testimony were received.

4. The authority for the rule is §15-30-305, MCA, and the rule implement §15-30-111, MCA.

IN THE MATTER OF THE	)	NOTICE OF AMENDMENT of Rule
AMENDMENT of Rule 42.16.1113	)	42.16.1113 relating to taxa-
relating to taxation of	)	tion of intangible personal
intangible personal property	)	property (interest income).
(interest income).	)	

TO: All Interested Persons:

1. On August 11, 1983, the Department of Revenue published notice of the proposed amendment of rule 42.16.1113 relating to the taxation of intangible personal property (interest income) at pages 1029 and 1030 of the 1983 Montana Administrative Register, issue number 15.

2. The Department has amended rules 42.16.1113 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 42.22.1215	)	42.22.1215 relating to
relating to deductions for	)	deductions for drilling costs
drilling costs and capital	)	and capital expenditures.
expenditures.	)	

TO: All Interested Persons:

1. On August 11, 1983, the Department of Revenue published notice of the proposed amendment of rule 42.22.1215 relating to deductions for drilling costs and capital expenditures at pages 1031 and 1032 of the 1983 Administrative Register, issue number 15.

2. The Department has amended rule 42.22.1215 as proposed.
3. No comments or testimony were received.
4. The authority for the rule is §15-23-108, MCA, and the rule implements §15-23-604, MCA.

IN THE MATTER OF THE	)	NOTICE OF AMENDMENT of Rules
AMENDMENT of Rules 42.24.101	)	42.24.101, 42.24.103,
42.24.103, 42.24.104,	)	42.24.104, 42.24.107, and
42.24.107, and 42.24.108, and	)	42.24.108, and the REPEAL of
the REPEAL of rules 42.24.105)	)	rules 42.24.105 and 42.24.106
and 42.24.106 relating to	)	relating to small business
small business corporation	)	corporation elections.
elections.	)	

TO: All Interested Persons:

1. On August 11, 1983, the Department of Revenue published notice of the proposed amendment of rules 42.24.101, 42.24.103, 42.24.104, 42.24.107, and 42.24.108, and the repeal of 42.24.105 and 42.24.106 relating to small business corporation elections at pages 1025 to 1028 of the 1983 Administrative Register, issue number 15.
2. The Department has amended rules 42.24.101, 42.24.103, 42.24.104, 42.24.107, and 42.24.108, and repealed rules 42.24.105 and 42.24.106 as proposed.
3. No comments or testimony were received.
4. The authority for the rules is §15-31-501, MCA, and the rules implement §§15-31-201, 15-31-202, and 15-31-209, MCA.

IN THE MATTER OF THE	)	NOTICE OF ADOPTION of Rule
ADOPTION of Rule I	)	I (42.15.306) relating to
(42.15.306) relating to Sub	)	Sub S Corporation and
S Corporation and partnership)	)	partnership losses.
losses.	)	

TO: All Interested Persons:

1. On August 11, 1983, the Department of Revenue published notice of the proposed adoption of rule I (42.15.306) relating to Sub S Corporation and partnership losses at pages 1037 and 1038 of the 1983 Montana Administrative Register, issue number 15.
2. The Department has adopted rule I (42.15.306) as proposed.
3. No comments or testimony were received.
4. The authority for the rule is §15-30-305, MCA, and the rule implements §§15-30-133, and 15-31-101, MCA.

IN THE MATTER OF THE	)	NOTICE OF ADOPTION of Rule
ADOPTION of Rule I	)	I (42.15.413) relating to
(42.15.413) relating to non-	)	nonresident deductions for
resident deductions for	)	Keogh and I.R.A. plans.

Keogh and I.R.A. plans. )

TO: All Interested Persons:

1. On August 11, 1983, the Department of Revenue published notice of the proposed adoption of rule I (42.15.413) relating to nonresident deductions for Keogh and I.R.A. plans at pages 1033 and 1034 of the 1983 Montana Administrative Register, issue number 15.

2. The Department has adopted rule I (42.15.413) 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 ADOPTION of Rules
ADOPTION of Rules I and II	)	I and II (42.22.1205 and
(42.22.1205 and 42.22.1206)	)	42.22.1206 relating to a 3-
relating to a 3-year exemp-	)	year exemption of natural
tion of natural gas from	)	gas from severance tax and
severance tax and one-half	)	one-half of the tax on net
of the tax on net proceeds.	)	proceeds.

TO: All Interested Persons:

1. On August 11, 1983, the Department of Revenue published notice of the proposed adoption of rules I and II (42.22.1205 and 42.22.1206) relating to a 3-year exemption of natural gas from severance tax and one-half of the tax on net proceeds at pages 1041 and 1042 of the 1983 Administrative Register, issue number 15.

2. The Department has adopted rules I and II (42.22.1205 and 42.22.1206) as proposed.

3. One telephone call concerning the proposed rules was received. Mr. Mike Zimmerman, representing the Montana Power Company, called to inquire whether any interested parties had requested a public hearing. No other parties have requested a hearing and Mr. Zimmerman said that he had no problems with the proposed rules and felt that they properly implemented the statutes as written. No other comments or testimony were received.

4. The authority for the rules is §§15-1-201 and 15-23-106, MCA, and the rules implement §§15-23-612 and 15-36-121, MCA.

*Ellen Feaver*  
ELLEN FEAVER,  
Director of Revenue

Certified to Secretary of State 09/19/83

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amend- )	NOTICE OF AMENDMENT OF RULE -
ment of rule pertaining to )	44.5.101 Fees for Filing
fees for filing documents )	Documents and Issuing Certifi-
and issuing certificates. )	cates (Business Corporations)

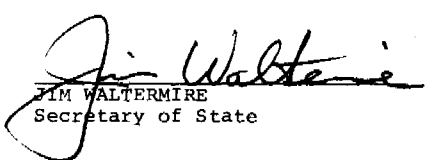
TO: All Interested Persons.

1. On August 11, 1983, the Secretary of State published notice of a proposed amendment to a rule pertaining to fees for filing documents and issuing certificates for business corporations, at page 1052 of the 1983 Montana Administrative Register, issue number 15.

2. The Secretary of State has amended the rule as proposed.

3. Letters were received from the Law Offices of Church, Harris, Johnson and Williams, Great Falls, Montana, Law Offices of McNamer, Thompson and Cashmore, Billings, Montana and the D. A. Davidson & Co., all in favor of the proposed changes.

Dated this 19th day of September, 1983.

  
JIM WALTERMIRE  
Secretary of State

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 46.10.510	)	RULE 46.10.510 PERTAINING
pertaining to excluded	)	TO THE AFDC PROGRAM
earned income; AFDC program.	)	

TO: All Interested Persons

1. On August 11, 1983, the Department of Social and Rehabilitation Services published notice of the proposed amendment of Rule 46.10.510 pertaining to excluded earned income; AFDC program at page 1054 of the Montana Administrative Register, issue number 15.

2. The Department has amended the rule as proposed.

3. No written comments or testimony were received.

  
\_\_\_\_\_  
Director, Social and Rehabilitation Services

Certified to the Secretary of State September 19, 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 Rules 46.13.102,	)	RULES 46.13.102, 46.13.205,
46.13.205, 46.13.206,	)	46.13.206, 46.13.207,
46.13.207, 46.13.303,	)	46.13.303, 46.13.304,
46.13.304, 46.13.305,	)	46.13.305, 46.13.401,
46.13.401, 46.13.402 and	)	46.13.402 AND 46.13.404
46.13.404 pertaining to the	)	PERTAINING TO THE LOW
low income energy assistance	)	INCOME ENERGY ASSISTANCE
program	)	PROGRAM

TO: All Interested Persons

1. On August 11, 1983, the Department of Social and Rehabilitation Services published notice of the proposed amendment of Rules 46.13.102, 46.13.205, 46.13.206, 46.13.207, 46.13.303, 46.13.304, 46.13.305, 46.13.401, 46.13.402 and 46.13.404 pertaining to the low income energy assistance program at page 1063 of the Montana Administrative Register, issue number 15.

2. The Department has amended Rules 46.13.102, 46.13.206, 46.13.207, 46.13.303, 46.13.304, 46.13.305 and 46.13.404 as proposed.

3. The Department has amended Rules 46.13.205, 46.13.401 and 46.13.402 as proposed with the following changes:

46.13.205 PROCEDURES FOLLOWED IN PROCESSING APPLICATIONS

(1) Procedures followed in determining eligibility for low income energy assistance are:

(a) Application is filed by applicant together with all necessary verification for determining financial eligibility and benefit award. The staff member of the local contractor accepts the application and determines financial eligibility and amount of benefit. The client is notified of the reasons for approval or disapproval of his application. Eligible applicants shall be notified that benefits are available COMPUTED for heating costs only for the period October 1 through April 30.

(b) Financial eligibility requirements that must be verified are:

- (i) current receipt of benefits under supplemental security income or aid to families with dependent children;
- (ii) income;
- (iii) medical/dental deductions;
- (iv) lack of tax dependency status for individuals enrolled at least half time in an institution of higher education.

~~(e)---Benefit-award-requirement-which-must-be-verified-is any-credit-balance-with-previous-fiscal-year's-fuel-vendor(s), if-applicable.~~

(4c) If reasonable doubt exists as to the accuracy of the information provided by the client, the type of dwelling, including the number of bedrooms and/or the primary heating fuel/vendor must also be verified.

46.13.401 BENEFIT AWARD MATRICES (1) Definitions:

(a) LC means local contractor.  
(b) MPC means Montana Power Company.  
(c) MDU means Montana-Dakota Utilities.  
(d) GFG means Great Falls Gas Company.  
(e) Single family unit means a building which contains a single shelter or rental unit for living purposes. For purposes of the program, a double wide trailer or mobile home is considered a single family unit.

(f) Multi-family unit means a building which contains two or more shelter or rental units for living purposes. For purposes of the program, a duplex and a home with a basement apartment are considered multi-family units.

(g) Mobile home means a single wide trailer or mobile home only.

(2) The benefit award matrices which follow establish the maximum benefit available to an eligible household for a full winter heating season (October thru April). The maximum benefit varies by type of primary heating fuel and in certain cases by vendor, the type of dwelling (single family unit, multi-family unit, mobile home), and the number of bedrooms in a shelter or rental unit. The maximum benefit also varies by local contractor districts to account for weather differences across the state.

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICTS I, II & III

Phillips, Valley, Daniels, Sheridan, Roosevelt, Garfield,  
McCone, Richland, Dawson, Prairie, Wibaux, Rosebud,  
Treasure, Custer, Fallon, Powder River and Carter Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family Unit	Multi- Family Unit	Mobile Home	Single Family Unit	Multi- Family Unit	Mobile Home
Natural Gas	303	196	258	386	270	328
	<del>276</del>	<del>178</del>	<del>235</del>	<del>352</del>	<del>227</del>	<del>299</del>
Fuel Oil	703	492	597	859	601	730
	<del>825</del>	<del>577</del>	<del>701</del>	<del>1000</del>	<del>706</del>	<del>857</del>
Propane	628	440	534	768	537	652
	<del>641</del>	<del>448</del>	<del>544</del>	<del>783</del>	<del>548</del>	<del>665</del>
Electricity	552	387	469	675	472	574
R.E.A.	<del>378</del>	<del>264</del>	<del>321</del>	<del>462</del>	<del>323</del>	<del>393</del>
Electricity	844	591	717	1031	722	877
M.D.U.	<del>716</del>	<del>502</del>	<del>609</del>	<del>875</del>	<del>613</del>	<del>744</del>
Electricity						
Sidney R.E.A.	70	70	70	70	70	70
<hr/>						
	3/195	3/195	3/195	4/245	4/245	4/245
	<del>242</del>	<del>170</del>	<del>206</del>	<del>303</del>	<del>212</del>	<del>250</del>
* Coal (TONS)	<del>198</del>	<del>149</del>	<del>160</del>	<del>248</del>	<del>190</del>	<del>210</del>
	3/195	3/195	3/195	4/245	4/245	4/245
	<del>197</del>	<del>130</del>	<del>167</del>	<del>263</del>	<del>184</del>	<del>223</del>
* Wood (CORDS)	<del>215</del>	<del>143</del>	<del>183</del>	<del>286</del>	<del>215</del>	<del>243</del>



Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
	529	370	449	594	416	505
Natural Gas	<del>408</del>	<del>267</del>	<del>347</del>	<del>465</del>	<del>306</del>	<del>395</del>
	968	678	823	1084	759	921
Fuel Oil	<del>1146</del>	<del>803</del>	<del>974</del>	<del>1203</del>	<del>899</del>	<del>1091</del>
	1020	714	867	1142	799	971
Propane	<del>890</del>	<del>623</del>	<del>756</del>	<del>996</del>	<del>697</del>	<del>847</del>
Electricity	767	537	652	859	601	730
R.E.A.	<del>525</del>	<del>367</del>	<del>446</del>	<del>588</del>	<del>412</del>	<del>500</del>
Electricity	1172	820	996	1313	919	1116
M.D.U.	<del>995</del>	<del>696</del>	<del>846</del>	<del>1114</del>	<del>780</del>	<del>947</del>
Electricity						
Sidney R.E.A.	70	70	70	70	70	70
<hr/>						
	5/325	5/325	5/325	6/390	6/390	6/390
	364	255	309	424	297	361
* Coal (TONS)	<del>297</del>	<del>248</del>	<del>252</del>	<del>347</del>	<del>297</del>	<del>295</del>
	5/325	5/325	5/325	6/390	6/390	6/390
	328	230	279	394	276	335
* Wood (CORDS)	<del>358</del>	<del>286</del>	<del>304</del>	<del>429</del>	<del>358</del>	<del>365</del>

\* = VALUE OF COAL/WOOD MAY NOT EXCEED DOLLAR VALUE INDICATED

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT IV

Liberty, Hill and Blaine Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
Natural Gas	342 <del>333</del>	221 <del>214</del>	290 <del>283</del>	434 <del>424</del>	304 <del>274</del>	369 <del>360</del>
Fuel Oil	745 <del>848</del>	521 <del>585</del>	633 <del>714</del>	910 <del>1027</del>	637 <del>719</del>	774 <del>873</del>
Propane	738 <del>653</del>	516 <del>457</del>	627 <del>555</del>	902 <del>798</del>	631 <del>558</del>	766 <del>678</del>
Electricity	591 <del>385</del>	413 <del>269</del>	502 <del>327</del>	722 <del>478</del>	505 <del>329</del>	614 <del>400</del>
	3/195	3/195	3/195	4/245	4/245	4/245
* Coal (TONS)	259 <del>198</del>	181 <del>149</del>	220 <del>168</del>	324 <del>248</del>	227 <del>198</del>	275 <del>210</del>
	3/195	3/195	3/195	4/245	4/245	4/245
* Wood (CORDS)	211 <del>215</del>	147 <del>143</del>	179 <del>183</del>	281 <del>286</del>	197 <del>215</del>	239 <del>243</del>

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
Natural Gas	504 <del>492</del>	353 <del>321</del>	428 <del>410</del>	573 <del>560</del>	401 <del>369</del>	487 <del>476</del>
Fuel Oil	1035 <del>1160</del>	725 <del>817</del>	880 <del>993</del>	1159 <del>1300</del>	811 <del>915</del>	985 <del>1112</del>
Propane	1025 <del>986</del>	717 <del>635</del>	871 <del>776</del>	1148 <del>1015</del>	803 <del>718</del>	975 <del>863</del>
Electricity	820 <del>535</del>	574 <del>374</del>	697 <del>455</del>	919 <del>600</del>	643 <del>420</del>	781 <del>510</del>
	5/325	5/325	5/325	6/390	6/390	6/390
* Coal (TONS)	389 <del>297</del>	272 <del>248</del>	330 <del>252</del>	454 <del>347</del>	318 <del>297</del>	386 <del>295</del>
	5/325	5/325	5/325	6/390	6/390	6/390
* Wood (CORDS)	351 <del>358</del>	246 <del>286</del>	298 <del>304</del>	421 <del>429</del>	295 <del>358</del>	358 <del>365</del>

\* VALUE OF COAL/WOOD MAY NOT EXCEED DOLLAR VALUE INDICATED

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT V

Glacier, Toole, Pondera, Teton,  
Chouteau and Cascade Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family	Multi-Family	Mobile	Single Family	Multi-Family	Mobile
	Unit	Unit	Home	Unit	Unit	Home
Natural Gas	353	247	300	447	313	380
G.F.G.	325	210	277	414	268	352
Natural Gas	305	213	259	387	271	329
M.P.C.	297	191	252	378	264	321
	670	469	570	819	573	696
Fuel Oil	737	516	627	901	631	766
	599	419	509	732	512	622
Propane	565	396	480	690	483	587
	527	369	448	644	451	547
Electricity	343	240	292	419	294	357
	3/195	3/195	3/195	4/245	4/245	4/245
	231	162	196	289	202	246
* Coal (TONS)	198	149	168	248	198	210
	3/195	3/195	3/195	4/245	4/245	4/245
	188	131	160	250	175	213
* Wood (CORDS)	215	143	183	288	215	243

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family	Multi-Family	Mobile	Single Family	Multi-Family	Mobile
	Unit	Unit	Home	Unit	Unit	Home
Natural Gas	517	362	439	587	411	499
G.F.G.	481	314	409	547	361	465
Natural Gas	449	314	382	511	358	435
M.P.C.	441	309	375	499	349	424
	923	646	785	1034	723	878
Fuel Oil	1024	717	871	1147	803	975
	972	681	826	1089	762	926
Propane	785	549	667	879	615	747
	731	512	622	819	573	696
Electricity	477	334	405	534	374	454
	5/325	5/325	5/325	6/390	6/390	6/390
	347	243	295	484	283	344
* Coal (TONS)	297	248	252	347	297	295
	5/325	5/325	5/325	6/390	6/390	6/390
	313	219	266	376	263	319
* Wood (CORDS)	356	286	384	429	358	365

\* VALUE OF COAL/WOOD MAY NOT EXCEED DOLLAR VALUE INDICATED

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT VI

Fergus, Judith Basin, Petroleum, Wheatland,  
Golden Valley and Musselshell Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
	305	197	259	387	271	329
Natural Gas	<del>297</del> 646	<del>191</del> 452	<del>252</del> 549	<del>377</del> 789	<del>244</del> 552	<del>321</del> 671
Fuel Oil	<del>743</del> 649	<del>520</del> 455	<del>632</del> 552	<del>900</del> 794	<del>636</del> 556	<del>772</del> 675
Propane	<del>548</del> 527	<del>348</del> 369	<del>466</del> 448	<del>670</del> 644	<del>469</del> 451	<del>570</del> 547
Electricity	<del>343</del> 3/195	<del>240</del> 3/195	<del>292</del> 3/195	<del>419</del> 4/245	<del>294</del> 4/245	<del>357</del> 4/245
	<del>231</del> 231	<del>162</del> 162	<del>196</del> 196	<del>209</del> 209	<del>202</del> 202	<del>246</del> 246
* Coal (TONS)	<del>198</del> 3/195	<del>149</del> 3/195	<del>160</del> 3/195	<del>240</del> 4/245	<del>190</del> 4/245	<del>210</del> 4/245
	<del>100</del> 100	<del>134</del> 134	<del>160</del> 160	<del>250</del> 250	<del>175</del> 175	<del>213</del> 213
* Wood (CORDS)	<del>215</del> 215	<del>143</del> 143	<del>103</del> 103	<del>206</del> 206	<del>215</del> 215	<del>243</del> 243

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
	449	314	382	511	358	435
Natural Gas	<del>430</del> 898	<del>206</del> 628	<del>373</del> 763	<del>499</del> 1005	<del>329</del> 704	<del>424</del> 854
Fuel Oil	<del>1033</del> 902	<del>723</del> 631	<del>870</del> 767	<del>1157</del> 1010	<del>810</del> 707	<del>903</del> 859
Propane	<del>761</del> 731	<del>533</del> 512	<del>647</del> 622	<del>853</del> 819	<del>597</del> 573	<del>725</del> 696
Electricity	<del>477</del> 5/325	<del>334</del> 5/325	<del>405</del> 5/325	<del>534</del> 6/390	<del>374</del> 6/390	<del>454</del> 6/390
	<del>347</del> 347	<del>243</del> 243	<del>295</del> 295	<del>404</del> 404	<del>263</del> 263	<del>344</del> 344
* Coal (TONS)	<del>297</del> 5/325	<del>240</del> 5/325	<del>252</del> 5/325	<del>347</del> 6/390	<del>297</del> 6/390	<del>205</del> 6/390
	<del>319</del> 319	<del>219</del> 219	<del>266</del> 266	<del>376</del> 376	<del>263</del> 263	<del>319</del> 319
* Wood (CORDS)	<del>350</del> 350	<del>266</del> 266	<del>304</del> 304	<del>429</del> 429	<del>350</del> 350	<del>365</del> 365

\* VALUE OF COAL/WOOD MAY NOT EXCEED DOLLAR VALUE INDICATED

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT VII

Sweetgrass, Stillwater, Carbon,  
Yellowstone and Big Horn Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single	Multi-	Mobile	Single	Multi-	Mobile
	Family	Family		Family	Family	
	Unit	Unit	Home	Unit	Unit	Home
Natural Gas	264	185	225	337	236	286
M.D.U.	229	148	195	292	189	248
Natural Gas	278	195	237	354	248	301
M.P.C.	279	196	237	356	250	303
	590	413	502	721	505	613
Fuel Oil	668	468	568	816	571	694
	601	421	511	735	514	625
Propane	516	361	439	631	442	536
	735	515	625	899	629	764
Electricity	314	220	267	383	268	326
	3/195	3/195	3/195	4/245	4/245	4/245
	211	148	188	264	185	224
* Coal (TONS)	198	149	168	248	198	218
	3/195	3/195	3/195	4/245	4/245	4/245
	172	128	146	229	168	194
* Wood (CORDS)	215	143	183	286	215	243

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single	Multi-	Mobile	Single	Multi-	Mobile
	Family	Family		Family	Family	
	Unit	Unit	Home	Unit	Unit	Home
Natural Gas	391	273	332	445	311	378
M.D.U.	339	221	288	386	254	328
Natural Gas	411	287	349	467	327	397
M.P.C.	414	289	352	472	363	401
	820	574	697	918	643	781
Fuel Oil	929	658	789	1039	728	884
	824	577	701	923	646	785
Propane	717	502	610	803	562	683
	668	468	568	749	524	636
Electricity	436	365	370	488	341	415
	5/325	5/325	5/325	6/390	6/390	6/390
	317	222	269	378	259	314
* Coal (TONS)	297	248	252	347	297	295
	5/325	5/325	5/325	6/390	6/390	6/390
	286	208	243	343	248	292
* Wood (CORDS)	358	286	384	429	358	365

\* VALUE OF COAL/WOOD MAY NOT EXCEED DOLLAR VALUE INDICATED

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT VIII

Lewis & Clark, Jefferson and  
Broadwater Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family	Multi-Family	Mobile	Single Family	Multi-Family	Mobile
	Unit	Unit	Home	Unit	Unit	Home
	319	206	272	406	284	345
Natural Gas	311	212	264	396	256	337
	690	483	587	843	590	717
Fuel Oil	760	532	646	929	650	790
	681	477	579	832	583	708
Propane	620	440	534	768	537	652
	552	387	469	675	472	574
Electricity	360	252	306	440	308	374
	3/195	3/195	3/195	4/245	4/245	4/245
	242	170	206	303	212	258
* Coal (TONS)	198	149	168	240	198	210
	3/195	3/195	3/195	4/245	4/245	4/245
	197	138	167	263	184	223
* Wood (CORDS)	215	143	183	286	215	243

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family	Multi-Family	Mobile	Single Family	Multi-Family	Mobile
	Unit	Unit	Home	Unit	Unit	Home
	471	330	400	536	375	456
Natural Gas	460	301	391	523	345	445
	941	659	800	1054	738	896
Fuel Oil	1056	740	898	1183	828	1006
	946	662	804	1059	742	901
Propane	872	611	741	977	684	830
	767	537	652	859	601	730
Electricity	500	350	425	560	392	476
	5/325	5/325	5/325	6/390	6/390	6/390
	364	255	309	424	297	361
* Coal (TONS)	297	248	252	347	297	295
	5/325	5/325	5/325	6/390	6/390	6/390
	328	230	279	394	276	335
* Wood (CORDS)	350	206	304	429	358	365

\* VALUE OF COAL/WOOD MAY NOT EXCEED DOLLAR VALUE INDICATED

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT IX

Meagher, Gallatin and Park Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
Natural Gas	322 <del>313</del>	208 <del>202</del>	274 <del>267</del>	409 <del>399</del>	287 <del>258</del>	348 <del>339</del>
Fuel Oil	702 <del>702</del>	491 <del>555</del>	597 <del>673</del>	858 <del>968</del>	600 <del>678</del>	729 <del>823</del>
Propane	669 <del>669</del>	468 <del>468</del>	568 <del>568</del>	817 <del>817</del>	572 <del>572</del>	695 <del>695</del>
Electricity	557 <del>363</del>	390 <del>254</del>	473 <del>308</del>	680 <del>443</del>	476 <del>316</del>	578 <del>377</del>
	3/195 <del>244</del>	3/195 <del>171</del>	3/195 <del>208</del>	4/245 <del>305</del>	4/245 <del>214</del>	4/245 <del>260</del>
* Coal (TONS)	198 <del>198</del>	149 <del>149</del>	168 <del>168</del>	248 <del>248</del>	198 <del>198</del>	210 <del>210</del>
	3/195 <del>199</del>	3/195 <del>139</del>	3/195 <del>169</del>	4/245 <del>265</del>	4/245 <del>185</del>	4/245 <del>225</del>
* Wood (CORDS)	215 <del>215</del>	143 <del>143</del>	183 <del>183</del>	286 <del>286</del>	215 <del>215</del>	243 <del>243</del>

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
Natural Gas	475 <del>463</del>	332 <del>303</del>	404 <del>394</del>	540 <del>528</del>	378 <del>348</del>	459 <del>448</del>
Fuel Oil	976 <del>1101</del>	683 <del>771</del>	829 <del>936</del>	1093 <del>1233</del>	765 <del>863</del>	929 <del>1048</del>
Propane	929 <del>929</del>	650 <del>650</del>	789 <del>789</del>	1040 <del>1040</del>	728 <del>728</del>	884 <del>884</del>
Electricity	773 <del>504</del>	541 <del>353</del>	657 <del>428</del>	866 <del>564</del>	606 <del>395</del>	736 <del>488</del>
	5/325 <del>366</del>	5/325 <del>257</del>	5/325 <del>312</del>	6/390 <del>428</del>	6/390 <del>299</del>	6/390 <del>363</del>
* Coal (TONS)	297 <del>297</del>	248 <del>248</del>	252 <del>252</del>	347 <del>347</del>	297 <del>297</del>	295 <del>295</del>
	5/325 <del>331</del>	5/325 <del>232</del>	5/325 <del>281</del>	6/390 <del>397</del>	6/390 <del>278</del>	6/390 <del>337</del>
* Wood (CORDS)	358 <del>358</del>	286 <del>286</del>	384 <del>384</del>	429 <del>429</del>	358 <del>358</del>	365 <del>365</del>

\* VALUE OF COAL/WOOD MAY NOT EXCEED DOLLAR VALUE INDICATED

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT X

Lincoln, Flathead, Lake  
and Sanders Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family Unit	Multi- Family Unit	Mobile Home	Single Family Unit	Multi- Family Unit	Mobile Home
Natural Gas	322 <del>314</del> 715	208 <del>200</del> 500	274 <del>267</del> 608	409 <del>399</del> 874	287 <del>256</del> 612	348 <del>339</del> 743
Fuel Oil	<del>773</del> 731	<del>537</del> 512	<del>657</del> 621	<del>944</del> 894	<del>656</del> 625	<del>803</del> 759
Propane	<del>615</del>	<del>427</del>	<del>523</del>	<del>752</del>	<del>522</del>	<del>639</del>
Electricity	557	390	473	680	476	578
M.P.C.	<del>425</del>	<del>254</del>	<del>362</del>	<del>520</del>	<del>331</del>	<del>442</del>
Electricity P.P.L.	645	451	548	788	551	670
<hr/>						
	3/195	3/195	3/195	4/245	4/245	4/245
	<del>244</del>	<del>171</del>	<del>200</del>	<del>305</del>	<del>214</del>	<del>260</del>
* Coal (TONS)	<del>190</del>	<del>149</del>	<del>160</del>	<del>248</del>	<del>198</del>	<del>210</del>
	3/195	3/195	3/195	4/245	4/245	4/245
	<del>199</del>	<del>139</del>	<del>169</del>	<del>265</del>	<del>105</del>	<del>225</del>
* Wood (CORDS)	<del>215</del>	<del>149</del>	<del>103</del>	<del>206</del>	<del>215</del>	<del>243</del>
<hr/>						
Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family Unit	Multi- Family Unit	Mobile Home	Single Family Unit	Multi- Family Unit	Mobile Home
Natural Gas	475 <del>463</del> 994	332 <del>301</del> 696	404 <del>394</del> 845	540 <del>520</del> 1113	378 <del>345</del> 779	459 <del>448</del> 946
Fuel Oil	<del>1074</del> 1015	<del>746</del> 711	<del>913</del> 863	<del>1203</del> 1137	<del>835</del> 796	<del>1022</del> 967
Propane	<del>854</del>	<del>593</del>	<del>726</del>	<del>957</del>	<del>665</del>	<del>813</del>
Electricity	773	541	657	866	606	736
M.P.C.	<del>591</del>	<del>414</del>	<del>502</del>	<del>663</del>	<del>464</del>	<del>562</del>
Electricity P.P.L.	895	627	761	1002	702	852
<hr/>						
	5/325	5/325	5/325	6/390	6/390	6/390
	<del>366</del>	<del>257</del>	<del>312</del>	<del>428</del>	<del>299</del>	<del>363</del>
* Coal (TONS)	<del>297</del>	<del>240</del>	<del>252</del>	<del>347</del>	<del>297</del>	<del>295</del>
	5/325	5/325	5/325	6/390	6/390	6/390
	<del>331</del>	<del>232</del>	<del>281</del>	<del>397</del>	<del>270</del>	<del>337</del>
* Wood (CORDS)	<del>350</del>	<del>206</del>	<del>304</del>	<del>429</del>	<del>350</del>	<del>365</del>

\* VALUE OF COAL/WOOD MAY NOT EXCEED DOLLAR VALUE INDICATED



MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT XI

Mineral, Missoula and Ravalli Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
Natural Gas	319 <del>311</del>	206 <del>200</del>	272 <del>264</del>	406 <del>396</del>	284 <del>256</del>	345 <del>337</del>
Fuel Oil	697 <del>700</del>	488 <del>546</del>	592 <del>663</del>	851 <del>953</del>	596 <del>667</del>	723 <del>810</del>
Propane	690 <del>601</del>	483 <del>421</del>	586 <del>511</del>	843 <del>735</del>	590 <del>515</del>	717 <del>625</del>
Electricity	552 <del>360</del>	387 <del>252</del>	469 <del>306</del>	675 <del>440</del>	472 <del>300</del>	574 <del>374</del>
	3/195	3/195	3/195	4/245	4/245	4/245
* Coal (TONS)	<del>242</del> <del>198</del>	<del>170</del> <del>149</del>	<del>206</del> <del>168</del>	<del>303</del> <del>248</del>	<del>212</del> <del>190</del>	<del>258</del> <del>210</del>
	3/195	3/195	3/195	4/245	4/245	4/245
* Wood (CORDS)	<del>197</del> <del>215</del>	<del>138</del> <del>143</del>	<del>167</del> <del>183</del>	<del>263</del> <del>286</del>	<del>184</del> <del>215</del>	<del>223</del> <del>243</del>

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
Natural Gas	471 <del>450</del>	330 <del>301</del>	400 <del>391</del>	536 <del>523</del>	375 <del>345</del>	456 <del>445</del>
Fuel Oil	968 <del>1009</del>	678 <del>758</del>	823 <del>921</del>	1084 <del>1213</del>	759 <del>849</del>	921 <del>1031</del>
Propane	958 <del>835</del>	671 <del>585</del>	815 <del>710</del>	1073 <del>936</del>	751 <del>655</del>	912 <del>795</del>
Electricity	767 <del>500</del>	537 <del>350</del>	652 <del>425</del>	859 <del>560</del>	601 <del>392</del>	730 <del>476</del>
	5/325	5/325	5/325	6/390	6/390	6/390
* Coal (TONS)	<del>364</del> <del>297</del>	<del>255</del> <del>240</del>	<del>309</del> <del>252</del>	<del>424</del> <del>347</del>	<del>297</del> <del>297</del>	<del>361</del> <del>295</del>
	5/325	5/325	5/325	6/390	6/390	6/390
* Wood (CORDS)	<del>328</del> <del>350</del>	<del>230</del> <del>266</del>	<del>279</del> <del>304</del>	<del>394</del> <del>429</del>	<del>276</del> <del>350</del>	<del>335</del> <del>365</del>

\* VALUE OF COAL/WOOD MAY NOT EXCEED DOLLAR VALUE INDICATED

MAXIMUM BENEFIT AWARD MATRIX FOR  
LC DISTRICT XII

Powell, Granite, Deer Lodge, Silver Bow,  
Beaverhead and Madison Counties

Type Fuel	1 Bedroom Home			2 Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
	319	206	272	406	284	345
Natural Gas	<del>311</del>	<del>200</del>	<del>264</del>	<del>396</del>	<del>256</del>	<del>337</del>
	697	488	592	851	596	723
Fuel Oil	<del>767</del>	<del>537</del>	<del>652</del>	<del>937</del>	<del>656</del>	<del>796</del>
	734	514	624	897	628	763
Propane	<del>637</del>	<del>446</del>	<del>541</del>	<del>778</del>	<del>545</del>	<del>662</del>
	552	387	469	675	472	574
Electricity	<del>360</del>	<del>252</del>	<del>306</del>	<del>440</del>	<del>308</del>	<del>374</del>
	3/195	3/195	3/195	4/245	4/245	4/245
	<del>242</del>	<del>170</del>	<del>206</del>	<del>303</del>	<del>212</del>	<del>250</del>
* Coal (TONS)	<del>190</del>	<del>149</del>	<del>168</del>	<del>240</del>	<del>190</del>	<del>210</del>
	3/195	3/195	3/195	4/245	4/245	4/245
	<del>197</del>	<del>138</del>	<del>167</del>	<del>263</del>	<del>184</del>	<del>223</del>
* Wood (CORDS)	<del>215</del>	<del>143</del>	<del>183</del>	<del>286</del>	<del>215</del>	<del>243</del>

Type Fuel	3 Bedroom Home			4+ Bedroom Home		
	Single Family Unit	Multi-Family Unit	Mobile Home	Single Family Unit	Multi-Family Unit	Mobile Home
	471	330	400	536	375	456
Natural Gas	<del>460</del>	<del>301</del>	<del>391</del>	<del>523</del>	<del>345</del>	<del>445</del>
	968	678	823	1084	759	921
Fuel Oil	<del>1066</del>	<del>746</del>	<del>906</del>	<del>1193</del>	<del>835</del>	<del>1014</del>
	1020	714	867	1142	799	971
Propane	<del>885</del>	<del>619</del>	<del>752</del>	<del>991</del>	<del>693</del>	<del>842</del>
	767	537	652	859	601	730
Electricity	<del>500</del>	<del>350</del>	<del>425</del>	<del>560</del>	<del>392</del>	<del>476</del>
	5/325	5/325	5/325	6/390	6/390	6/390
	<del>364</del>	<del>255</del>	<del>309</del>	<del>424</del>	<del>297</del>	<del>361</del>
* Coal (TONS)	<del>297</del>	<del>240</del>	<del>252</del>	<del>347</del>	<del>297</del>	<del>295</del>
	5/325	5/325	5/325	6/390	6/390	6/390
	<del>328</del>	<del>230</del>	<del>279</del>	<del>394</del>	<del>276</del>	<del>335</del>
* Wood (CORDS)	<del>350</del>	<del>286</del>	<del>304</del>	<del>429</del>	<del>350</del>	<del>365</del>

\* VALUE OF COAL/WOOD MAY NOT EXCEED DOLLAR VALUE INDICATED

46.13.402 DETERMINING BENEFIT AWARD (1) For applications filed during the period October 1, 1982 1983 through April 30, 1983 1984, households found eligible will receive the full amount of their applicable matrix IF AVAILABLE. ~~for--the--current--program--year---Applications--filed--after--April--30--will--be--treated--as--application--for--the--following--program--year--and--subsequently--subject--to--rules--in--effect--at--that--time.~~

(2) When a household changes residence or type of primary fuel during the heating season, the household may request to have its benefit award recomputed for the new circumstances. The benefit award for the new circumstances will be equal to the benefit award the household would have received had its original application been for the new circumstances minus the used portion of the original benefit award. The unused portion of the original benefit award reverts to the department.

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

COMMENT: The LIEAP program carries over too much of its funding for use in the next year's program.

RESPONSE: The intent of LIEAP is to assist all eligible households to meet their winter home heating needs through the use of a matrix which estimates that need for various house and fuel types and for varying geographic locations. No evidence has been presented that the matrix is substantially low. If the matrix is accurate, and if the program serves all eligible households who apply, there can be no justification for further payments to clients.

Carryover has allowed Montana's program to start on time and to adjust benefit levels upward each year. Within the next 2 years, there may not be sufficient carryover to maintain this procedure unless federal appropriations are increased.

COMMENT: The Butte Community Union has asked that all proposed rule changes are forwarded to them.

RESPONSE: This will be done.

COMMENT: The proposal to take applications year around is not workable and may result in more administrative problems for clients.

RESPONSE: The Department agrees and the proposal has been deleted.

COMMENT: The proposed reduction in the income eligibility period from 12 to 6 months will hurt seasonally employed persons.

RESPONSE: The proposal is to aid persons who have recently lost their employment and have few prospects for immediate re-employment.

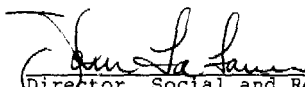
Seasonally employed people can still qualify for assistance by applying during the periods when they need the assistance and are not working.

COMMENT: Why is the business equity level being reduced from \$50,000 to \$25,000?

RESPONSE: It was the feeling of both the LIEAP review committee and the Governor's Advisory Council that persons with \$50,000 business equity, which is the difference between what a business is worth and what it owes, probably had access to more cash than should be necessary to qualify for LIEAP.

COMMENT: For wood and coal users, LIEAP should award benefits by units, e.g. cords or tons, since these fuel sources are not deliverable by specific dollar amounts.

RESPONSE: The Department agrees and the matrices have been so amended.

  
\_\_\_\_\_  
Director, Social and Rehabilitation Services

Certified to the Secretary of State \_\_\_\_\_ September 19\_\_\_\_, 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 Rules 46.14.102,	)	RULES 46.14.102, 46.14.104,
46.14.104, 46.14.201,	)	46.14.201, 46.14.203,
46.14.203, 46.14.204,	)	46.14.204, 46.14.205,
46.14.205, 46.14.206,	)	46.14.206, 46.14.207,
46.14.207, 46.14.303,	)	46.14.303, 46.14.401 AND
46.14.401 and 46.14.402	)	46.14.402 PERTAINING TO THE
pertaining to the low income	)	LOW INCOME WEATHERIZATION
weatherization assistance	)	ASSISTANCE PROGRAM
program.	)	

TO: All Interested Persons

1. On August 11, 1983, the Department of Social and Rehabilitation Services published notice of the proposed amendment of Rules 46.14.102, 46.14.104, 46.14.201, 46.14.203, 46.14.204, 46.14.205, 46.14.206, 46.14.207, 46.14.303, 46.14.401 and 46.14.402 pertaining to the low income weatherization assistance program at page 1055 of the Montana Administrative Register, issue number 15.

2. The Department has amended the rules as proposed.

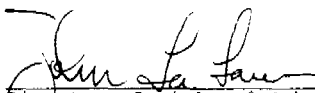
3. The Department has considered all verbal and written commentary.

COMMENT: Equity value of business property should not be lowered from \$50,000 to \$25,000.

RESPONSE: The Department disagrees. The Policy Advisory Committee and LIEAP Advisory Committee unanimously recommended lowering to \$25,000 the equity value for business property.

COMMENT: Social and Rehabilitation Services should be more conscientious in outreach.

RESPONSE: The Program's outreach was substantially more successful than previous year's as evidenced by the program's 17 percent growth. The Program has never received more households than in FY 1983. Since the Program is strictly voluntary, further growth will not be dependent on new outreach techniques.

  
\_\_\_\_\_  
Director, Social and Rehabilitation Services

Certified to the Secretary of State September 19, 1983.

VOLUME NO. 40

OPINION NO. 20

NATURAL RESOURCES - Authority of department to enact regulations under Lakeshores Protection Act limited only by adoption of regulations by local governing body;  
ADMINISTRATIVE PROCEDURE - Statutes directing a public agency to perform an act by a specified date are generally directory and not jurisdictional;  
MONTANA CODE ANNOTATED - Sections 75-7-201, 75-7-207, 75-7-209.

HELD: The Department of Natural Resources has power under section 75-7-209, MCA, to adopt regulations for the issuance or denial of permits for work in lakes. The only limitation on this power is the adoption of regulations by a local governing body as provided in section 75-7-207, MCA.

2 September 1983

Leo Berry, Director  
Department of Natural Resources  
and Conservation  
32 South Ewing  
Helena, Montana 59620

Dear Mr. Berry:

You have requested my opinion on the following question:

Whether the Department of Natural Resources and Conservation has the power under section 75-7-209, MCA, to adopt regulations for the issuance or denial of permits for work in lakes?

Section 75-7-207, MCA, provides: "Before January 1, 1976, every governing body having jurisdiction over an area containing a lake shall adopt regulations...for the issuance or denial of permits for work in lakes."

Section 75-7-209, MCA, provides that upon petition of landowners abutting a lake "the department of natural resources and conservation may adopt regulations under

75-7-207 and 75-7-208 for the particular lake. The department may then exercise the powers conferred upon a local governing body by this part until the governing body adopts the necessary regulations." This section was adopted by the 1975 Montana Legislature and became effective on the date of its final approval, May 1, 1975. (1975 Mont. Laws, ch. 527, § 4.)

The specific issue is whether the grant of power to the department to act in the stead of the local governing body expired on January 1, 1976, the date by which all governing bodies were supposed to have adopted their own regulations. I find no such limitation.

While it is true that the Legislature directed local governing bodies to adopt their own regulations by January 1, 1976, I do not find that the Legislature specifically limited the department's power to act to that date. In fact, it is a common legislative scheme to provide a state agency power to regulate some activity with the proviso that local government may undertake the regulation if it acts affirmatively to do so. The fact that the Legislature specified a date by which local governing bodies should act may serve as the basis for an action in mandate to compel them to do so, but does not of itself limit the power of the department to act beyond that date.

In the factual situation which has given rise to this question, the local governing body has apparently failed to act and the landowners of Seeley Lake have petitioned the department to proceed under the authority of section 75-7-209, MCA. It is not unreasonable to assume that the Legislature was in contemplation of precisely this occurrence.

In discussing whether statutory time provisions are to be construed as mandatory or directory, Sutherland Statutory Construction states:

For the reason that individuals or the public should not be made to suffer from the dereliction of public offices, provisions regulating the duties of public officers and specifying the time for their performance are in that regard generally directory.

§ 57.19, p. 444.

Montana cases cited for this statement are Chicago, M., St. P. & P. R. Co. v. Fallon County, 95 Mont. 568, 28 P.2d 462 (1934), and State v. Zimmerman, 105 Mont. 464, 73 P.2d 548 (1937). A recent Montana district court case (Carey, et al. v. Montana Dept. of Natural Resources and Conservation, First Judicial District, Cause No. 43556, decided June 27, 1979), held that the statutory requirement for the department to hold a hearing on an application under the Water Use Act within 60 days was directory and not jurisdictional.

In matters of statutory construction section 1-2-101, MCA, instructs that "[w]here there are several provisions or particulars, such a construction is, if possible, to be adopted as will give effect to all." It is my view that the power of the department to regulate lakeshore resources was not impliedly repealed by the directive to local governing bodies to adopt regulations by January 1, 1976, and is only limited by the actual adoption of local government regulations as expressly provided in the Act.

To hold otherwise would mean that local governing bodies who failed to enact regulations would frustrate the purposes of the Act. That result seems inconsistent with the policy stated in section 75-7-201, MCA:

The legislature finds and declares that the natural lakes of Montana are high in scenic and resource values and that the conservation and protection of these lakes is important to the continued value of lakeshore property as well as to the state's residents and visitors who use and enjoy the lakes.

That section continues:

The legislature further declares that local governments should play the primary public roles in establishing policies to conserve and protect lakes.... [Emphasis added.]

Thus there is no exclusive reservation of power for local governing bodies to act.

While the Lakeshores Protection Act is not a model of legislative draftsmanship, it seems clear upon a review of the Act as a whole and its stated policy that the

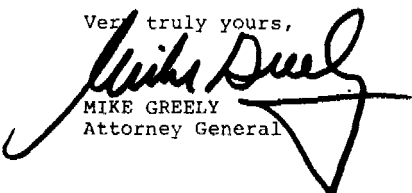


Legislature wanted reasonable governmental regulations for lakeshore protection. It vested that authority primarily in the hands of local government but provided, in the event of their failure to act, that the State could do so.

THEREFORE, IT IS MY OPINION:

The Department of Natural Resources has power under section 75-7-209, MCA, to adopt regulations for the issuance or denial of permits for work in lakes. The only limitation on this power is the adoption of regulations by a local governing body as provided in section 75-7-207, MCA.

Very truly yours,



MIKE GREELY  
Attorney General

VOLUME NO. 40

OPINION NO. 21

EMPLOYMENT SECURITY - Unemployment compensation benefits; recovery of amounts fraudulently obtained; DEPARTMENT OF LABOR AND INDUSTRY - Recovery of fraudulently obtained unemployment compensation benefits; no additional penalty permitted; STATUTES - Construction of inconsistent statutes; MONTANA CODE ANNOTATED - Sections 1-2-102, 17-8-231, 39-51-102, 39-51-3201, Title 39, chapter 51.

- HELD: 1. When a claimant has received unemployment insurance benefits, parts of which may have been obtained fraudulently, the Department of Labor and Industry is limited to recovery of those amounts wrongfully received by the claimant. Additionally, the claimant may be disqualified from receipt of future benefits for up to 52 weeks.
2. The Department of Labor and Industry may not sue a claimant for the additional penalty provided in section 17-8-231, MCA, because section 39-51-3201, MCA, provides a specific remedy for the department in such cases.

7 September 1983

David L. Hunter, Commissioner  
Department of Labor and Industry  
Lockey and Roberts  
Helena, Montana 59620

Dear Mr. Hunter:

You have requested my opinion on the following questions:

1. When a claimant has received unemployment insurance benefits, parts of which may have been obtained fraudulently, may the Department of Labor and Industry sue for

return of the entire amount of benefits received, including those rightfully received, pursuant to section 17-8-231, MCA?

2. If the forfeiture provisions of section 17-8-231, MCA, are not applicable to unemployment insurance benefits, may the Department of Labor and Industry nevertheless sue a claimant for the additional penalty provided in the statute?

Section 17-8-231, MCA, provides:

- (1) A person who knowingly presents or causes to be presented a false, fictitious, or fraudulent claim for allowance or payment to any state agency or its contractors forfeits the claim, including any portion that may be legitimate, and in addition is subject to a penalty of not to exceed \$2,000 plus double the damages sustained by the state as a result of the false claim, including all legal costs.
- (2) The forfeiture and the penalty may be sued for in the same suit. [Emphasis added.]

The statute appears to be broad enough to apply to claims for unemployment insurance benefits submitted to the Department of Labor and Industry. However, Title 39, chapter 51, MCA, specifically deals with the payment and receipt of unemployment benefits.

Section 39-51-102, MCA, expresses the public policy of the State of Montana that persons unemployed through no fault of their own should receive unemployment benefits. The Montana Supreme Court has noted that this stated policy requires that the law should be liberally construed in favor of allowance of benefits. Scott v. Smith, 141 Mont. 230, 376 P.2d 733 (1962). Section 39-51-3201, MCA, provides for an administrative penalty to be imposed against any person who knowingly obtains benefits through misrepresentation, false statements, or failure to disclose a material fact. Such person will be "required to repay to the department, either directly

or...by offset of future benefits to which he may be entitled, or by a combination of both such methods, a sum equal to the amount wrongfully received by him." Section 39-51-3201(2), MCA. Recovery is clearly limited to an amount equal to those benefits "wrongfully received" by the claimant. Additionally, the claimant may be disqualified from receipt of future benefits for up to 52 weeks. § 39-51-3201(1), MCA.

If section 17-8-231, MCA, were construed to permit recovery of all benefits paid to a claimant, it would to that extent be inconsistent with the remedy provided in section 39-51-3201, MCA. Section 17-8-231, MCA, is a general statute creating civil penalties for persons who knowingly submit false or fraudulent claims to State agencies. Section 39-51-3201, MCA, establishes specific penalties to be assessed against persons who knowingly file false or fraudulent claims for unemployment benefits. Where two statutes, one of which deals with a subject in general terms and another in more specific terms, are in apparent conflict, the special statute controls to the extent of any inconsistency. State v. Holt, 121 Mont. 459, 194 P.2d 651 (1948); § 1-2-102, MCA. Therefore, the broader remedy available to State agencies by means of section 17-8-231, MCA, is not available to the Department of Labor and Industry when a claimant knowingly files a false or fraudulent claim for unemployment benefits. Section 39-51-3201, MCA, establishes the sole penalties to be assessed in such cases. This construction of the statutes also answers your second question concerning the additional penalty provided in section 17-8-231, MCA. Under this provision, a State agency can recover an additional penalty of up to \$2,000, plus double the damages sustained by the State, including legal costs. To allow this additional penalty to be imposed against one who wrongfully obtains unemployment benefits would be inconsistent with the specific remedy provided in section 39-51-3201, MCA. Again, the special statute must control.

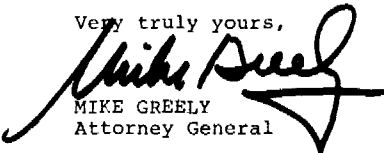
THEREFORE, IT IS MY OPINION:

1. When a claimant has received unemployment insurance benefits, parts of which may have been obtained fraudulently, the Department of Labor and Industry is limited to recovery of those amounts wrongfully received by the claimant. Additionally, the

claimant may be disqualified from receipt of future benefits for up to 52 weeks.

2. The Department of Labor and Industry may not sue a claimant for the additional penalty provided in section 17-8-231, MCA, because section 39-51-3201, MCA, provides a specific remedy for the department in such cases.

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 1 through 46, page 1, Volume 1, ARM, to determine title number of department's or board's rules. |
|                               | 3. Locate volume and title.   |
| Subject Matter and Title      | 4. Refer to topical index, end of title, to locate rule number and catchphrase.   |
| Title Number and Department   | 5. Refer to table of contents, page 1 of title. Locate page number of chapter.  |
| Title Number and Chapter      | 6. Go to table of contents of Chapter, locate rule number by reading catchphrase (short phrase describing the rule.)                          |
| Statute Number and Department | 7. Go to cross reference table at end of each title which lists each MCA section number and corresponding rules.                              |
| Rule In ARM                   | 8. Go to rule. Update by checking the accumulative table and the table of contents for the last register issued.                              |

## ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies which have been designated by the Montana Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 1983. This table includes those rules adopted during the period July 1, 1983 through September 30, 1983, and any proposed rule action that is pending during the past 6 month period. (A notice of adoption must be published within 6 months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through June 30, 1983, this table and the table of contents of this issue of the MAR.

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

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