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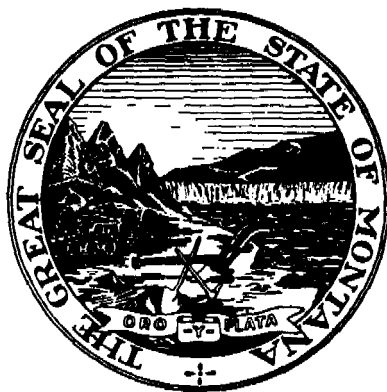
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OF MONTANA

# **MONTANA ADMINISTRATIVE REGISTER**

**1983 ISSUE NO. 23  
DECEMBER 15, 1983  
PAGES 1764-1860**



# **RESERVE**

# MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 23

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 The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing, and where written comments may be submitted.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

In the matter of the proposed	)	NOTICE OF PROPOSED ADOPTION
adoption of a new rule setting	)	OF A NEW RULE SETTING A
a renewal date for licenses for	)	RENEWAL DATE FOR LICENSES FOR
barbers, barber shops, schools	)	BARBERS, BARBER SHOPS,
and apprentices.	)	SCHOOLS AND APPRENTICES

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On January 14, 1984, the Department of Commerce proposes to adopt a new rule setting a renewal date for all barber licenses.

2. The rule as proposed will read as follows:

"1. RENEWALS (1) All licenses shall expire on April 1 of each year."

Auth. 37-1-101 (7), MCA Imp: 37-30-307 (3), 37-30-423, MCA

3. The department is proposing the adoption to comply with the requirements of section 37-1-101 (7), MCA, which allows the Department of Commerce to set the renewal dates for certain of the licensing boards. The Board of Barbers is one such board. The date of April 1, is the date which the department staff, along with the board has determined be set for renewal of all barber licenses. This date will help eliminate the peak periods for license renewals now occurring with the licensing boards.

4. Interested persons may submit their data, views or arguments concerning the proposed adoption in writing to Shirley Miller, Bureau Chief, Department of Commerce, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than January 12, 1984.

5. If a person who is directly affected by the proposed adoption wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any comments he has to Shirley Miller, Bureau Chief, Department of Commerce, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than January 12, 1984.

6. If the board receives requests for a public hearing on the proposed adoption from either 10% or 25, whichever is less, of those persons who are directly affected by the proposed adoption, from the Administrative Code Committee of the legislature, from a governmental agency or subdivision, or from an association having 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. Ten percent of those persons directly affected has been determined to be 110 based on the 1100 licensees in Montana.

DEPARTMENT OF COMMERCE

BY: 

ROBERT WOOD, ATTORNEY

Certified to the Secretary of State, December 5, 1983.

STATE OF MONTANA  
DEPARTMENT OF COMMERCE  
BEFORE THE BOARD OF COSMETOLOGISTS

In the matter of the proposed ) NOTICE OF PROPOSED REPEAL OF  
repeal of 8.14.1002 concerning ) ARM 8.14.1002 APPLICATIONS  
applications for electrolysis. )

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On January 14, 1983, the Board of Cosmetologists proposes to repeal rule 8.14.1002 in its entirety.

2. The rule can be located at page 8-455, Administrative Rules of Montana.

3. On September 15, 1983, the Board of Cosmetologists published a notice of proposed new rules regarding electrolylogy, including a rule IX. entitled Examiners - Student Examinations, at page 1232, issue number 17. It was brought to the board's attention by letter from David Niss of the Administrative Code Committee to the board attorney, that the rule referred to above conflicted with the requirements of rule 8.14.1002. The requirements set forth in the proposed rule IX. of that notice contained standards which the board felt were necessary for a course in electrolylogy training which would best serve the public. Because the proposed rule more adequately contains those standards than rule 8.14.1002, the board is proposing to repeal the current rule at this time. The proposed rule contained in MAR NOTICE 8-14-36, issue 17, will be adopted when rule 8.14.1002 is repealed.

4. Interested persons may submit their data, views or arguments concerning the proposed repeal in writing to the Board of Cosmetologists, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than January 12, 1984.

5. If a person who is directly affected by the proposed repeal wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any comments he has to the Board of Cosmetologists, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than January 12, 1984.

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



-1767-

BOARD OF COSMETOLOGISTS  
JUNE BAKER, PRESIDENT

BY: 

ROBERT WOOD, ATTORNEY  
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, December 5, 1983.

23-12/15/83

MAR Notice No. 8-14-37

STATE OF MONTANA  
DEPARTMENT OF COMMERCE  
BEFORE THE BOARD OF DENTISTRY

In the matter of the proposed ) NOTICE OF PUBLIC HEARING  
adoption of new rules concern- ) ON THE ADOPTION OF A NEW  
ing anesthesia under a new sub- ) SUB-CHAPTER 5, STANDARDS FOR  
chapter 5. ) DENTISTS ADMINISTERING  
 ) ANESTHESIA

TO: All Interested Persons:

1. On January 19, 1984, at 1:00 p.m., a public hearing will be held in room 107, the Department of Highway auditorium, at 2701 Prospect, Helena, Montana, to consider the adoption of new rules concerning standards for dentists administering anesthesia.

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

3. The proposed rules will provide as follows:

"I. PROHIBITION (1) Dentists licensed in this state cannot use general anesthesia, conscious sedation, nitrous-oxide inhalation conscious sedation, or local anesthetic techniques, in the practice of dentistry, until they have met all of the requirements set forth in these rules.

(2) Violation of these rules shall constitute grounds for disciplinary action as provided in 37-4-321, MCA."

Auth: 37-1-131, 37-4-205, MCA Imp: 37-1-131, 37-4-101

(1) (i), MCA

"II. EXEMPTION (1) A dentist who can show evidence of competence and skill in administering anesthesia by virtue of experience and/or comparable alternate training shall be presumed by the dental board to have appropriate credentials for the use of anesthetics. In applying for an exemption status, the dentist must have documented written evidence of his background for the board to evaluate and determine the appropriateness of training and experience."

Auth: 37-1-131, 37-4-205, MCA Imp: 37-1-131, 37-4-101  
(1)(i), MCA

"III. DEFINITIONS (1) For the purpose of these rules the following definitions shall apply:

(a) General anesthesia is a controlled state of unconsciousness, accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or non-pharmacologic method, or a combination thereof.

(b) Anesthesia is the loss of feeling or sensation, especially loss of the sensation of pain.

(c) Local anesthesia is the loss of sensation of pain in a specific area of the body, generally produced by a topically applied agent or injected agent without causing the loss of consciousness.

(d) Analgesia is absence of sensibility to pain, designating particularly the relief of pain without loss of consciousness.

(e) Nitrous-oxide inhalation conscious sedation is a state of sedation in which the conscious patient is rendered free of fear, apprehension and anxiety through the inhalation of nitrous-oxide and oxygen and is in a maintained level of conscious sedation, capable of verbal communication, but has not yet obtained his protective autonomic reflexes.

(f) Conscious sedation consists of the use of any drug, element or other material which results in relaxation, diminution or loss of sensation with the retention of intact protective reflexes, including the ability to maintain an airway, and capability of rational responses to question on command."

Auth: 37-1-131, 37-4-205, MCA Imp: 37-1-131, 37-4-101  
(1)(i), MCA

"IV. GENERAL ANESTHESIA TRAINING AND EDUCATION (1) A licensed dentist may employ or use general anesthesia on an outpatient basis for dental patients provided:

(a) He has a minimum of one year or its equivalent of training in anesthesiology and related subjects beyond the undergraduate dental school level which shall be completed prior to the use or administration of general anesthesia.

(b) The dentist and operator staff must have a current cardiopulmonary resuscitation (CPR) certificate and shall annually update competence in other emergency procedures."

Auth: 37-1-131, 37-4-205, MCA Imp: 37-1-131, 37-4-101  
(1)(i), MCA

"V. GENERAL ANESTHESIA FACILITY (1) A licensed dentist administering general anesthesia shall have a facility that is properly equipped for the administration of general anesthesia and staffed with a supervised team of auxiliary personnel capable of reasonably handling procedures, problems, and emergencies incident to the use and administration of general anesthesia. The staff shall be under close supervision of the licensed dentist."

Auth: 37-1-131, 37-4-205, MCA Imp: 37-1-131, 37-4-101  
(1)(i), MCA

"VI. CONSCIOUS SEDATION TRAINING AND EDUCATION (1) A licensed dentist may employ or use conscious sedation technique on an outpatient basis for dental patients provided:

(a) He has received formal training in the use of conscious sedation techniques.

(b) He is certified by the institution where the training was received to be competent in the administration of conscious sedation techniques. Such certification shall specify the type and number of hours and the length of training. The minimum of didactic hours shall be 40 and the minimum of patient contact hours shall be 20. A formal training program shall be sponsored by or affiliated with a university, teaching hospital or other facility approved by the board of dentistry or part of the undergraduate curriculum of an accredited dental school.

(c) The dentist and operator staff must have a current cardiopulmonary resuscitation (CPR) certificate and shall annually update competence in other emergency procedures."

Auth: 37-1-131, 37-4-205 Imp: 37-1-131, 37-4-101(1)(i), MCA

"VII. CONSCIOUS SEDATION FACILITY (1) When using conscious sedation with oral or injected drugs, the dentist shall have a facility that is properly equipped for the administration of conscious sedation and staffed with a supervised team of auxiliary personnel capable of reasonably handling procedures, problems, and emergencies incident to the use and administration of conscious nitrous-oxide and oral or injected sedative medication. The staff shall be under the close supervision of a licensed dentist."

Auth: 37-1-131, 37-4-205 Imp: 37-1-131, 37-4-101(1)(i), MCA

"VIII. NITROUS-OXIDE INHALATION CONSCIOUS SEDATION TRAINING AND EDUCATION (1) A licensed dentist may employ or use nitrous-oxide inhalation conscious sedation only, or in conjunction with local anesthetic agents, on an outpatient basis for dental patients provided:

(a) He has a minimum of 20 hours of technique instruction sponsored by an accredited hospital, accredited dental school, or dental society including instruction in safety and management of emergencies, which shall be completed prior to the use or administration of conscious nitrous-oxide sedation for dental patients.

(b) The dentist and operator staff must have a current cardiopulmonary resuscitation (CPR) certificate and shall annually update competence in other emergency procedures.

Auth: 37-1-131, 37-4-205, MCA Imp: 37-1-131, 37-4-101(1)(i), MCA

"IX. NITROUS-OXIDE INHALATION CONSCIOUS SEDATION FACILITY (1) When using conscious nitrous-oxide sedation for

dental patients, the dentist shall have a facility that is properly equipped for the administration of conscious sedation and staffed with a supervised team of auxiliary personnel capable of reasonably handling procedures, problems, and emergencies incident to the use and administration of conscious sedation. The staff shall be under the close supervision of a licensed dentist.

(2) The following shall be present in any facility where nitrous-oxide inhalation conscious sedation is utilized:

(a) an anesthesia delivery machine which provides not less than 30% oxygen.

(b) equipment capable of delivering positive pressure oxygen.

(c) equipment for adequate suction.

(d) a portable backup oxygen unit."

Auth: 37-1-131, 37-4-205, MCA Imp: 37-1-131, 37-4-101  
(1)(i), MCA

"X. LOCAL ANESTHETIC TRAINING AND EDUCATION

(1) Dentists licensed to practice in the state of Montana may use local anesthesia as is indicated in their practice.

(2) The dentist and operator staff must have a current cardiopulmonary resuscitation (CPR) certificate and shall annually update competence in other emergency procedures."

Auth: 37-1-131, 37-4-205, MCA Imp: 37-1-131, 37-4-101  
(1)(i), MCA

"XI. LOCAL ANESTHETIC FACILITY (1) When using local or regional anesthetic agents for dental patients the dentist shall have a facility that is properly equipped for the administration of local anesthesia and be capable of reasonably handling procedure problems and emergencies incident to the use and administration of local anesthetic agents.

(2) The following shall be present in an office utilizing local anesthesia:

(a) portable backup oxygen unit.

(b) equipment capable of delivering positive pressure oxygen.

(c) equipment for adequate suction."

Auth: 37-1-131, 37-4-205, MCA Imp: 37-1-131, 37-4-101  
(1)(i), MCA

"XII. LIMITATION ON ADMINISTRATION OF ANESTHESIA (1) Nothing in these rules shall be construed to allow a dentist, dental hygienist, or auxiliary to administer to himself/herself or to any other person, other than in the

course of the practice of dentistry, any drug or agent used for anesthesia."

Auth: 37-1-131, 37-4-205, MCA Imp: 37-1-131, 37-4-101 (1)(i), MCA

"XIII. IN-OFFICE EVALUATION (1) The board of dentistry shall appoint an in-office evaluation team which shall be a permanent arm of the board. The evaluation team shall evaluate dental offices utilizing anesthetic agents for general anesthesia and intra-muscular and intravenous conscious sedation. The evaluation shall be done annually by the evaluating team and guidelines for office evaluation should be utilized according to the Office Anesthesia Evaluation Manual, American Association of Oral and Maxillofacial Surgeons."

Auth: 37-1-131, 37-4-205, MCA Imp: 37-1-131, 37-4-101 (1)(i), MCA

"XIX. IN-OFFICE EVALUATION GUIDELINES (1) Two surgical cases should be observed. This portion of the evaluation should not exceed one hour. No evaluation can be considered complete unless this part is included.

(2) Simulated emergency procedures are to be demonstrated in the operating area with full participation of the office staff. An exact simulation of the emergency situation should be demonstrated. The 'patient' should be positioned and all equipment which can be used should be demonstrated. A simulated intravenous administration set should be taped into position and all emergency equipment should be supplied including syringes and medications in proper sequence. The evaluation team and the dentist being evaluated should not just talk about the emergency situation and how it should be managed. The dentist and his team must perform an actual demonstration of their method for managing the following emergency situations:

- (a) laryngospasm,
- (b) bronchospasm,
- (c) emesis and aspiration of vomitus,
- (d) management of other foreign bodies in the airway,
- (e) angina pectoris,
- (f) myocardial infarction,
- (g) hypotension,
- (h) hypertensive crisis,
- (i) cardiopulmonary resuscitation,
- (j) acute allergic reactions,
- (k) hyperventilation syndrome, and
- (l) convulsion of unknown etiology.

(3) All office equipment, records, and emergency medications related to patient care should be available for inspection by the visiting team. Specific attention should be directed to the following areas:

(a) the oxygen and supplemental gas-delivery system and backup system,

(b) provision for suction and backup system,

(c) auxiliary lighting system,

(d) the gas storage facilities,

(e) suitability of the operating suite,

(f) patient transportation equipment, if used,

(g) recovery areas,

(h) sterilization areas,

(i) medication preparation,

(j) completeness of emergency anesthesia equipment and medications,

(k) completeness of office patient-care records, and

(l) monitoring equipment.

(4) The discussion period shall be the final part of the evaluation and should be conducted in private away from staff and patients. The evaluators at this time may note deficiencies and make positive suggestions to the dentist for improving the office facility and patient management. It shall also be appropriate at this time to discuss management of risk patients if this has not been covered during an earlier stage of the evaluation."

Auth: 37-1-131, 37-4-205, MCA Imp: 37-1-131, 37-4-101  
(1)(i), MCA

4. The board is proposing these rules to establish guidelines upon which the safety of administration of anesthetic agents can be measured. The dental laws of the state of Montana permit any licensed dentist to administer such agents. Morbidity and mortality can be associated therewith. In 1982 the board received a complaint wherein a 24 year old female patient, during the extraction of three wisdom teeth under local anesthesia with intravenous sedation, suffered what was acknowledged to be a respiratory arrest, leading rapidly to proven ventricular fibrillation, and despite resuscitative efforts, led to a deep coma. Training, experience, adequate equipment and competent staff can minimize such risk. ABC News magazine, 20/20, broadcasted a story on the use of anesthesia and sedation techniques in dentistry, and it was reported by the American Dental Association that the control of anesthesia must be at a state level and cannot be performed at a national level. The board is empowered and directed to identify unsafe practices, equipment, and conditions and direct corrective action. These

guidelines represent the basis upon which unsafe dental anesthesia practices would be judged. The board therefore, in order to promote the welfare of the state and to protect the health and well-being of the people of this state, finds it necessary to adopt the definitions and standards.

5. Interested persons 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 Board of Dentistry, 1424 9th Avenue, Helena, Montana 59620-0407, no later than January 12, 1984.

6. Geoffrey L. Brazier, Board Attorney has been designated to preside over and conduct the hearing.

BOARD OF DENTISTRY  
DAVID B. TAWNEY, D.D.S.  
PRESIDENT

BY: 

ROBERT WOOD, ATTORNEY  
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, December 5, 1983.



STATE OF MONTANA  
DEPARTMENT OF COMMERCE  
BEFORE THE BOARD OF HORSE RACING

In the matter of the proposed	)	NOTICE OF PUBLIC HEARING ON
amendments of 8.22.303 sub-	)	THE PROPOSED AMENDMENTS OF
section (8)(a), concerning	)	8.22.303 INSTITUTION OF PRO-
ceedings by petition, 8.22.	)	CEEDINGS BY PETITION, 8.22.
501 subsection (23)(a) and (b)	)	501 DEFINITIONS, 8.22.502
concerning definitions, 8.22.	)	LICENSES ISSUED FOR CONDUCT-
502 subsection (41), also adds	)	ING PARI-MUTUEL WAGERING ON
two new subsections concern-	)	HORSE RACE MEETINGS, 8.22.503
ing filming of pari-mutuel	)	ANNUAL LICENSE FEES,
events and financial obliga-	)	8.22.610 STEWARDS, 8.22.706
tions of pari-mutuel licensees	)	JOCKEYS - APPRENTICES, 8.22.
concerning the fee schedule,	)	1602 DUTIES OF THE LICENSEE
8.22.610 subsection (8) con-	)	
cerning fines levied by	)	
stewards, 8.22.706 concern-	)	
ing apprentice jockeys, and	)	
8.22.1602 adding a new sub-	)	
section concerning unclaimed	)	
tickets.	)	

TO: All Interested Persons:

1. On Friday, January 13, 1984, at 10:00 a.m. a public hearing will be held in the downstairs conference room of the Department of Commerce, 1430 9th Avenue, Helena, Montana, to consider the amendments of the above-stated rules.

2. The proposed amendment of 8.22.303 amends subsection (8)(a) and will read as follows: (new matter underlined, deleted matter interlined) (full text of rule is located at pages 8-614 and 8-615, Administrative Rules of Montana.)

"8.22.303 INSTITUTION OF PROCEEDINGS BY PETITION (1) ...  
(8) Withdrawal of petition.

(a) The petitioner may withdraw his petition at any time prior to hearing without prejudice. Thereafter, the petition may be withdrawn only upon approval of the board."

Auth. 23-4-104, MCA Imp. 23-4-202, MCA.

3. The board is proposing the amendment to allow a petitioner to withdraw an appeal or petition without waiting for the board to meet.

4. The proposed amendment of 8.22.501 will read as follows: (new matter underlined; deleted matter interlined) (full text of rule is located at pages 8-631 - 8-635, Administrative Rules of Montana)

"8.22.501 DEFINITIONS (1) ...

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

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

(b) (a) A maiden which has been disqualified after finishing first is still a maiden.

(24) ..."

Auth: 23-4-104, MCA Imp: 23-4-202, MCA

5. The board is proposing the change to eliminate the "Double Maiden Rule" which some tracks find unreasonable and unmanageable and to make the definition of maiden more consistent. With this change, a horse could only break his maiden once.

6. The proposed amendment of 8.22.502 will amend subsection (41) and add new subsections (42), (43) and will read as follows: (new matter underlined; deleted matter interlined) (full text of rule is located at pages 8-635 - 8-641, Administrative Rules of Montana)

8.22.502 LICENSES ISSUED FOR CONDUCTING PARI-MUTUEL WAGERING ON HORSE RACE MEETINGS (1) ...

(41) All licensees shall keep on file or turn over to the board all photo patrol film, and the film shall be retained by the board for the duration of the racing season; the film contractor all the photo patrol film, and the film shall be retained by the contractor to be made available to the board for the duration of one year from its making.

(42) The board of horse racing shall first grant permission for photo film to be used for purposes other than use by the board of stewards or the board of horse racing.

(43) Each licensee at the end of their race meet shall provide the board with evidence that the following have been paid in a timely manner:

(a) all purse money

(b) all breeders awards

(c) all jockey dues

(d) all other contractual obligations"

Auth: 23-1-104, 202, MCA Imp: 23-4-201, 202, 204, 304,

MCA

7. The proposed amendment of (41) is to make the rule consistent with general accepted practice. In the past, it was questionable as to who owned the film.

The proposed addition of subsection (42) is to give more control to the board over the use of film which is made under the jurisdiction of the board of horse racing. It has been used in the past at times for commercial gain.

The proposed addition of (43) is to give the board more control over financial obligations which licensed tracks have incurred. In the past these debts have not all been identified.

8. The proposed change to the fee schedule will repeal the current rule in its entirety and replace it with a new schedule: (new matter underlined; deleted matter interlined)

8.22.503 ANNUAL LICENSE FEES (1) The following fees shall be charged annually:

(2)	Owner	\$10-00
(3)	Trainer	10-00
(4)	Temporary owner	10-00
(5)	Announcer	10-00
(6)	Exercise person	5-00
(7)	Gate admission seller	3-00
(8)	Gate attendant	3-00
(9)	Groom	3-00
(10)	Horseman's bookkeeper	3-00
(11)	Hot walker	3-00
(12)	Valet	6-00
(13)	Photo manager	10-00
(14)	Officer personnel	3-00
(15)	Outrider	6-00
(16)	Photo employee	4-00
(17)	Plater	10-00
(18)	Pony person	6-00
(19)	Security staff	3-00
(20)	Starter, assistant	4-00
(21)	Stable foreman	6-00
(22)	Stable superintendent	4-00
(23)	Tip sheet seller	10-00
(24)	Veterinarian, practicing	10-00
(25)	Veterinarian, assistant	3-00
(26)	Watchman	2-00
(27)	Others not listed	3-00
(28)	Authorized agents	10-00
(29)	Parimutuel manager	10-00
(30)	Auditor	10-00
(31)	Calculator operator	10-00
(32)	Totalisator operator	10-00

(32)	Parimutuel employee	3-00
(34)	Jockey	10-00
(35)	Jockey agent	10-00
(36)	Jockey - apprentice	10-00
(37)	Stable name registration	10-00
(38)	Custodian of jockey's room	5-00
(39)	Stark of scales	5-00
(40)	Chief of security	10-00
(41)	Director of racing	10-00
(42)	Handicapper	6-00
(43)	Identifier	6-00
(44)	Paddock judge	6-00
(45)	Placing judge	3-00
(46)	Patrol judge	5-00
(47)	Racing secretary	10-00
(48)	Racing secretary - assistant	6-00
(49)	Steward - track	10-00
(50)	Starter	10-00
(51)	Track veterinarian	10-00
(52)	Track superintendent	6-00
(53)	Timer	3-00
(54)	Track tote fee to be paid by pari-mutuel operator	10-00
(55)	Not requiring licenses but requiring identification: [Wives, children of 6 years of age, duplicate (lost i-d. cards)]	2-00
(56)	Track license fee	10-00
(2)	Owner	\$20.00
(3)	Temporary owner	20.00
(4)	Owner-trainer	25.00
(5)	Track license	10.00
(6)	Jockey	20.00
(7)	Jockey Apprentice	20.00
(8)	Jockey agent	20.00
(9)	Authorized agent	10.00
(10)	Stable name	10.00
(11)	Pari-mutuel #1	
(a)	Parimutuel manager	10.00
(b)	Auditor	10.00
(c)	Calculator operator	10.00
(d)	Totalizer operator	10.00
(e)	Track tote fee	10.00
(12)	Pari-mutuel #2	
(a)	Parimutuel employees	5.00
(13)	Official # 1	
(a)	Racing secretary	20.00
(b)	Track veterinarian	20.00

(14)	<u>Official #2</u>	
(a)	<u>Chief of Security</u>	10.00
(b)	<u>Director of racing</u>	10.00
(c)	<u>Identifier</u>	10.00
(d)	<u>Paddock judge</u>	10.00
(e)	<u>Patrol judge</u>	10.00
(f)	<u>Racing secretary assist.</u>	10.00
(g)	<u>Steward-track</u>	10.00
(h)	<u>Starter</u>	10.00
(i)	<u>Track superintendent</u>	10.00
(j)	<u>Custodian jocks room</u>	10.00
(k)	<u>Clerk of scales</u>	10.00
(l)	<u>Handicapper</u>	10.00
(m)	<u>Placing judge</u>	10.00
(n)	<u>Timer</u>	10.00
(15)	<u>Occupational #1</u>	
(a)	<u>Veterinarian practicing</u>	20.00
(b)	<u>Plater</u>	20.00
(16)	<u>Occupational #2</u>	
(a)	<u>Announcer</u>	10.00
(b)	<u>Exercise person</u>	10.00
(c)	<u>Groom</u>	10.00
(d)	<u>Horsemens bookkeeper</u>	10.00
(e)	<u>Valet</u>	10.00
(f)	<u>Photo manager</u>	10.00
(g)	<u>Outrider</u>	10.00
(h)	<u>Pony Person</u>	10.00
(i)	<u>Tip sheet seller</u>	10.00
(j)	<u>Gate admission seller</u>	10.00
(k)	<u>Gate attendant</u>	10.00
(l)	<u>Hot walker</u>	10.00
(m)	<u>Office personnel</u>	10.00
(n)	<u>Photo employee</u>	10.00
(o)	<u>Security staff</u>	10.00
(p)	<u>Starter assistant</u>	10.00
(q)	<u>Stable foreman</u>	10.00
(r)	<u>Stable super</u>	10.00
(s)	<u>Veterinarian assistant</u>	10.00
(t)	<u>Watchman</u>	10.00
(u)	<u>Others not listed</u>	
	<u>(track maintenance)</u>	10.00
(16)	<u>Not requiring licenses but requiring</u>	
	<u>identification. [Wives, children</u>	
	<u>over 6 years of age, duplicate</u>	
	<u>(lost i.d. cards)]</u>	2.00"

Auth: 23-4-104, MCA Imp: 23-4-104, MCA

9. The board is proposing the amendment to set fees commensurate with the cost of issuing licenses as mandated by section 23-4-104 (11), MCA. The fees set are those that the board has determined are necessary to cover administrative cost.

10. The proposed amendment of 8.22.610 will read as follows: (new matter underlined; deleted matter interlined) (full text of rule is located at pages 8-652 - 8-655, Administrative Rules of Montana)

8.22.610 STEWARDS ...

(8) The stewards' jurisdiction in any matter extends for 30 days after the conclusion of the race meeting, and commences at such time as entries are taken for the first day of racing at such meeting. The stewards may suspend the license of anyone whom they have the authority to supervise for a period not to exceed 2 years, or may impose a fine not to exceed ~~\$500~~ \$1000, or they may impose both such fine and suspension. All such fines and suspensions shall be reported to the board.

(9) ..."

Auth: 23-4-104, MCA Imp: 23-4-202, MCA

11. In the last legislative session, section 23-4-202, MCA, was changed to allow a fine not to exceed \$1,000. The board is amending the rule to conform to that change.

12. The proposed amendment of 8.22.706 will read as follows: (new matter underlined; deleted matter interlined) (full text of rule is located at pages 8-667 - 8-669, Administrative Rules of Montana)

8.22.706 JOCKEYS - APPRENTICE (1) ...

(3) Apprentice allowance as follows:

(a) Five pounds until he or she has ridden 45 winners- if he or she has ridden 45 prior to the end of one year from date of riding his or her first winner, the five pound allowance continues until the end of the year. An apprentice jockey shall ride with a five pound weight allowance beginning after his/her first mount and for one full year from the date of his/her fifth winning mount.

If after riding one full year from the date of his/her fifth winning mount, the apprentice jockey has failed to ride a total of 40 winners from the date of his/her first winning mount, he/she shall continue to ride with a five-pound weight allowance for one more year from the date of his/her fifth winning mount or until he/she had ridden a total of 40 winners, whichever comes first.

If an apprentice jockey is unable to ride for a period of 14 consecutive days or more after the date of his/her fifth winning mount because of service in the armed forces of the U.S.A. or because of physical disablement, the commission may extend the time during which such apprentice weight allowance may be claimed for a period not to exceed the period such apprentice jockey was unable to ride.

(b) After the completion of conditions above, for one year, he or she may claim three pounds when riding horses owned or trained by his or her original contract employer providing his or her contract has not been permanently transferred or sold since he/she rode his/her first winner. Whenever a jockey from a foreign country, excluding Mexico and Canada, rides in the United States, he must declare that he is a holder of a valid license and currently not under suspension. To facilitate this process, the jockey shall present a declaration sheet, in four languages, to the appropriate racing official of the jurisdiction in which he has come to ride. The sheet shall state:

- (i) that he/she is the holder of a valid license to ride;
- (ii) that he/she is not currently under suspension;
- (iii) that he/she agrees to be bound by the rules and regulations of the jurisdiction in which he/she is riding.

This sheet shall be retained by the appropriate racing official, and at the conclusion of the jockey's participation in racing, it shall be returned to the jockey, properly endorsed by the appropriate racing official, stating he/she has not incurred any penalty or had a fall. If a penalty has been assessed against the jockey, the appropriate racing official shall notify the racing authority issuing the original license to extend the penalty for the same period of time.

(c) ..."

Auth: 23-4-104, MCA Imp: 23-4-202, MCA

13. The board is proposing the rule amendment to make the Montana rules uniform with the National Association's uniform rule.

14. The proposed amendment of 8.22.1602 will add a new subsection (19) and will read as follows: (new matter underlined; deleted matter interlined) (full text of rule is located at pages 8-733 - 8-735, Administrative Rules of Montana)

"8.22.1602 DUTIES OF THE LICENSEE (1) ...

(19) Each licensee shall report to the board the total face value of all unclaimed winning tickets from their meet within 30 days of the end of the meet. A claim on a winning

ticket may be made within this 30 day period after which it may be retained by the licensee for capital improvements approved by the board."

Auth: 23-4-104, MCA Imp: 23-4-305, MCA

15. The board is proposing the amendment to make more clear the time in which a ticket may be paid on by the licensee and to make rules conform with 23-4-305, MCA.

16. 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 Steve Meloy, Executive Secretary, Board of Horse Racing, 1424 9th Avenue, Helena, Montana 59620-0407, no later than January 12, 1984.

17. Geoffrey L. Brazier, Board Attorney has been designated to preside over and conduct the hearing.

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

BOARD OF HORSE RACING  
LINDA KING, CHAIRMAN

BY



ISABELLE PISTELAK  
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, December 5, 1983.



STATE OF MONTANA  
BEFORE THE DEPARTMENT OF COMMERCE

In the matter of the proposed ) NOTICE OF ADOPTION OF A RULE  
adoption of a rule pertaining ) PERTAINING TO SEMI-ANNUAL  
to semi annual assessments for ) ASSESSMENTS FOR STATE BANKS,  
state banks, trust companies, ) TRUST COMPANIES, AND INVEST-  
and investment companies ) MENT COMPANIES

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On January 14, 1984, the Department of Commerce proposes to adopt a new rule pertaining to semi-annual assessments for state banks, trust companies, and investment companies.

2. The proposed rule does not replace or modify any section currently found in the Montana Administrative Code. It will read as follows:

1. "SEMI-ANNUAL ASSESSMENT

Total assets (Million)	Base	Plus rate/ Million	Over (Million)
0-1	0	.0006	0
1-10	600	.000075	1
10-50	1,275	.00006	10
50-100	3,675	.00003	50
over 100	5,175	.00002	100"

Auth: 32-1-213, MCA IMP; 32-1-213, MCA

4. Interested persons may submit their data, views or arguments concerning the proposed adoption in writing to Les Alke, Commissioner of Financial Institutions, Department of Commerce, 1424 9th Avenue, Helena, Montana, 59620, no later than January 12, 1984.


5. If a person who is directly affected by the proposed adoption wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any comments he has to Les Alke, Commissioner of Financial Institutions, Department of Commerce, 1424 9th Avenue, Helena, Montana, 59620, no later than January 12, 1984.

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

DEPARTMENT OF COMMERCE

BY:

  
ROBERT WOOD, ATTORNEY

Certified to the Secretary of State, December 5, 1983.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the proposed )	NOTICE OF PROPOSED ADOPTION
adoption of rule relating to )	OF RULE relating to
outfitters and professional )	outfitters and professional
guides. )	guides.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On January 16, 1984, the Montana Department of Fish, Wildlife and Parks proposes to adopt a rule relating to outfitters and professional guides.
2. The proposed new rule does not replace or modify any section currently found in the Administrative Rules of Montana.
3. The proposed rule provides as follows:

RULE I OUTFITTER AND PROFESSIONAL GUIDES LICENSE FEES

(1) Annual license fees for outfitters and professional guides are as follows:

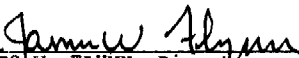
- (a) Resident Outfitter License: \$100;
- (b) Resident Professional Guide License: \$25;
- (c) Nonresident Outfitter License: \$250;
- (d) Nonresident Professional Guide License: \$100.

AUTH: 87-4-127, MCA; IMP: 87-4-127, MCA.

4. This rule is proposed in response to the enactment of 87-4-127, MCA, which directs the department to establish license fees for outfitters and professional guides commensurate with the expense to the department for administering the licenses.
5. Interested parties may submit their data, views, or arguments concerning the proposed rule in writing to Kevin C. Meek, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, Helena, Montana 59620, no later than January 13, 1984.
6. If a person who is directly affected by the proposed action wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Mr. Meek no later than January 13, 1984.
7. If the department receives requests for a public hearing on the proposed new rule from either 10% or 25, whichever is less, of the persons directly affected; 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 170 persons based on the 1,700 licensed outfitters and guides in Montana.

8. The authority of the agency to adopt the proposed rule is based on 87-4-127, MCA, and the rule implements 87-4-127, MCA.

  
JAMES W. FLYNN, Director  
Department of Fish, Wildlife  
and Parks

Certified to the Secretary of State: December 5, 1983

BEFORE THE BOARD OF LIVESTOCK  
OF THE STATE OF MONTANA

In the Matter of the Pro-	)	NOTICE OF PROPOSED AMEND-
posed Amendment of Rules	)	MENT OF RULE 32.3.203
Pertaining to the Importa-	)	IMPORTATION OF ANIMALS
tion of Animals and Biologics	)	RULE 32.3.212 SPECIAL
	)	REQUIREMENTS FOR CATTLE,
	)	AND RULE 32.3.2301 CONTROL
	)	OF BIOLOGICS

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On January 27, 1984, the Board of Livestock proposes to amend RULES 32.3.203, 32.3.212, and 32.3.2301 which concern the importation of animals or biologics into the State of Montana.

2. The proposed amendments read as follows: (New matter underlined, deleted matter interlined)

32.3.203 IMPORTATION OF DISEASED ANIMALS (1) ~~No animals-affected-with-or-which-have-been-recently-exposed-to any-infectious,-contagious,-or-communicable-disease,-or which-originate-in-a-state-or-federally-quarantined-area-may be-transported-or-moved-into-the-state-of-Montana-unless-a permit-for-such-entry-is-first-obtained-from-the-Montana state-veterinarian's-office. No permit may be issued for livestock infected with or exposed to brucellosis, tubercu-~~  
losis, or any other infectious, contagious, or communi-  
cable animal disease, except that cattle with a positive  
reaction to a recognized test for brucellosis may be permit-  
ted entry when destined directly for slaughter at a slaugh-  
terhouse under USDA supervision. In addition, all condi-  
tions for the movement of animals from a quarantined area  
established by the quarantining authority of U. S. depart-  
ment of agriculture must be met.

(2) If any animal in a lot presented for shipment or movement into Montana shows a suspicious ~~or-positive~~ reac-  
tion to any test required for admission to Montana, no  
animal from that lot or from the herd in which the animal  
reacting to the test originates may enter the state of  
Montana without special permission from the state veterinar-  
ian or his agent. (AUTH: Section 81-2-707 M.C.A., IMP:  
Section 81-2-703 M.C.A.)

32.3.212 SPECIAL ADDITIONAL REQUIREMENTS FOR CATTLE  
(1) Cattle-may-enter-Montana-provided-they-are-transported  
or-moved-into-the-state-in-conformity-with-ARM-32.3.201

through-32-3-211-and: All female cattle over the age of 4 months must be officially vaccinated against Brucellosis, unless exempted under 81-2-801, M.C.A.

(2) With-regards-to-brucellosis: (a) All female cattle over 12 months of age entering Montana from states classified as class A, B, or C, must be found negative to a brucellosis test performed within 30 days prior to the date of entry into the state of Montana, (and confirmed in a state or federally approved animal diagnostic laboratory) except the following:

(a) (i) remains the same.

(a) (ii) remains the same.

(a) (iii) Test eligible officially vaccinated cattle from certified brucellosis-free herds, provided the certified herd number is shown on the health certificate accompanying such cattle into this state;

(a) (iv) remains the same.

~~(v)---Female-cattle-not-already-excluded-from-test requirements-under-paragraphs-(i)-through-(iv)-of-this sub-section,-which-are-consigned-directly-to-a-livestock market-in-this-state-specifically-approved-by-the-U.-S.-6, department-of-agriculture-under-the-provision-of-part-78, volume-9,-Code-of-Federal-Regulations,-to-receive brucellosis-affected-cattle--Such-cattle-except-those-sold to-an-immediate-destination-outside-of-Montana,-must-be officially-tested-for-brucellosis-at-the-market-prior-to release-to-the-purchaser,-and-must-be-quarantined-and-kept separate-and-apart-from-all-other-livestock-until-determined to-be-negative-to-an-official-test-for-brucellosis-made-not less-than-45-nor-more-than-120-days-after-entry-and quarantine--The-cost-of-quarantine-and-testing-shall-be-at the-owner's-expense--The-requirements-for-quarantine-and retest-do-not-apply-to-female-cattle-originating-in-states having-no-known-brucellosis-infection-in-the-previous-6 months-~~

(b) remains the same.

(c) remains the same.

(c) (i) remains the same.

(c) (ii) remains the same.

(c) (iii) The county where the cattle are grazed in the adjacent state has achieved certified-brucellosis class free status, and the cattle return to a Montana location with the same Montana status from which they left.

(c) (iv) remains the same.

(3) remains the same.

(AUTH: Section 81-2-102 M.C.A. IMP: Sections 81-2-801 and 81-2-102 M.C.A.)

32.3.2301 CONTROL OF BIOLOGICS

(1) remains the same.

(2) No biologic may be brought into the state without a permit from the department of livestock as required by 81-2-703 M.C.A. A long term permit may be granted upon request.

(3) through (13) remain the same, renumbered.  
(AUTH: Section 81-2-707 M.C.A. IMP: 81-2-703 M.C.A.)

3. The proposed amendments are necessary to update the rules regarding changes made in importation requirements by the Montana legislature. The amendments are not interpretive, they simply update the rules which are used extensively by veterinarians who must closely supervise the import of animals and biologics into Montana.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to James W. Glosser, D.V.M., Administrator & State Veterinarian, Animal Health Division, Capitol Station, Helena, Montana 59620, no later than January 15, 1984.

5. If a person is directly affected by the proposed rules wishes to express his data, views, and arguments orally or in writing at a public hearing he must make written request for a hearing and submit this request along with any written comments he has to James W. Glosser, D.V.M., Administrator & State Veterinarian, no later than January 15, 1984.

6. The department believes that the number of directly affected persons exceeds 250 as this rule has potential impact on every cattle producer in the state. In the event that the department receives requests for public hearing from 25 persons directly affected, from the Administrative Code Committee of the legislature, from a governmental subdivision, or agency, or from an association having no less than 25 directly affected members, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

7. The authority to make the proposed adoption of amendments is based on Section 81-2-102 M.C.A. and 81-2-707 M.C.A. and implements Sections 81-2-102 M.C.A., 81-2-703 M.C.A., and 81-2-801 M.C.A.

  
NANCY EPPY

Chairman, Board of Livestock

By:

  
JAMES W. GLOSSER, D.V.M.

Administrator & State Veterinarian

Certified to the Secretary of State December 5, 1983.

BEFORE THE BOARD OF LIVESTOCK  
OF THE STATE OF MONTANA

In the Matter of the Repeal	)	NOTICE OF PUBLIC HEARING ON
of Rule 32.3.406 Requiring	)	REPEAL OF RULE 32.3.406
the Brucellosis Testing of	)	BRUCELLOSIS TESTING OF
Animals and the Adoption of	)	ANIMALS AND ADOPTION OF
Rule I through VI which	)	RULES I THROUGH VI CONCERNING
Concern Brucellosis Tests	)	SAME AND SPECIFICALLY RULE
Performed on Livestock.	)	II WHICH WAIVES IN ALL BUT
	)	SEVEN COUNTIES THE REQUIRED
	)	BRUCELLOSIS TEST ON CATTLE
	)	BEFORE CHANGE OF OWNERSHIP
	)	OR MOVEMENT WITHIN THE
	)	STATE

TO: All Interested Persons.

1. On January 4, 1984 at 2:00 p.m. a public hearing will be held in Helena, Montana in Room 319 of the Department of Livestock at 301 Roberts to consider the repeal of ARM Rule 32.3.406 concerning brucellosis testing of animals and to consider the adoption of RULES I through VI which concern brucellosis testing of animals.

2. The rule proposed to be repealed can be found on page 32-117 of the Administrative Rules of Montana.

3. The rule is proposed to be repealed because comments have been made that it is becoming increasingly difficult to understand and interpret due to the length and the many amendments which have been made over several years. It is proposed to be replaced by several rules, numbered I through VI as found below.

4. The proposed RULES I through VI provide as follows:

RULE I DEPARTMENT ORDERED BRUCELLOSIS TESTING OF ANIMALS

1. The department, at any time, may order the official testing or retesting of animals for the presence of brucellosis if it considers such tests necessary to prevent the introduction or spreading of brucellosis.
2. Orders to test shall be signed by the state veterinarian or any designated deputy state veterinarian.
3. The order shall clearly state the number or approximate number and location of the animals.  
(AUTH: Sections 81-2-102 and 81-2-103 M.C.A. IMP:  
Sections 81-2-102 and 81-2-103 M.C.A.)

RULE II CHANGE OF OWNERSHIP TEST

1. In the counties of Flathead, Lincoln, Lake, Sanders, Mineral, Missoula, and Ravalli before ownership of animals listed in (2) is changed or before the animals are moved to Montana premises located in a Class Free



area they must undergo an official test for brucellosis and must be determined negative. The test must be performed not more than 30 days prior to the date they are sold or moved and the results must be entered on a department official test form.

2. This test shall be performed on:
  - (a) all female cattle, bison, or elk under domestication, capable of breeding, in which the eruption of the first pair of permanent incisor teeth has occurred, or which are in the third trimester of the first pregnancy or are post parturient;
  - (b) female swine; and,
  - (c) boars, six months of age and older.
3. This requirement does not apply to any of the above if they are consigned for immediate slaughter or to an out-of-state destination. No animal consigned to an out-of-state destination may be diverted to an instate destination if it has not met the test requirements of this section and if it has been determined to be an exposed animal. Permission from the department must be received before animals may be diverted to a different immediate slaughter destination.
4. Further special exemptions to this rule are found in (RULE IV).  
(AUTH: Sections 81-2-102 and 81-2-103 M.C.A. IMP: Sections 81-2-102 and 81-2-103 M.C.A.)

RULE III CHANGE OF PREMISES TEST - INVESTMENT SERVICES OR SPECIAL CORPORATIONS

1. Cattle described in and located in the counties named in (RULE II) owned or managed by an investment service or corporation, the majority of whose shareholders are not primarily engaged in the production of livestock, and which are moved from one premise to another noncontiguous premise must be found negative to an official test for brucellosis performed not more than 30 days prior to such movement.
2. This test requirement does not apply if a shareholder is directly involved in the management or operation of the cattle ranch.
3. A special exemption to this test is found in (RULE IV).  
(AUTH: Sections 81-2-102 and 81-2-103 M.C.A. IMP: Sections 81-2-102 and 81-2-103 M.C.A.)

RULE IV SPECIAL BRUCELLOSIS TEST EXEMPTIONS

1. The test requirements of (RULES II and III) do not apply to brucellosis free herds as designated and validated under ARM 32.3.440 and 32.3.446.
2. The test requirements of (RULES II and III) do not apply to cattle which were tested as part of a complete herd test within the past 6 months to which no cattle other than breeding bulls and herd progeny have been

- added and in which no reactors were identified, as evidenced by an official test form of the department.
3. Upon written petition of the owner of the cattle, the state veterinarian, if he finds no significant danger to the public health, may exempt from the test requirement of (RULE II) cattle which have changed ownership without changing premises which are part of a herd which:
    - (a) has had no cattle added for at least two years other than by natural increase or herd bulls;
    - (b) has a history of complete vaccination of all eligible cattle; and
    - (c) has shown no indication of brucellosis infections or exposure thereto.
  4. Upon written petition of the owner or manager of the cattle, the state veterinarian, if he finds no significant danger to the public health and that the interests of animal disease control will not be harmed, may exempt cattle from the test requirement of (RULE III).  
(AUTH: Sections 81-2-102 and 81-2-103 M.C.A. IMP: Sections 81-2-102 and 81-2-103 M.C.A.)

RULE V DUTIES OF OWNERS OR MANAGERS OF ANIMALS WHEN BRUCELLOSIS TEST IS REQUIRED

1. The seller or his agent is responsible for arranging the test required by (RULE II).
2. The owner or manager is responsible for arranging the test required by (RULE III).
3. When the department has ordered a test, the owner shall present the identified animals to the department for an initial official test for the presence of brucellosis within 15 days of the date of the order. The state veterinarian may allow more time if there is good cause shown.
4. An owner of animals quarantined or identified as suspects as the result of an initial official brucellosis test shall present the animals for an official retest within 15 days of the date of a retest order. The state veterinarian may allow more time if there is good cause shown.
5. An owner presenting animals for any ordered test shall provide manpower, equipment, and facilities sufficient to restrain the animals for purposes of successfully accomplishing the test.  
(AUTH: Sections 81-2-102 and 81-2-103 M.C.A. IMP: Sections 81-2-102 and 81-2-103 M.C.A.)

RULE VI TEST EXPENSES

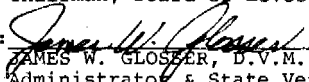
1. The expense of bleeding and serologic tests performed under (RULE I) will be met by the department, unless the owner or agent in charge of the animals has violated Montana law, department administrative rule, or

department order. In violation cases bleeding and serologic test expenses shall be met by the owner or person in charge of the animals when the test is ordered. Other expenses may be charged in accordance with 81-2-109 M.C.A.

2. If the test is ordered because the required test of (RULE II) has not been performed at the time of change of ownership or if a change in premises has occurred, the department will meet the expense of serologic tests, but the expense of bleeding will be met by the owner or person in possession of the animals at the time the test is ordered.
3. The cost of bleeding (under RULE II) shall be met by the seller unless other arrangements have been made which are satisfactory to the person performing the bleeding.
4. The expense of testing cattle under (RULE III) shall be met by the owner or manager of the cattle.  
(AUTH: Sections 81-2-102 and 81-2-103 M.C.A. IMP: Sections 81-2-102 and 81-2-103 M.C.A.)
5. The rules are proposed to be adopted to replace the repealed rule 32.3.406. They are basically the same with the exception of one major change. The department on Page 1540, Issue No. 20 of the Administrative Register adopted an emergency rule which waived in all but seven counties the required brucellosis test performed on all cattle before change of ownership or movement within the state. The above RULE II includes this adopted emergency rule. The emergency rule was adopted because 49 counties in the state have remained brucellosis free for the amount of time required by the federal government to be designated CLASS FREE. CLASS FREE states enjoy the privilege of not being subject to certain expensive brucellosis tests which are performed on cattle. Although the federal government has not granted that status and therefore interstate shipments of cattle are subject to continued testing, the Board of Livestock wishes to lessen the economic burden on intrastate sellers and shippers. The Board has determined that there is no danger in eliminating this test requirement in the 49 county area and proposes therefore to adopt this rule.
6. Interested persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to James W. Glosser, D.V.M., Administrator & State Veterinarian, Animal Health Division, no later than January 15, 1984.
7. The department of livestock or its designee will preside over and conduct the hearing.
8. The authority of the department to make the proposed repeal and proposed adoption of rules is based on Sections

81-2-102 and 81-2-103 M.C.A. and the proposed rules implement Section 81-2-1-2 and 81-2-103 M.C.A.

  
\_\_\_\_\_  
NANCY ESPY  
Chairman, Board of Livestock

By:   
\_\_\_\_\_  
JAMES W. GLOSIER, D.V.M.  
Administrator & State Veterinarian

Certified to the Secretary of State December 5, 1983.

BEFORE THE BOARD OF LIVESTOCK  
OF THE STATE OF MONTANA

In the Matter of the Amend-	)	NOTICE OF PUBLIC HEARING
ment of Rule 32.2.401 Depart-	)	ON PROPOSED AMENDMENT OF
ment of Livestock License	)	RULE 32.2.401 FEES;
Fees, Permit Fees, and Mis-	)	SPECIFICALLY RECORDING OR
cellaneous Fees	)	TRANSFERRING A LIVESTOCK
	)	BRAND

TO: All Interested Persons.

1. On January 4, 1984 at 1:30 p.m. a public hearing will be held in Helena, Montana in Room 319 of the Department of Livestock at 301 Roberts to consider an amendment to ARM Rule 32.2.401 which would increase the fee to record or transfer a livestock brand from \$25 to \$35.

2. The rule as proposed to be amended reads as follows:  
(New matter underlined, deleted matter interlined)

32.2.401 DEPARTMENT OF LIVESTOCK LICENSE FEES, PERMIT FEES, AND MISCELLANEOUS FEES. The Department of Livestock shall charge:

(1) remains the same.

(2) for recording a new mark or brand, recording a mark or brand transfer, or recording a mark or brand as required by 81-3-107 M.C.A. a fee of ~~\$25~~ \$35;

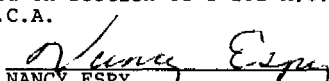
(3) through (37) remains the same.

3. The reason for the amendment is to raise the fee to an amount commensurate with the cost to the department to administer the brand recording program. This commensurate cost adjustment is required by Sections 81-1-102 and 81-3-107 M.C.A., as amended by the 1983 legislature.

4. Interested persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Les Graham, Administrator, Brands-Enforcement Division, no later than January 15, 1984.

5. The Department of Livestock or its designee will preside over and conduct the hearing.

6. The authority of the department to make the proposed amendment is based on Section 81-1-102 M.C.A. and it implements 81-3-107 M.C.A.

  
NANCY ESPY

Chairman, Board of Livestock

By 

LES GRAHAM

Administrator, Brands-Enforcement Division

Certified to the Secretary of State December 5, 1983

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

IN THE MATTER OF THE ADOPTION)	NOTICE OF PROPOSED ADOPTION OF
of Rule I relating to a )	Rule I relating to a deduction
deduction from corporation )	from corporation license tax
license tax for the sale of )	for the sale of land to a
land to a beginning farmer. )	beginning farmer.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On January 16, 1984, the Department of Revenue proposes to adopt rule I relating to a deduction from corporation license tax for the sale of land to beginning farmers.

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

RULE 1 SALE OF LAND TO A BEGINNING FARMER - CORPORATION  
LICENSE TAX DEDUCTION (1) A deduction from Montana net income is allowed as a result of each sale of 80 acres or more approved by the agricultural loan authority. The deduction is the amount which would have to be included in net income resulting from the sale, up to a maximum deduction of \$50,000.

(a) The deduction may be taken only in the year of the sale.

(i) If income from the sale is received in installments, a deduction may be taken in a year a payment is received until the loan is paid or the deductions for all years equals \$50,000.

(ii) If the income is not received in installments, the deduction cannot be carried to another year.

(b) To the extent that a net operating loss is created as a result of the deduction, such loss is not available for carryover or carryback provisions.

(2) The taxpayer may claim more than one deduction as a result of sales to beginning farmers provided each sale is approved by the agricultural loan authority.

(3) For tax deduction purposes, a copy of the approval of the transaction by the agricultural loan authority must be attached to the return claiming the deduction. The Department may also require additional documentation on request to establish the eligibility of the transaction for a tax deduction.

AUTH: 15-1-201, MCA; IMP: 80-12-211, MCA.

3. The Department is proposing to adopt this rule because § 23 of Chapter 580, Laws of 1983, (codified as § 80-12-211, MCA) provides for an income tax deduction for certain land sales to beginning farmers. This rule is necessitated by the fact that several points were not specifically addressed in the statute. Unless those items are addressed in this rule, substantial problems may arise in the administration of the statute. First, the statute is unclear on whether or not corporations are eligible for this deduction. In consulting with the sponsor of Chapter 580, Senator Towe, and the Revenue Oversight Committee, the

Department concluded the intent of the law was to allow corporations to claim the deduction. The rule reflects this interpretation. Second, the statute does not state when the deduction may be claimed. The rule states that the deduction will be allowed in the year of the sale with the exception of installment sales. Third, the total deduction will be limited to \$50,000 for each sale authorized by the Agricultural Loan Authority, regardless of the number of years over which income from that sale is received. Without this rule, taxpayers would be unsure of: a) how the \$50,000 limit applies to each sale, and; b) how more than one authorized sale to a beginning farmer is treated.

Fourth, net operating losses created or increased by this deduction must be adjusted before such loss may be carried back or carried forward. The statute only indirectly addresses this issue by not providing any carryover or carryback provisions.

Finally, the rule provides for the submittal or availability of information to support a claim for a deduction.

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


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

no later than January 13, 1984.

5. If a person who is directly affected by the proposed amendments wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Ann Kerry at the above address no later than January 13, 1984.

6. If the agency receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed adoption; 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 § 15-3-201, MCA, and the rule implements § 80-12-211, MCA.

  
ELLEN FFAVER, Director  
Department of Revenue

Certified to Secretary of State 12/05/83

23-12/15/83

MAR Notice No. 42-2-255

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

IN THE MATTER OF THE ADOPTION)	NOTICE OF PROPOSED ADOPTION of
of Rule I relating to a )	Rule I relating to a deduction
deduction from individual )	from individual income tax for
income tax for the sale of )	the sale of land to beginning
land to beginning farmers. )	farmers.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On January 16, 1984, the Department of Revenue proposes to adopt rule I relating to a deduction from individual income tax for the sale of land to beginning farmers.
2. The rule as proposed to be adopted provides as follows:

RULE I DEDUCTIONS FOR SALE OF LAND TO A BEGINNING FARMER

(1) A deduction from adjusted gross income is allowed as a result of each sale of 80 acres or more approved by the agricultural loan authority. The deduction is the amount which would have to be included in adjusted gross income as ordinary income and the taxable portion of capital gains resulting from the sale, up to a maximum deduction of \$50,000.

(a) The deduction may be taken only in the year of the sale.

(i) If income from the sale is received in installments, a deduction may be taken in a year a payment is received until the loan is repaid or the deductions for all years equals \$50,000.

(ii) If the income is not received in installments, the deduction cannot be carried to another year.

(2) The taxpayer may claim more than one deduction as a result of sales to beginning farmers provided each sale is approved by the agricultural loan authority.

(3) To the extent that a net operating loss is created as a result of this deduction, such loss shall not be available for carryover or carryback provisions.

(4) Individuals in a partnership that makes an approved sale are also allowed this deduction. The partners' distributive shares of profit may be reduced by the amount of the allowable deductions. However, in no case shall the total deduction for all partners exceed \$50,000 for each sale.

(5) Shareholders of an electing small business corporation are not allowed a deduction on their individual tax returns for approved sales made by the corporation. The deduction must be taken by the corporation.

(6) For tax deduction purposes, a copy of the approval of the transaction by the agricultural loan authority must be attached to the return claiming the deduction. The Department may also require additional documentation on request to establish the eligibility of the transaction for a tax deduction.

AUTH: 15-1-201, MCA; IMP: 80-12-211, MCA.



3. The Department is proposing to adopt this rule because §23 of Chapter 580, Laws of 1983, (codified as §80-12-211, MCA) provides for an income tax deduction for certain land sales to beginning farmers. This rule is necessitated by the fact that several points were not specifically addressed in the statute. Unless those items are addressed in this rule, substantial problems may arise in the administration of the statute. First, the law does not provide procedures for shareholders in small business corporations and partners in partnerships to receive the deduction. The rule states how the deduction is taken. Second, the law does not state when the deduction may be claimed. The rule states that the deduction will be allowed in the year of the sale with the exception of installment sales. Third, the total deduction will be limited to \$50,000 of ordinary income and the taxable portion of capital gains for each sale authorized by the Agricultural Loan Authority, regardless of the number of years over which income from that sale is received. Without this rule, taxpayers would be unsure of: a) how the \$50,000 limit applies to each sale, and; b) how more than one authorized sale to a beginning farmer is treated.

Fourth, net operating losses created or increased by this deduction must be adjusted before such loss may be carried back or carried forward. The statute only indirectly addresses this issue by not providing any carryover or carryback provisions.

Finally, the rule provides for the submittal or availability of information to support a claim for a deduction.

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

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

no later than January 13, 1984.

5. If a person who is directly affected by the proposed amendments wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Ann Kenny at the above address no later than January 13, 1984.

6. If the agency receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed adoption; 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 § 15-1-201, MCA, and the rule implements § 86-12-211, MCA.

  
ELLEN FEAVER, Director  
Department of Revenue

Certified to Secretary of State 12/05/83

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA


In the matter of the adoption )	NOTICE OF VACATION OF
of rules pertaining to )	MAR NOTICE NO. 44-2-33
prescribed graphics and )	
information required to )	
be printed on ballot )	
envelopes for electors in )	
United States Service )	

TO: All Interested Persons:

1. On November 10, 1983, the Secretary of State published notice of proposed adoption of rules regarding prescribed graphics and information required to be printed on ballot envelopes for electors in United States service, at page 1660 of the 1983 Montana Administrative Register, issue number 21.

2. The above referenced notice is hereby vacated and replaced with MAR Notice number 44-2-35 which is published in this issue of the Montana Administrative Register.

Dated this 5th day of December 1983.

  
\_\_\_\_\_  
JIM WATTERWIRE  
Secretary of State

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PROPOSED
adoption of an interpretive	)	ADOPTION OF AN INTER-
rule relative to graphics and	)	PRETIVE RULE RELATIVE
information required to be	)	TO ABSENTEE BALLOT
printed on ballot envelopes for	)	ENVELOPES
electors in United States	)	
service.	)	NO PUBLIC HEARING
		CONTEMPLATED

TO: All Interested Persons:

1. On January 14, 1984, the Secretary of State proposes to adopt an interpretive rule in regard to the information and graphics required to be printed on ballot envelopes for electors in United States service.

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

3. The interpretive rule provides as follows:

RULE 1 REQUIRED MARKINGS (1) Envelopes used to send balloting material and envelopes supplied for return of the ballot for electors in the United States service must have specific information and graphics printed upon them. Such information and graphics must be consistent with the regulations established by the federal election commission, U. S. postal service, or other federal agency.

(2) A copy of the applicable federal regulation is available from the Secretary of State, Room 202, State Capitol, Helena, Montana, 59620.

AUTH AND IMP: 13-13-214(4), MCA.

4. The reason for the proposed adoption of this rule is to implement amendments to section 13-13-214, MCA, as required by House Bill 559, Chapter 110, Laws of 1983.

5. Interested parties may submit their data, views or arguments concerning the proposed adoption in writing to the Secretary of State, Room 202, State Capitol, Helena, Montana 59620, no later than January 12, 1984.

6. If a person who is directly affected by the proposed adoption wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to the Secretary of State, Room 202, State Capitol, Helena, Montana 59620, no later than January 12, 1984.

7. If the agency receives requests for a public hearing on the proposed adoption from either 10% or 25, whichever is less, of the persons directly affected by the proposed adoption, 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 10 persons, based on 56 county election administrators and approximately 44 contract printers in Montana.

Dated this 5th day of December 1983.

  
\_\_\_\_\_  
JIM WATTERMIRE  
Secretary of State

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 46.5.613 and	)	THE PROPOSED REPEAL OF
46.5.617; the adoption of	)	RULES 46.5.613 and
rules; and the amendment of	)	46.5.617; THE ADOPTION OF
Rules 46.5.612, 46.5.614,	)	RULES; AND THE AMFNDMENT OF
and 46.5.622 pertaining to	)	RULES 46.5.612, 46.5.614
licensing of child care	)	AND 46.5.622 PERTAINING TO
agencies.	)	LICENSING OF CHILD CARE
	)	AGENCIFS

TO: All Interested Persons

1. On January 5, 1984, 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 46.5.613 and 46.5.617; the adoption of rules; and the amendment of Rules 46.5.612, 46.5.614 and 46.5.622 pertaining to licensing of child care agencies.

2. Rule 46.5.613 proposed to be repealed is on page 46-239 of the Administrative Rules of Montana.

AUTH: Sec. 53-4-113(4) and 41-3-1103, MCA

IMP: Sec. 41-3-1103, MCA

3. Rule 46.5.617 proposed to be repealed is on page 46-247 of the Administrative Rules of Montana.

AUTH: Sec. 53-4-113(4) and 41-3-1103, MCA

IMP: Sec. 41-3-1103, MCA

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

RULE I CHILD CARE AGENCY TREATMENT PROGRAM (1) The child care agency shall have a written description of its treatment program which shall be made available to the placing agency and parents. The written description shall include:

(a) the name, position and qualification of the person who has overall responsibility for the treatment program;

(b) identification of staff responsible for planning and implementing the various treatment procedures and techniques;

(c) description of staff competencies and qualifications;

(d) description of staff training required;

(e) description of the various treatment procedures and techniques used;

(f) the anticipated levels of disturbance for which such procedures and techniques are to be used;

(g) provisions for follow-up and after care;  
(h) provisions for transfer to another treatment resource when goals for treatment of a particular child have not been met or further treatment is required.

(i) description of procedures used for assessing the appropriateness of the treatment strategy for each particular child;

(j) provisions for ongoing monitoring and recording;  
(k) procedures for regular review of the overall treatment program and the individualized treatment strategies.

(2) The treatment program shall be designed to provide:

(a) adequate safeguard for the child's health and welfare;

(b) least restrictive method to accomplish treatment goals;

(c) adequate provision for periodic and regular review of each child's treatment plan;

(d) utilization of available community resources.

(3) No medication or drugs may be used as part of a treatment program unless authorized by a physician and clearly required to attain the treatment goals. In such cases, the child's case record shall include a notation describing medication authorized; name of authorizing physician; purpose of medication; dosage; and provision for review of appropriateness of continuing medication.

AUTH: Sec. 53-4-113(4) and 41-3-1103, MCA

IMP: Sec. 41-3-1103, MCA

**RULE II MANAGEMENT** (1) The child care agency shall present its program management policies to the department at application. The policies shall include at least the following:

(a) program statement and description of services;  
(b) policies for decision making, supervision of staff and consultation;

(c) program strategies, policies and procedures;

(d) case review policy;

(e) admission and discharge policies and procedures;

(f) support services policies and procedures;

(g) children's grievance procedure;

(h) transportation policies and procedures.

AUTH: Sec. 53-4-113(4) and 41-3-1103, MCA

IMP: Sec. 41-3-1103, MCA

**RULE III EDUCATION** (1) All child care agencies shall have an educational program appropriate to the needs of the child and in compliance with compulsory school attendance laws. However, no child shall receive special education services until a child study team (CST) has performed an

appropriate comprehensive assessment which yields evidence that the child has learning and/or behavioral problems requiring a specialized service not offered by the regular school program. Any child who is receiving special educational services shall have an individualized education program, (IEP), in accordance with ARM 10.16.1207.

AUTH: Sec. 53-4-113(4) and 41-3-1103, MCA  
IMP: Sec. 41-3-1103, MCA

RULE IV RECREATION (1) The child care agency may have an on-grounds recreation program operated with staff of the facility; however, access to community recreation and culture shall be provided appropriate to the child's needs, interests and abilities.

AUTH: Sec. 53-4-113(4) and 41-3-1103, MCA  
IMP: Sec. 41-3-1103, MCA

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

46.5.612 CHILD CARE AGENCY, ADMISSIONS, DISCHARGE, AND FOLLOW-UP Subsection (1) remains the same

(a) ~~A referral~~ The provider shall require the placing agency ~~must~~ to submit a social study, completed on the child and his family ~~within the last 12 months and updated to the date of referral~~, to the child care agency's admissions person or committee. In the case of nonagency referrals, the child care agency has the responsibility to compile all necessary social information.

(b) In all referrals, the child care agency shall assist the referring agency or family to review all available alternatives in order to assure appropriate placements.

(c) The admission person or committee shall review all information and resources and determine the appropriateness of placement, including age and developmental needs of children accepted into the ~~child-care-agency's-population program~~.

Subsections (1)(d) and (1)(e) remain the same.

(f) ~~When The provider may accept emergency placements are unavoidable, the same requirements apply, although carrying out the steps may have to be adjusted to the realities of the situation, except in the matter of interstate compact procedures, in some circumstances where all of the required information for placement is not readily available. These placements shall not exceed 10 percent of the total number of residents. The provider shall obtain the required information within 60 days of admission.~~

(g) ~~All types of residential care and services shall be planned periods of time to be reflected in the child's case plan. Referrals may only be accepted from parties authorized~~



by law to place children and with the resources to pay for the placement.

(2) ~~Receiving-homes, where admission is made in emergency and temporary situations, must have a written admissions policy based on the record requirements as provided in rule 46.5-600.~~ Each child care agency shall include plans for discharge in the child's case plan and review these plans quarterly.

(a) The discharge plans shall include recommendations to the placing agency for follow-up services to the child.

(b) When the placement has been made by the parent, the provider shall be responsible for both follow-up services to the family and child and referral for support services.

(c) The provider shall assist the child and, when appropriate, the child's family in preparing for the child's discharge from the program.

(3) ~~No child under the age of 24 months may be placed in a child care agency for longer than 24 hours unless part of a sibling group being placed together.~~

(4) ~~Referrals may only be accepted from parties legally authorized to place children. Authorized placing parties include, but are not limited to, the department, a district court, juvenile probation offices, parents of the child, department of institutions, licensed child placing agencies, tribal courts, and federal probation and parole, depending upon the legal status of the child.~~

(5) ~~A discharge plan shall be included in the case plan for the child and re-evaluated at least quarterly. This discharge plan shall include recommendations for realistic follow-up service plans to the referring party. Discharge plans are not required for receiving homes.~~

(6) ~~Post-placement services shall be provided by either the agency that worked with the child or the agency that worked with the family. These services shall be a continuation of the planned change effort and shall aid the child in the readjustment to community life in a family, group, or independent setting.~~

(7) ~~In the case of parental referrals, it shall be the responsibility of the child care agency to arrange for support services to the family and child and continue monthly follow-up contacts for six months, except for relinquishments in which case follow-up contacts shall depend upon the individual's best interests.~~

AUTH: Sec. 53-4-113(4) and 41-3-1103, MCA  
IMP: Sec. 41-3-1103, MCA

46.5.614 CHILD CARE AGENCY, PERSONNEL Subsections (1) through (3) (b) remain the same.

(4) Health prerequisites to hiring. A child care agency must require a prospective employee to submit the following

23-12/15/83

MAR Notice No. 46-2-398

~~items-as-prerequisites-to-hiring:~~ Personnel shall be in good physical and mental health. A CSD-33, "personal statement of health for licensure" form provided by the department must be completed by the provider for each staff member and submitted with the initial application for licensure and annually thereafter.

~~(a)--a-report-of-a-recent-physical-examination-or-a statement-addressing-any-physical,-mental-or-emotional-condition-which-could-create-a-hazard-for-children-in-care-or-personnel;~~

~~(b)--a-report-of-the-results-of-a-tuberculin-test; and~~

~~(c)--documentation-showing-that-any-department-of-health-and-environmental-sciences-requirements-for-tuberculin-follow-up-have-been-met;~~

Subsections (5) through (12) remain the same.

AUTH: Sec. 53-4-113(4) and 41-3-1103, MCA

IMP: Sec. 41-3-1103, MCA

#### 46.5.622 CHILD CARE AGENCY, ADDITIONAL REQUIREMENTS

(1) In addition to the preceding standards which apply specifically to child care agencies, a child care agency must also comply with the standards contained in ARM 46.5.651, ARM 46.5.652, ARM 46.5.653, ARM 46.5.654 (2)-(8), ARM 46.5.655, and ARM 46.5.656.


AUTH: Sec. 53-4-113(4) and 41-3-1103, MCA

IMP: Sec. 41-3-1103, MCA

6. The proposed repeal, amendment and adoption of rules is necessary to provide clarification in licensing requirements for child care agencies and to provide consistency in child care agency rules with recently adopted youth foster care and youth group home rules. The 48th legislature anticipated that the department would adopt rules for licensing of all youth care facilities and so stated in the Statement of Intent in HB 24, Ch. 465, L 1983.

7. 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 January 13, 1984.

8. 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 December 5, 1983.

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

In the matter of the amend- ) NOTICE OF PUBLIC HEARING ON  
ment of Rules 46.25.712 and ) THE PROPOSED AMENDMENT OF  
46.25.739 pertaining to ) RULES 46.25.712 AND  
state general relief assist- ) 46.25.739 PERTAINING TO  
ance; general and medical ) STATE GENERAL RELIEF  
assistance. ) ASSISTANCE

TO: All Interested Persons

1. On January 5, 1984, at 1:00 p.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana, to consider the amendment of Rules 46.25.712 and 46.25.739 pertaining to state general relief assistance, general and medical assistance.

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

46.25.712 STANDARDS OF ASSISTANCE (1) Assistance will be granted to individuals who have a demonstrated need in the areas of shelter, utilities, food, transportation and personal needs at a level not to exceed these AFBE categorical standards:

TABLE OF ASSISTANCE STANDARDS

No. of Persons in Household	Shelter	Utilities	Food	Personal Needs	Trans- portation	Maximum Standard
1	\$120	\$-75	42	\$-75	25	\$212
2	160	90	59	139	67	279
3	190	116	72	199	80	332
4	242	149	103	253	102	425
5	285	175	126	300	120	501
6	321	197	143	360	135	564
7	355	210	159	390	150	624
8	390	240	175	455	165	685
9	407	250	197	512	171	744
10	458	281	206	569	193	804
11	492	302	222	626	207	864
12	526	323	237	683	222	923
13	560	344	253	740	236	983
14	594	365	268	797	250	1,042
15	628	386	284	854	264	1,102
16	662	407	300	911	279	1,162

(a) ~~An applicant or recipient of general relief may be eligible for an amount greater than specified in the plan for~~

~~shelter and utilities if the need is documented and the total payment does not exceed the maximum standard.~~ An applicant recipient who has a documented food need and who is ineligible for food stamps may receive an amount not to exceed the thrifty food plan which is found at 7 CFR 273.10(1)(2) providing the total general relief payment to the household does not exceed the maximum standard. The department of social and rehabilitation services hereby adopts and incorporates by reference 7 CFR 273.10. A copy of 7 CFR 273.10 may be obtained from the Department of Social and Rehabilitation Services, 111 Sanders, Box 4210, Helena, Montana 59604.

(2) Monthly income is to be compared to the maximum standard in the above table for the size of the assistance unit. If the monthly income exceeds the maximum standard, the assistance unit is not eligible. If the assistance unit has income less than the maximum standard, the amount of the grant will be the difference between available income and the maximum standards if a need exists.

AUTH: Sec. 53-2-803, MCA

IMP: Sec. 53-2-602 and 53-2-803, MCA

#### 46.25.739 ELIGIBILITY DETERMINATION FOR STATE MEDICAL

ASSISTANCE (1) Eligibility regarding resources and income is as described in ARM 46.25.723 and 46.25.726 for general relief, except that the maximum income available to the household must not exceed the medically needy standards for the same size household. All non-excluded resources must be used to offset medical obligation. Conditional assistance as provided in ARM 46.25.726 is not applicable. The medically needy standards can be found at ARM 46.12.3803.

(2) Income eligibility for state medical assistance is as follows:

(a) Countable income is determined prospectively for a six month period using gross income less the appropriate deductions of applicable federal, state and FICA taxes. Income is defined in ARM 46.25.723.

(b) An individual or household with countable income between the general relief standards and the medically needy income levels must incur medical obligations equal to the difference between the two income and the general relief standards during the six month prospective period prior to becoming eligible for the medical program (e.g., income multiplied by 6 less applicable general assistance standard multiplied by 6 equals incurment). For applicants with income greater than the general relief standard but less than medically needy standard the department will pay the medical obligation less the amount of incurment.

(c) Payment under the medical program will be made only for those services recognized by the Montana medicaid program ~~and will not exceed the medicaid reimbursement rate~~ which are

medically necessary to relieve pain and suffering or to alleviate life threatening situations.

(d) Payment for services will not exceed the medicaid reimbursement rate and such payment will be accepted as payment in full.

(e) Except for emergency services, all other medical care must receive prior authorization.

(3) Services under this rule will be provided only after all other available resources have been identified and used. Such resources include, but are not limited to health and accident insurance; veteran's administration and hospital; industrial accident benefits; Montana medicaid program; and other liable third parties.

AUTH: Sec. 53-2-803, MCA

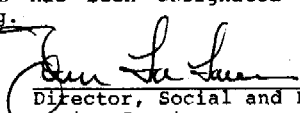
IMP: Sec. 53-3-103 and 53-2-803, MCA

3. Rule 46.25.712 is proposed to be amended because the categorical standards were recalculated to reflect the statewide experience of requested needs. For example, other utility assistance programs are available to pay for utilities thus the utility standard was decreased.

Rule 46.25.739 is proposed to be amended to standardize and more specifically explain and limit what medical services will be paid for in the state medical program and to insure acceptance of payment as payment in full.

4. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, Montana 59604, no later than January 13, 1984.

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

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

Certified to the Secretary of State December 5, 1983.


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

In the matter of the adoption	)	NOTICE OF ADOPTION OF
of a rule relating to examination,	)	RULE XVI (6.6.1616)
licensure, bonding, and regulation	)	RELATING TO
of public adjusters	)	PUBLIC ADJUSTERS

TO: All Interested Persons

1. On October 27, 1983, the Commissioner of Insurance published notice of proposed adoption of Rule XVI (6.6.1616), relating to public adjusters, at pages 1495 to 1496 of the 1983 Montana Administrative Register, Issue No. 20.
2. The Commissioner has adopted the Rule as proposed.
3. No written comments or testimony were received.
4. The authority for the Rule is Sections 33-1-313 and 33-17-102, MCA, and the Rule implements Section 33-17-102(1)(c), MCA.

E. V. "Sonny" Omholt  
State Auditor & Ex Officio  
Commissioner of Insurance

  
Norma E. Seiffert, CPIA  
Chief Deputy Commissioner of  
Insurance

Certified to the Secretary of State December 2, 1983.

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

In the matter of the adoption of )	NOTICE OF ADOPTION OF RULES
rules implementing 33-20-208(8), )	PROVIDING FOR IDENTICAL
MCA providing for identical )	NONFORFEITURE VALUES UNDER
nonforfeiture values for men and )	AN EMPLOYER SPONSORED
women in an employer sponsored )	RETIREMENT BENEFIT PROGRAM
retirement benefit program )	

TO: All Interested Persons

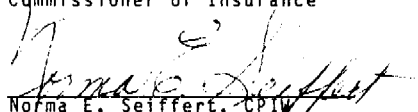
1. On October 27, 1983, the Commissioner of Insurance, published notice of the proposed adoption of Rules I through V (6.6.1801 through 6.6.1805), relating to identical nonforfeiture values under an employer sponsored retirement benefit program at pages 1492 through 1494 of the 1983 Montana Administrative Register, Issue No. 20.

2. The Commissioner has adopted the Rules as proposed.

3. No written comments or testimony were received.

4. The authority for the Commissioner to adopt the Rules is Section 33-1-313 and 33-20-208(8)(f), MCA, and the Rules implement Section 33-20-208(8), MCA.

E. V. "Sonny" Omholt  
State Auditor & Ex Officio  
Commissioner of Insurance

  
Norma E. Seiffert, CPIW  
Chief Deputy Commissioner of  
Insurance

Certified to the Secretary of State December 2, 1983.



STATE OF MONTANA  
DEPARTMENT OF COMMERCE  
BEFORE THE BOARD OF COSMETOLOGISTS

In the matter of the amendments ) NOTICE OF AMENDMENT OF 8.14.816  
of ARM 8.14.816 subsection (1) ) SALONS, 8.14.1003 EXAMINATION,  
concerning salons; 8.14.1003 ) 8.14.1010 FEE SCHEDULE, and  
subsection (3) concerning exam- ) ADOPTION OF A NEW SUB-CHAPTER  
inations; 8.14.1010 concerning ) 9 ELECTROLOGY SCHOOLS, rules  
fees; and adoption of new rules ) 8.14.901 - 908, and A NEW SUB-  
under a new sub-chapter 9 con- ) CHAPTER 11, SANITARY STANDARDS  
cerning electrology schools, & ) FOR ELECTROLOGY SALONS, rules  
a new sub-chapter 11 concerning ) 8.14.1101 - 8.14.1110  
sanitary rules for electrology )  
schools. )

TO: All Interested Persons:

1. On September 15, 1983, the Board of Cosmetologists published a notice of amendments and adoptions of the above-stated rules at pages 1225 through 1237, 1983 Montana Administrative Register, issue number 17.

2. In response to a letter from David Niss, Legal Council for the Administrative Code Committee, the board is amending and adopting the rules with the following changes:

Amendment of 8.14.816, Salons and 8.14.1003 Examination are being amended as proposed

Amendment of 8.14.1010 is amended with the following change:

"8.14.1010 FEE SCHEDULE ...

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

The board is making the change to make clear that the fee is paid to the board, rather than the school. The board finds it necessary to impose a registration fee for students enrolling in a school, plus the need to impose the same fee for each time a student re-enrolls in a school following a withdrawal, to cover administrative costs. The board maintains a record of each student, the school they are enrolled in, the number of hours, and supplies each student with a copy of law and rules. The actual cost, per student, was pro-rated for cosmetology students by the department staff to be \$7.57 per student. As the board is maintaining similar records for electrology students, it was determined the cost should be similar. The authority of the board to make the proposed amendment is based on sections 37-1-134 and 37-32-201, MCA and implements section 37-32-302, MCA, rather than 37-1-134, MCA as cited in the original notice.

The proposed rules under Sub-chapter 9, noticed as rules 1 through IX, are being adopted as proposed with the exception of proposed rule IX. The rules will become 8.14.901 through 8.14.908. The proposed rule IX, Examiners - Student Examinations will be adopted at a later date, after the repeal of rule 8.14.1002 is noticed, as there is a conflict between the two rules. The conflicting requirements of the two rules were brought to the attention of the board in David Niss's letter to the board attorney. Also the board had cited as an implementing section 37-32-102 (1), MCA, and should have cited section 37-32-302, (1)(b), MCA.

The rules proposed under a new sub-chapter 11 are being adopted as proposed with the exception that all references in the rules to schools, students or instructors will be deleted. It was brought to the attention of the board by David Niss's letter that the board only had authority to set sanitary standards for electrology salons and not electrology schools.

3. No other comments or testimony were received.

DEPARTMENT OF COMMERCE  
BEFORE THE BOARD OF PSYCHOLOGISTS

In the matter of the amendment ) NOTICE OF AMENDMENT OF 8.52.  
of 8.52.616 concerning fees. ) 616 FEE SCHEDULE

TO: All Interested Persons:

1. On October 27, 1983, the Board of Psychologists published a notice of amendment of the above-stated rule at page 1497, 1983 Montana Administrative Register, issue number 20.
2. The board has amended the rule exactly as proposed.
3. No comments or testimony were received.

DEPARTMENT OF COMMERCE

BY: 

ROBERT WOOD, ATTORNEY

Certified to the Secretary of State, December 5, 1983.

STATE OF MONTANA  
DEPARTMENT OF COMMERCE  
BEFORE THE BOARD OF MILK CONTROL

In the matter of the amendment ) NOTICE OF AMEND-  
of Rule 8.79.101 (5), (6), (6) ) MENT OF RULE 8.79.101 (5),  
(a), (b), (7), (8), (11)(e), ) (6), (6)(a), (b), (7), (8),  
(f), and (13) regarding pur- ) (11)(e), (f), AND (13)  
chase and resale: Rule 8.79.201 ) TRANSACTIONS INVOLVING  
(1)(d) regarding trade prac- ) PURCHASE AND RESALE OF MILK  
tices: ) WITHIN THE STATE RULE DEF-  
 ) INITIONS: 8.79.201 (1)(d)  
 ) REGULATION OF UNFAIR TRADE  
 ) PRACTICES  
 )  
 ) DOCKET #65-83

TO: ALL INTERESTED PERSONS

1. On June 30, 1983, the Milk Control Bureau of the Department of Commerce published a notice of amendment of Rule 8.79.101, subsections (5), (6), (6)(a), (b), (7), (8), (11)(e), (f) and (13) relating to invoice billing, testing of raw milk samples and reporting of those results; 8.79.201 (1)(d) relating to a housekeeping change to delete references to marketing areas from the rule, at pages 689 through 692, 1983 Montana Administrative Register, issue number 12.

2. A hearing was held by the Milk Control Bureau to consider a request by Gallatin Dairies Inc. to amend Rule 8.79.101, subsection (5) and a proposal on the Bureau's own cognizance to amend Rule 8.79.101, subsections (6), (6)(a), (b), (7), (8), (11)(e), (f) and (13) and Rule 8.79.201, subsection (1)(d) because the required number of persons designated in the original notice requested a public hearing.

3. The Bureau is amending Rule 8.79.101, subsection (5) as originally noticed. Mr. Keith Nye, representing Gallatin Dairies Inc. testified in support of the proposed amendment. He testified that permitting the use of computers to extend unit prices on daily invoices would generate labor savings and minimize mistakes. Mr. Phillip Strobe, on behalf of various Hutterite Colonies, objected to the rule as proposed on the grounds that it was vague and ambiguous.

a. The Bureau does not agree with Mr. Strobe that the amendment as proposed is ambiguous. The language in the other part of the subsection has existed for many years and is identical to what is being objected to. There has never been any controversy or confusion concerning that language.

b. The Bureau agrees with Mr. Nye that the rule change would be beneficial to the industry in that the change would enable it to increase accuracy and efficiency. Policymaking the amended rule would not be much more difficult than the existing rule.

4. The Bureau is amending Rule 8.79.101, subsections

(6), (6)(a), (b), (7), (8), (11)(e), (f) and (13) as originally noticed.

Mr. Ross testified in support of the Bureau's proposal. He stated that it makes little sense to impose additional costs of a program on distributors without any enforcement capability.

Mr. K. M. Kelly and Mr. Harry Mitchell both appeared on behalf of the Montana Dairymen's Association Board of Directors in support of the Bureau's proposal. Mr. Kelly indicated he thought the legislature's intent to "Wipe-Out" the testing program and restore it to its previous form was very clear. He agreed that it would be appropriate to eliminate the additional costs to plants where there is no enforcement capability.

The proponents urged the rule to be amended as proposed for the following reasons:

a. Without funding to administer a butterfat testing program, there would be little justification to require distributors to incur an additional expense for butterfat testing. Without adequate justification such a rule would be impossible to enforce.

b. It was the intent of the legislature to eliminate duplication in butterfat testing. If the Bureau were to leave the current rule in effect, they would be continuing their involvement because they are obligated to enforce all rules under their jurisdiction.

Mr. Strobe and members from ten different Hutterite Colonies testified against the Bureau's proposed amendments and offered suggested changes considered appropriate. Mr. Strobe and his clients felt the rule as proposed by the Bureau, would go far beyond what is necessary as a result of action taken by the 1983 legislature. Several colonies' witnesses testified that they were being cheated on butterfat content because their plant was paying them for butterfat content on composite samples which they maintained were not as accurate as butterfat tests based on fresh milk samples.

Those participants urged the Bureau to deny the proposed amendment for the following reasons:

a. They felt the Bureau's proposed amendments went far beyond what was required because of legislative action.

b. They felt retaining the rule requiring distributors to pay producers for butterfat content based on fresh milk samples would not necessarily place an additional burden on the Bureau because the Bureau did not necessarily have to enforce all their rules.

c. They felt retaining such a requirement in the rules would better enable them to force distributors to pay more accurately on butterfat content.

The Bureau rejected the opponents arguments and accepted

those of the proponents for the following reasons:

a. The Bureau agrees with Mr. Strobe that the current rule could not be enforced by the Bureau and it is felt that the Bureau is obligated to enforce any and all rules under its jurisdiction, so therefore it would become a burden on the department to enforce it.

b. The Bureau agrees with the contention that the legislature felt the Bureau was duplicating a service which was required to be performed by the Department of Livestock and therefore one such service ought to be eliminated. The Bureau concedes that such a rule might be beneficial for those producers but it would better serve its purpose if enforced by the Department of Livestock.

c. The Bureau sees no compelling reason to require rules which increase a distributors cost of doing business when there is no logical purpose from a regulatory standpoint for such a requirement.

5. The Bureau has amended Rule 8.79.201 (1) (d) as proposed. No other comments or testimony were received.

*William E. Ross*

William E. Ross, Chief  
Milk Control Bureau  
Department of Commerce

Certified to the Secretary of State, December 5, 1983.

STATE OF MONTANA  
DEPARTMENT OF COMMERCE  
BEFORE THE MONTANA ECONOMIC DEVELOPMENT BOARD

In the matter of the adoption     ) NOTICE OF ADOPTION OF RULES  
of rules for the Montana         ) FOR THE MONTANA ECONOMIC  
Economic Development Board.     ) DEVELOPMENT BOARD

TO: All Interested Persons:

1. On October 27, 1983, the Montana Economic Development Board published a notice of public hearing on the adoption of rules for the board at pages 1509 through 1516, 1983 Montana Administrative Register, issue number 20.

2. The board has adopted the rules as proposed with the following changes: (new matter underlined, deleted matter interlined)

Rule I. now 8.97.101 ORGANIZATIONAL RULE (1) ...

(3) The board is attached to the department of commerce ('the department') for administrative purposes. The ~~department~~ board has the authority to hire and prescribe the duties and salaries of its staff. A chart of the organization of the department can be found in section 8.1.105 (5), A.R.M., and the board hereby adopts and incorporates this chart by reference into its organizational rule.

(4) ..."

Rules II. and III. are adopted as proposed with the following numbers respectfully, 8.97.201, 8.97.202.

The remaining rules were proposed to be placed under sub-chapter 7, but will be placed in sub-chapter 8. Rule IV. is being adopted as 8.97.801; rule V. is being adopted as 8.97.802; rule VI. is being adopted at 8.97.803 with the following change: (new matter underlined, deleted matter interlined)

"8.97.803 APPLICATION PROCEDURE TO BECOME A 'CERTIFIED' MONTANA CAPITAL COMPANY (1) A development credit corporation created pursuant to Title 32, Chapter 4, MCA, or a company organized and existing under the laws of Montana, created for the purposes of making venture or risk capital available for qualified investments as defined in Title 90, Chapter 8, MCA, shall make written application for certification to the board on application forms provided by the board. Said application form shall be signed by ~~the~~ a duly authorized officer, or partner(s), and contain the following information and evidence ~~in addition to any other information as may be required by the board pursuant to section 90-8-201, MCA:~~

(d) a certified copy of the certificate of incorporation, and articles of incorporation, or a certified copy of the certificate of formation of a limited partnership.

or trust documents, or other evidence that the company is organized and existing under the laws of Montana;

(e) information and evidence that the applicant's purpose is to encourage and assist in the creation, development, and expansion of Montana based businesses and to provide maximum opportunities for the employment of Montanans by making venture capital available to sound ~~small~~ Montana ~~firms~~ small businesses.

(f)... (1) if a corporation, information on the aggregate number of shares which it has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class;

(n) ...

(o) the names and respective addresses of persons or businesses that own twenty-five percent or more of the assets voting capital shares of the company ~~or who otherwise own a controlling interest in the company~~;

(p) ...

(4) ...

(5) The submittal of any false or misleading information in the application will be grounds for rejection of the application and denial of further consideration.

~~(5)~~ (6) ...

~~(6)~~ (7) The board, at its next regular meeting, after an application is designated complete by the administrator, shall designate as 'certified' Montana capital companies those companies which are development corporations created pursuant to Title 32, Chapter 4, MCA and those companies which the board determines are organized for the purpose of encouraging and assisting in the creation, development, and expansion of Montana based business and to provide maximum opportunities for the employment of Montanans by making venture capital available to sound Montana small Montana firms businesses.

~~(7)~~ (8) ..."

Rule VII. is being adopted as 8.97.804 with the addition of a new subsection (5), renumbering all following subsections and will read as follows: (new matter underlined, deleted matter interlined)

"8.97.804 APPLICATION PROCEDURE TO BECOME A 'QUALIFIED' MONTANA CAPITAL COMPANY (1) A 'certified' capital company shall make written application to the board on application forms provided by the board. Said application form shall be signed by the a duly authorized officers or partners and contain the following information and evidence in addition to any other information as may be required by the board pursuant to section 96-8-2027 MCA:

(5) The submittal of any false or misleading information in this application will be grounds for rejection of the application and denial of further consideration.  
(5) (6) ..."

Rule VIII. is being adopted as proposed as 8.97.805.

Rule IX. is being adopted as 8.97.806 with the following change: (new matter underlined, deleted matter interlined)

"8.97.806 AMENDMENT OF APPLICATION (1) A 'certified' or 'qualified' capital company may amend an application designated complete by the administrator ~~or~~ at any time by submitting new information or evidence as required by rules 8.97.803 and 8.97.804, A.R.M. The same procedural requirements and fifteen day notification period apply to an amendment."

Rule X. is being adopted as proposed as rule 8.97.807. A new rule is also being adopted as 8.97.808 which is entitled "Quarterly Reporting of Qualified Investments and is a result of comments at the hearing. The new rule will read as follows:

"8.97.808 QUARTERLY REPORTING OF QUALIFIED INVESTMENTS

(1) Each qualified Montana capital company shall report to the board on a quarterly basis all qualified investments that the company has made. Companies shall include information necessary to determine whether the company is making 'qualified investments' as defined in 90-8-104 (5), MCA. Such information shall be reported on forms provided by the ~~board~~ administrator and shall include, but is not limited to:

(a) the name, location, and owners of each business in which the company has invested;

(b) the number of employees in each business;

(c) a certification that all businesses in which the company has invested are 'small businesses' as defined in rule 8.97.802, A.R.M;

(d) a description of how the activities of these businesses meet the criteria for qualified investments specified in 90-8-104 (5), MCA, and;

(e) the amount of the investment and percentage it represents of the 'qualified' company's capital base."

Auth: 90-8-105, MCA Imp: 90-8-312 (4), 90-8-104 (5), MCA

3. At the public hearing, in addition to staff, 8 persons appeared. Of the eight only three testified. Their testimony was in support of the rules. Three letters were received, none in opposition. Two other letters were received



after the deadline for comments, which did not contain any material that was not previously recommended. The following comments which were made at the hearing.

COMMENT: An additional rule should be adopted which would prevent capital companies from assuming majority control of businesses in which they invest.

RESPONSE: Without expressing an opinion on the merits of this proposal, the board judgement is that it lacks statutory authority to regulate by rule the investments of capital companies.

COMMENT: An additional rule should be adopted which would limit interest rates charged by capital companies to less than prime plus five points.

RESPONSE: Without expressing an opinion on the merits of this proposal the board judgement is that it lacks statutory authority to regulate by rule investments of capital companies.

COMMENT: An additional rule should be adopted which would require capital companies to report the following information to the board:

(a) the name, location, and owner of each business in which they have invested.

(b) the number of employees in each of these businesses.

(c) the net worth and average net income of each of these businesses.

(d) a description of how the activities of these businesses meet the criteria for qualified investments specified in 90-8-104 (5), MCA.

(e) the amount of the investment and the percentage it represents of the Montana capital company's base.

RESPONSE: An additional rule, 8.97.808, has been adopted to to implement this provision except for a change in item (c). The board has changed item (c) to read, "a certification that all businesses in which the company has invested are 'small businesses' as defined in these rules." The board did not ask for disclosure in public reports of the net worth and average net income of each business because this board determined the demands of individual privacy clearly exceed the merits of public disclosure. The annual examination by the commissioner of financial institutions as requested by section 90-8-313 and 90-8-301, MCA, will provide an opportunity to verify the certified report of the capital companies. The board has adopted this rule to clarify the quarterly reporting requirements contained in section 90-8-312, MCA; and to ensure the receipt of sufficient information to determine that the capital company is making "qualified investments" as defined in 90-8-104 (5), MCA.

COMMENT: An additional rule should be adopted which would prevent capital companies from investing in small businesses if a person who owns twenty-five percent or more of the assets of the capital company also owns twenty-five percent or more of the assets of the small business.

RESPONSE: Without expressing an opinion on the merits of this proposal, the board judgement is that it lacks statutory authority to regulate by rule the investments of capital companies.

In addition a telephone call was received from David Niss, Legal Counsel for the Administrative Code Committee. He expressed concern with regard to rules VI., VII., and IX. in that the rules appeared to require additional information for applications which was not clearly defined. The board has deleted the references in the first two rules and reworded the third. Mr. Niss also brought to the board's attention that rules VI. and VII. should have shown as implementing section 90-8-204, MCA, in addition to 90-8-202, MCA. Mr. Niss also questioned the reason the board had used for adopting the rules. Therefore the board is stating additional reasons in this adoption notice. The board proposed the rules to commence implementation of the tax credit program for investment in Montana small business as set forth in Title 90, Chapter 8, MCA.

Rule 8.97.101 is necessary to insure that the composition, organization, and place of business of the board is known to interested parties.

Rules 8.97.201 and 8.97.202 are necessary to establish a means of operation of the board that is uniform with existing state procedures, and that allows for access and input from members of the public.

Rules 8.97.801 and 8.97.802 are to insure that the purpose of the rules and the terms used in the body of the rules are clearly understood.

Rules 8.97.803 and 8.97.804 are necessary for the following reasons:

a. to provide the board sufficient information to determine eligibility for "certification" or "qualification" as required by sections 90-8-201 and 202, MCA.

b. to insure that investors in Montana capital companies are aware of the conditions surrounding their investments.

c. to clarify the necessary requirements for investors to become eligible for tax credits.

Rule 8.97.805 is necessary to provide for allocation of tax credits in the order that completed applications are received by the board as required by 90-8-202, MCA.

Rule 8.97.806 is necessary to provide for amending applications due to additional investors, increased levels of

capitalization, and/or application for additional authorization of tax credits.

Rule 8.97.807 is necessary for the following reasons:

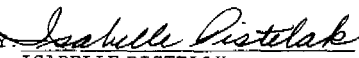
a. to provide for quarterly reporting and allocation of tax credits as provided by 90-8-312, MCA.

b. to establish the means of allocation of tax credits to investors in "qualified" companies.

Rule 8.97.808 is necessary to clarify the quarterly reporting requirements contained in section 90-8-312, MCA; and to ensure the receipt of sufficient information to determine that the capital company is making "qualified investments" as defined in 90-8-104 (5), MCA.

3. No other comments or testimony were received.

MONTANA ECONOMIC DEVELOPMENT  
BOARD  
D. PATRICK McKITTRICK  
CHAIRMAN

BY:   
ISABELLE PISTELAK  
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, December 5, 1983.

STATE OF MONTANA  
DEPARTMENT OF COMMERCE  
BEFORE THE COAL BOARD

In the matter of the amendments )	NOTICE OF ADOPTION OF AMEND-
of ARM 8.101.301 - 8.101.305 )	MENTS TO ARM 8.101.301 POLICY
and 8.101.307 and the adoption )	STATEMENT, 8.101.302 PRE
of new rules relating to the )	APPLICATION FORM (LIF 1-75),
coal board's loan program )	8.101.303 APPLICATION FORM
authorized by the 1983 legisla- )	(LIF 2-75), 8.101.304 AGREE-
ture and the making of grants )	MENT FORM 3-75), 8.101.305
and loans to Indian tribes. )	SUBMITTAL DEADLINES, 8.101.307
	WATER AND/OR SEWER SYSTEMS
	PROVIDED BY DISTRICTS AND
	ADOPTION OF NEW RULES 8.101.
	309 LIMITATIONS ON LOANS and
	8.101.310 INTEREST RATES FOR
	LOANS

TO: All Interested Persons:

1. On October 13, 1983, the Coal Board published a notice of public hearing on the proposed amendments and adoption of rules governing the board's loan program and application for grants and loans by federally recognized Indian tribes at pages 1416 through 1419, 1983 Montana Administrative Register, issue number 19.

2. The public hearing was held on November 17, 1983, at 10:00 a.m. in Room 106, Miles City Community College, 2715 Dickinson, Miles City, Montana. Twenty-eight persons attended the hearing, and six persons offered oral testimony. Three letters were read into the hearing record by board staff.

3. The board has amended and adopted the rules as proposed with the following changes: (new matter underlined, deleted matter interlined)

8.101.301 Policy Statement amended as proposed.

8.101.302 PRE APPLICATION FORM (LIF 1-75) (1) amended as proposed.

(2) It shall include a citation to the Montana Code Annotated or, in the case of a federally recognized Indian tribe, federal statute or regulation which authorizes the applicant to make expenditures to provide for the particular governmental service or facility. Form available from Administrative Officer.

(3) In addition to the above information an applicant for a loan shall establish the ~~financial feasibility of the project. A project is financially feasible if the board is satisfied that it will generate sufficient income to repay the loan and to assure adequate operation and maintenance of the~~

project: that the method proposed for repayment of the loan is feasible.

(4) An application for a loan shall be accompanied by a written opinion from the applicant's legal counsel that the proposed loan arrangements will comply with all applicable state statutes, including those relating to the form, limits, and procedures for incurring indebtedness.

(5) If the applicant for a grant or loan is the governing body of a federally recognized Indian tribe, its application must include a certification that the applicant waives its resolution of the tribal council or other governing body waiving the applicant's jurisdictional immunity from suit on any issue specifically arising from the transaction of a grant or loan obtained under this part and agrees agreeing to the adjudication of any dispute arising out of the grant or loan transaction in the District Court of the First Judicial District of the State of Montana. In addition, the applicant must submit proof that it has obtained approval of the Secretary of the United States Department of Interior whenever such approval is necessary; requested approval of the transaction, including the waiver of immunity, by the Secretary of the United States Department of Interior or his designated agent and that the Secretary or his designated agent has either approved the transaction or found that the Secretary's approval is unnecessary.

8.101.303 Application Form (LIF 2-75), 8.101.304 Agreement Form (LIF 3-75), 8.101.305 Submittal Deadlines, 8.101.307 Water and/or Sewer Systems Proved by Districts, rule I, now 8.101.309 Limitations on Loans, and rule II, now 8.101.310 Interest Rates for Loans are amended and adopted as proposed.

The board received the following comments:

COMMENT: Federally recognized Indian tribes should not be considered for coal board grants or loans.

RESPONSE: The decision to allow federally recognized Indian tribes to apply for and receive coal board grants and loans is a legislative one (Chapter 690, 1983 Session Laws), and consequently is not subject to review or reversal by the board.

COMMENT: Indian tribes should not be required to waive their sovereign immunity in order to avail themselves of the Board's grant and loan programs.

RESPONSE: The waiver of immunity requirement is imposed by section 90-6-209 (3), MCA, and may not be dispensed with by

the board. It is clear, however, that this waiver is limited to disputes arising only from the grant or loan transaction.

COMMENT: Because it is unclear whether an Indian tribe can unilaterally waive its immunity from suit in state court, the coal board should require the approval of the waiver by the Secretary of the United States Department of Interior or proof that the Secretary has determined that such approval is unnecessary.

RESPONSE: The board agrees and has incorporated the suggested requirements into 8.101.302 (5).

COMMENT: Because of the anticipated difficulty and delay involved in obtaining approval of a grant or loan transaction from the Secretary of Interior himself, the board should accept instead the approval of a local official of the Bureau of Indian Affairs who has been authorized to act on behalf of the Secretary with respect to coal board grants and loans.

RESPONSE: The board agrees and has incorporated this suggestion into 8.101.302 (5).

COMMENT: Because Indian tribes do not derive their authority from state law, the requirement contained in 8.101.302 (2) that applicants cite the Montana statute which authorizes the activity for which funding is sought is inappropriate for the tribal applicant.

RESPONSE: The board agrees and has amended 8.101.302 (2) accordingly.

COMMENT: Because an applicant for a loan may choose not to repay the loan with funds generated by the project in question, it is unreasonable to require that every project to be financed by a loan be self-supporting as does 8.101.302 (3) as proposed.

RESPONSE: The board agrees and has eliminated the requirement that every loan project generate enough revenue to retire the debt.

COAL BOARD  
HERSHEL M. ROBBINS, CHAIRMAN

BY:   
ISABELLE PISTELAK  
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, December 5, 1983.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF THE ADOPTION
ADOPTION OF RULES	)	OF RULES CONCERNING
regarding the captive	)	CAPTIVE BREEDING OF
breeding of raptors.	)	RAPTORS.

TO: All Interested Persons.

1. On October 13, 1983, the Department of Fish, Wildlife and Parks published notice of the proposed adoption of rules relating to the captive breeding of raptors at pages 1430-1432 of the 1983 Montana Administrative Register, Issue No. 19.

2. The agency has adopted those rules as proposed with the following changes and has added two rules.

12.6.1401 APPLICATION FOR PERMIT Any persons wishing to apply for a captive breeding permit shall file a written application on a form provided by the department, a copy of a current federal captive breeding permit, and \$20.

(Auth. 87-5-210, MCA; Imp. 87-5-210, MCA)

12.6.1402 FACILITIES (1) The department adopts and incorporates by reference section 21.30(d)(1) of the federal raptor propagation regulations, Vol. 48, No. 132 of the Federal Register, p. 31609, which sets forth the requirements for the facilities used to maintain raptors. A copy of the federal raptor propagation regulation may be obtained from the Law Enforcement Division of the Montana Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, Helena, Montana 59620.

(2) The department may make annual inspections of all facilities.

(Auth. 87-5-210, MCA; Imp. 87-5-210, MCA)

12.6.1403 INCUBATION NOTIFICATION OF LAYING OF EGGS (1) Each permittee shall notify the department within 5 days from the day the first egg is laid by a raptor held under a ~~raptor-propagation~~ captive breeding permit.

(Auth. 87-5-210, MCA; Imp. 87-5-210, MCA)

12.6.1404 MARKING (1) Every raptor possessed under this ~~rule~~ part must be banded with a numbered, nonreusable marker provided by the ~~Service~~ United States Fish and Wildlife Service (service) or with a marker provided by the competent wildlife management authority of a foreign country that meets the federal marking standards described in section 21.30(d)(3) of

the federal raptor regulations.

(Auth. 87-5-210, MCA; Imp. 87-5-210, MCA)

12.6.1405 TAKING RAPTORS OR RAPTOR EGGS FROM THE WILD (1) Any permit authorizing the permittee to take raptors or raptor eggs from the wild for ~~propagation~~ breeding purposes is subject to the restriction that no raptor described under ~~federal law~~ 50 CFR § 17.11 as "endangered" or "threatened", or the eggs of such raptor, may be taken from the wild without first obtaining the proper permit from federal authorities.

(2) No more than 4 raptors taken from the wild may be possessed at any one time.

(3) Only nestlings may be taken from the wild for breeding purposes.

(Auth. 87-5-210, MCA; Imp. 87-5-210, MCA)

12.6.1406 TRANSFER, PURCHASE, SALE OR BARTER OF RAPTORS OR RAPTOR EGGS (1) A permittee may transfer any lawfully possessed raptor, raptor egg or raptor semen to another permittee or transfer any raptor to a falconer who holds a valid state falconry permit if no money or other consideration is involved.

(2) No raptor may be traded or transferred until it is two weeks old and only after it is properly banded with a nonreusable marker provided or authorized by the service, unless it is transferred, ~~sold-or-bartered~~ to a state or federal wildlife management agency for conservation purposes.

(Auth. 87-5-210, MCA; Imp. 87-5-210, MCA)

12.6.1407 POSSESSION OF EGGS, NESTS, OR FEATHERS

(1) A permittee may possess addled or blown eggs, nests, and feathers from raptors held under permit and may transfer any of these items to any other person authorized by the service to possess them provided no money or other consideration is involved.

(Auth. 87-5-210, MCA; Imp. 87-5-210, MCA)

12.6.1408 INTENTIONAL RELEASE TO THE WILD

(1) Written authorization from the service must be provided to the department prior to any intentional release of any raptor to the wild. The raptor marker must be removed from each bird and immediately returned to the department. A federal bird band must be attached to each raptor by a person designated by the department before its release.

(Auth. 87-5-210, MCA; Imp. 87-5-210, MCA)

12.6.1409 RECORDS AND REPORT (1) The records required by federal regulation 21.30(d)(10) shall be



sufficient record for the state.

(2) The permittee shall file with the department a copy of the annual report described in section 21.30(d)(11) of the federal regulations by no later than January 31 of each year.

(Auth. 87-5-210, MCA; Imp. 87-5-210, MCA)

12.6.1410 INTERSPECIFIC HYBRIDIZATION

(1) Hybridization between species (interspecific hybridization) is authorized only if each raptor produced by interspecific hybridization is either imprinted on humans (hand-raised in isolation from the sight of other raptors from two weeks of age until it is fully feathered) or surgically sterilized.

(Auth. 87-5-210, MCA; Imp. 87-5-210, MCA)

12.6.1411 DEATH, ESCAPE OR RELEASE. A permittee under this part shall notify the department within 10 days after the death, escape, or release of any raptor.

(Auth. 87-5-210, MCA; Imp. 87-5-210, MCA)

3. Comments and responses.

a. Comment: The federal raptor regulations require an applicant to submit a statement indicating whether the applicant has been issued a state permit. The proposed rule should not place an applicant in a catch-22 which would result in no permit from the federal government because of the lack of a permit from the state.

Response: Communication with the federal authorities indicates that this should not pose a problem, since the federal authorities will accept a written statement from the state certifying the acceptability of the application.

b. Comment: The proposed rules do not address the raising of hybrids, but should allow it.

Response: The department agrees that the raising of hybrids should be allowed and has added a rule which specifically allows the raising of hybrids.

c. Comment: The department should allow sale of raptors raised in captivity so that breeders can recover their expenses.

Response: Sec. 87-4-206(4), MCA, specifically prohibits the sale of Montana raptors, and in order to avoid the creation of incentives for illegal capture and sale of raptors, the department at this time declines to permit the sale of captive bred raptors.

d. Comment: The department should not implicitly allow the sale of raptors by referring to sale "to a state or federal wildlife management agent".

Response: The department agrees, and has deleted that language.

e. Comment: The rules should provide for annual inspection.

Response: The department has changed Rule II, 12.6.1402, to provide for inspections.

f. Comment: The Legislative Council recommended several changes of form and style, but not substance.

Response: Those changes have been adopted.

g. Comment: The eggs of endangered or threatened species should be protected from unauthorized taking.

Response: Rule V, 12-6-1405, has been amended to include protection for the eggs of endangered species.

h. Comment: The regulations should include provisions on import, export, death, escape or release.

Response: State law already requires a permit for the transport of raptors out of state and requires authorization of the department prior to importation of any species into the state. The Rules are amended to require notification of the department upon the release, escape, or death of any raptors.

i. Comment: Rules should require preservation of any dead raptor for 20 days after its death and its delivery to the department if requested.

Response: The federal rules require immediate destruction of the remains except in limited circumstances. To impose such a requirement would place the state in conflict with the federal requirements.

(4) The authority for the department to adopt these rules is based on section 87-5-210, MCA.

JAMES W. FLYNN, Director  
Department of Fish, Wildlife and  
Parks  
1420 East Sixth Avenue  
Helena, Montana 59620

By: Richard L. Johnson  
RICHARD L. JOHNSON  
Deputy Director  
Department of Fish, Wildlife and  
Parks

Certified to the Secretary of State: December 5, 1983


BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

In the matter of the Amendment )	NOTICE OF THE
of Rule 24.9.226, relating to )	AMENDMENT OF RULE
approval of settlements by the )	24.9.226 (Approval
division administrator )	of Settlements)

TO: All Interested Persons:

1. On August 11, 1983, the Human Rights Commission published a notice of the proposed amendment of rule 24.9.226, relating to approval of settlement agreements by the division administrator at page 1014 of the 1983 Montana Administrative Register, issue number 15.
2. The Commission has amended the rule as proposed.
3. No comments or testimony were received.
4. The authority of the Commission to make the amendment is based on sections 49-2-204 and 49-3-106, MCA. The rule as amended implements sections 49-2-504 and 49-3-307, MCA.

HUMAN RIGHTS COMMISSION  
MARGERY H. BROWN, CHAIR

By:   
ANNE L. MACINTYRE  
ADMINISTRATOR/ATTORNEY  
HUMAN RIGHTS DIVISION

Certified to the Secretary of State December 5, 1983.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

IN THE MATTER OF THE ADOPTION)	NOTICE OF ADOPTION of Rule I
of Rule I (42.22.2115) )	(42.22.2115) relating to the
relating to the imputed value)	imputed value of coal.
of coal. )	

TO: All Interested Persons:

1. On September 29, 1983, the Department of Revenue published notice of the proposed adoption of rule I (42.22.2115) relating to the imputed value of coal at pages 1329 and 1330 of the 1983 Montana Administrative Register, issue number 18.

2. The Department has adopted rule I (42.22.2115) as proposed:

3. The following written comments were received from James D. Mockler, Executive Director, Montana Coal Council; Kenneth L. Williams, Governmental Affairs Coordinator, Western Energy Company; and Thomas E. Ebzery, Attorney, NERCO Mining Company. The comments of Mr. Mockler and Mr. Williams were virtually identical and are not addressed separately below. Mr. Ebzery joined Messrs. Williams and Mockler in the comment concerning a statement of intent, but otherwise endorsed the rule as published. It should be noted that Mr. Ebzery's client is the only mining company believed to be currently processing coal.

(a) Following "... Impute the value of coal", insert "f.o.b. mine". S.R. 264 as codified in section 15-35-107, MCA, makes it clear that the imputed value will approximate market value f.o.b. mine and in subsection (2) provides a definition for "market value f.o.b. mine". We believe this matter is adequately addressed by the statutory language.

(b) Delete the entire second sentence of subsection (1) - "Refined or refining. . . shipment of coal", and add a statement of intent. We believe this sentence should remain in the rule to provide examples of costs which definitely will not be considered refining. With respect to concerns expressed about the treatment of transportation, transportation through the point of final loading for shipment to the purchaser will not be considered refining. Nor will transportation to mine mouth generating facilities be considered a part of refining.

The Department prefers not to adopt the statement of intent as submitted. The proposed statement of intent changes the processing "determinant" from a distinction between a normal preparation process and coal enhancement to a standard which also requires that normal processing involve a method in use "as of the effective date of the act". This proposed statement of intent could be construed to mean that any new preparation process must be considered coal enhancement rather than a normal preparation process if the process was implemented after the effective date of Senate Bill 264. We do not believe that result was intended in this legislation.

(c) Following "as determined by", insert "quoted". Following "spct sales", insert "and". The concern expressed here is noted. We agree that imputing the value of coal for a large long term contract based on the price received for a truckload of coal for personal use is not reasonable. We believe the language "... methods which reliably reflect the market value. . ." covers any potential problems in this area.

4. The authority for the rule is § 15-35-111, MCA, and the rule implements § 15-35-107, MCA.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

IN THE MATTER OF THE ADOPTION)	NOTICE OF ADOPTION of Rule
of Rule I (42.22.1119) )	I (42.22.1119) relating to
relating to additional )	additional deductions from
deductions from the net )	the net proceeds of non-
proceeds of nonmetallic )	metallic mines.
mines. )	

TO: All Interested Persons:

1. On August 11, 1983, the Department of Revenue published notice of the proposed adoption of rule I (42.22.1119) relating to additional deductions from the net proceeds of nonmetallic mines at pages 1039 and 1040 of the 1983 Montana Administrative Register, issue number 15. Notice of public hearing was published at page 1441 of the 1983 Montana Administrative Register, issue number 19.

2. The Department has adopted rule I (42.22.1119) as proposed, except as follows:

42.22.1119 DEDUCTIONS FOR INSURANCE, WELFARE, RETIREMENT, MINERAL TESTING, SECURITY AND ENGINEERING (1) Fire, boiler and machinery and public liability insurance will be allowed as a deduction to the extent that it is insurance for equipment and buildings in the mine, and equipment and buildings in the reduction works, to the extent the insurance for the reduction works is not beyond the point of valuation. No insurance costs will be allowed for offices or other administrative buildings. Where buildings are used both for administrative purposes and for the mining operation, the department will allocate, on a case by case basis, the costs between administration and mining. The department will allow only the insurance expenses attributable to the mining operation.

This language is added to accommodate the Hearing Officer's recommendation that the Department specifically address the problem of allocating costs for multi-purpose buildings.

3. On November 3, 1983, a public hearing was held to consider this matter. Comments were received from several interested persons. All of the comments received regarding the

proposed rule concerned the specific language in subsection (1) disallowing deductions for insurance costs relating to offices and other administrative buildings. Mr. Gary Langley, Executive Director of the Montana Mining Association, stated that disallowing insurance costs for office and other administrative buildings was "... not consistent with the spirit of House Bill 582. . .". However, the statute provides specifically that only insurance costs paid for the mine, reduction works and beneficiation process will be deductible. Further, in *Anaconda Copper Mining Co. v. Junod* (1924), the Montana Supreme Court stated that when the statute is silent regarding certain expense items, these expenses are not to be considered allowable deductions in determining the net proceeds.

Mr. Earl Lovick, W. R. Grace & Co., stated that in their case they had some multipurpose buildings which house both administrative and mining functions, and that they would not be allowed to deduct these because they were administrative buildings. The Department's position is that a reasonable allocation could be used to determine what portion of the insurance costs is attributable to the mining operations.

David E. Rovig, mining engineer, stated that insurance costs should be allowed because the buildings are "on or very near the mine site". There is no basis in statute for determining "deductibility" based on proximity of the office to the mine site. Again, the determination should be based solely on whether the statute provides for such a deduction.

Dale Scholz, Scholz Minerals Engineering, also opposed the rule. His arguments were similar to those of Messrs. Lovick and Rovig.

Duane Reber, President of Montana Barite Company, Inc., did not appear for the hearing that he had requested. His letter stated that the proposed rule was not clear, but he did not elaborate. The Department believes the rule to be explicit as to which insurance costs will be allowed. The Hearing Officer, Barbara Bozman-Moss, found that: the Department has substantial rationale for the proposed rule; though there was opposition to the rule, those objections have been considered by the Department; and rule 1 (42.22.1119) was drafted to be in compliance with House Bill 582 and existing Montana case law.

4. The authority for the rule is § 15-23-108, MCA, and the rule implements §§ 15-23-502 and 15-23-503, MCA.

  
ELLEN FAEFER,  
Director of Revenue

Certified to Secretary of State 12/05/83

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amend- )	NOTICE OF THE AMENDMENT OF
ment of rule pertaining to )	1.2.419 FILING, COMPILING,
scheduled dates - Montana )	PRINTER PICKUP AND PUBLI-
Administrative Register. )	CATION SCHEDULE FOR THE
	MONTANA ADMINISTRATIVE
	REGISTER

TO: All Interested Persons.

1. On October 27, 1983, the Secretary of State published notice of a proposed amendment to rule 1.2.419 concerning the scheduled dates for the Montana Administrative Register for calendar year 1984.
2. The agency has amended the rule as proposed.
3. No comments or testimony were received.

  
\_\_\_\_\_  
JIM WATERMIRE  
Secretary of State

Dated this 5th day of December, 1983.

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

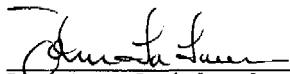
In the matter of the amend-	)	NOTICE OF THE AMENDMENT OF
ment of Rule 46.5.116	)	RULE 46.5.116 PERTAINING TO
pertaining to protective	)	PROTECTIVE SERVICES INFOR-
services information system	)	MATION SYSTEM OPERATION
operation; community serv-	)	
ices	)	

TO: All Interested Persons

1. On October 27, 1983, the Department of Social and Rehabilitation Services published notice of the proposed amendment of Rule 46.5.116 pertaining to protective services information system operation; community services at page 1525 of the Montana Administrative Register, issue number 20.

2. The Department has amended the rule as proposed.

3. No written comments or testimony were received.

  
\_\_\_\_\_  
Director, Social and Rehabilita-  
tion Services

Certified to the Secretary of State December 5, 1983.



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

In the matter of the repeal	)	NOTICE OF THE REPEAL OF
of Rules 46.5.801, 46.5.802	)	RULES 46.5.801, 46.5.802,
and 46.5.803, and the adop-	)	AND 46.5.803 AND THE ADOP-
tion of Rules 46.5.804,	)	TION OF RULES 46.5.804,
46.5.805, 46.5.809,	)	46.5.805, 46.5.809,
46.5.813, 46.5.817,	)	46.5.813, 46.5.817,
46.5.821, 46.5.825,	)	46.5.821, 46.5.825,
46.5.829, 46.5.831,	)	46.5.829, 46.5.831,
46.5.834, 46.5.837,	)	46.5.834, 46.5.837,
46.5.840, 46.5.842 and	)	46.5.840, 46.5.842 AND
46.5.844 pertaining to the	)	46.5.844 PERTAINING TO THE
licensing of community homes	)	LICENSING OF COMMUNITY
for persons who are	)	HOMES FOR PERSONS WHO ARE
developmentally disabled.	)	DEVELOPMENTALLY DISABLED

TO: All Interested Persons

1. On October 13, 1983, the Department of Social and Rehabilitation Services published notice of the proposed repeal of Rules 46.5.801, 46.5.802 and 46.5.803 and the adoption of rules pertaining to the licensing of community homes for persons who are developmentally disabled at page 1442 of the Montana Administrative Register, issue number 19.

2. The Department has repealed the rules as proposed.

3. The Department has adopted Rules 46.5.804, PURPOSE; 46.5.805, DEFINITIONS; 46.5.809, LICENSE REQUIRED; 46.5.813, LICENSING PROCEDURES; 46.5.817, LICENSE REVOCATION, DENIAL OR SUSPENSION; 46.5.821, FAIR HEARING; 46.5.829, PHYSICAL SITE REQUIREMENTS; 46.5.831, RESIDENT SUPPLIES AND EQUIPMENT; 46.5.837, RIGHTS; 46.5.840, HEALTH CARE; 46.5.842, RESIDENT'S MONEY AND PERSONAL PROPERTY; and 46.5.844, RECORD KEEPING as proposed.

4. The Department has adopted Rules 46.5.825 and 46.5.834 with the following changes:

46.5.825 FIRE, HEALTH AND SAFETY CERTIFICATION  
Subsections (1) through (1)(d) remain the same as proposed.

(e) Training and evacuation drills shall--be--done--at least monthly for all staff and residents and be recorded with residents shall be conducted and recorded at least monthly and, when shift staff are used, the drills shall be conducted at those hours to cover each shift every 90 days.

Subsections (1)(f) through (2)(c)(iii) remain the same as proposed.

(d) For safety and sanitation a provider must comply with the following structural requirements:

(i) All rooms and hallways must be provided with at least 10 footcandles of light, and bathrooms and areas used for reading must be provided with at least 30 footcandles of light.

(ii) Floors and walls of rooms subject to large amounts of moisture must be smooth and non-absorbent.

(iii) Floor and wall mounted furnishings must be easily moved or mounted in such a way as to allow for easy cleaning.

(iv) Adequate toilet and bathing facilities must be provided:

(A) one toilet and one sink for every six residents;

(B) one tub and shower for every eight residents;

(C) drying space for wash cloths and towels; and

(D) bathing facilities and stairs must be provided with anti-slip surfaces.

(v) Food preparation facilities must be equipped with at least the following:

(A) facilities to adequately wash utensils and equipment;

(B) refrigeration equipment capable of maintaining foods at or below 45° F;

(C) cooking facilities;

(D) adequate and clean food preparation and storage areas;

(E) equipment to insure all food is transported, stored, covered, prepared and served in a sanitary manner; ~~and.~~

(vi) Separate storage of clean and dirty linen shall be provided.

(vii) Storage space shall be available for the personal belongings of residents and for food, linen, equipment and other household supplies.

(viii) There shall be hot and cold water available in the home. Water temperature for hot water must be limited to 120°F or below.

Subsections (2)(e) through (3) remain the same as proposed.

46.5.834 STAFFING; STAFF RESPONSIBILITIES AND QUALIFICATIONS Subsections (1) through (4) remain the same as proposed.

(5) The provider shall provide an orientation for each new employee during the first week of employment. This orientation shall include familiarization with the residents and the rules of the home, behavior deceleration programs, medical concerns of clients and emergency procedures.

(56) The provider shall provide orientation training for each new employee within the first week 30 days of employment. This ~~orientation includes~~ training in shall include:

(a) familiarization with the residents and the community home's philosophy, organization, policies, activities, programs, practices and goals;

(b) first aid, emergency procedures and accident prevention techniques;

(c) the implementation of the normalization principle;

(d) knowledgeably and tactfully dealing with residents, relatives or guardians and visitors;

(e) meeting needs of residents through care, supervision, and training skills;

(f) attaining skill areas in which the employee has not reached the level of competence for the job;

(g) description of duties, responsibilities, limitations of authority and principal measures of accountability and performances;

(h) rights of residents which include at a minimum those rights as defined by the client's rights policy of the developmental disabilities division of the department (DD 441); and

(i) aversive and deprivation procedures policy as defined by the developmental disabilities division of the department (DD 442).

(67) The provider annually shall provide or obtain continuing training and education of the information listed in subsections (5) and (6) (a) - (i) above for each direct care staff.

(78) The provider shall provide documentation and attendance records of training and orientation provided for all new and continuing employees. Agendas, general outlines, narratives and other descriptions may be provided to describe the type of content of said training activities.

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

COMMENT: Change ARM 46.5.825(2)(d)(i) (Rule VII) to read, "bathrooms and rooms used for reading should be provided with 30 footcandles of light".

RESPONSE: The Department agrees that more light is needed for bathrooms and rooms used for reading than is needed in other rooms or hallways. ARM 46.5.825 has been revised and now reads, "All rooms and hallways must be provided with at least 10 footcandles of light, and bathrooms and areas for reading must be provided with at least 30 footcandles of light".

COMMENT: In ARM 46.5.825(2)(d)(v)(E) (Rule VII), delete the word "and" at the end of the line.

RESPONSE: The Department has deleted the word "and".

COMMENT: In ARM 46.5.840 (b) (Rule XII), add "including documentation regarding tuberculosis status".

RESPONSE: Since the usual physical "check-up" does not include a T.B. test, the rule has not been changed.

COMMENT: Add to ARM 46.5.840 (Rule XII) a section (p) which reads, "a system by which staff maintains surveillance and precautions for communicable disease control".

RESPONSE: It is felt that present health-related rules should provide precautions for communicable disease control. Residents are living in intimate family-style in which it is difficult, if not impossible, to avoid contact; therefore, the suggested requirement has not been added.

COMMENT: Several respondents felt that the orientation requirement "for each new employee within the first week of employment" was unrealistic. Most felt the required subject matter was too much to cover during the first week and that providers should be allowed at least 30 days.

RESPONSE: The Department has added a requirement and amended another requirement in response to the providers' concerns. A new subsection (5) has been added to ARM 46.5.834 (Rule X) which reads: "The provider shall provide an orientation for each new employee during the first week of employment. This orientation shall include familiarization with the residents and the rules of the home, behavior deceleration programs, medical concerns of client and emergency procedures".

The old subsection (5) has been changed to subsection (6) and now reads: "The provider shall provide training for each new employee within the first 30 days of employment. This training shall include:..."

The following requirements of ARM 46.5.834 (Rule X) have been renumbered accordingly.

COMMENT: One respondent felt that the required number of fire drills was excessive. In particular, that "every staff member be involved in a fire drill every month".

RESPONSE: ARM 46.5.825(1) (e) (Rule VII) has been revised and now reads: "Training and evacuation drills with residents shall be conducted and recorded at least monthly and, when shift staff are used, the drills shall be conducted at those hours to cover each shift every 90 days".

COMMENT: Two providers commented about ARM 46.5.834(7) (Rule X) and felt the requirements for documentation were not clear.

RESPONSE: At this point, the Department is simply requiring the provider to record that the necessary training and/or orientation was provided to the employee and the number of hours that it was provided. The rule remains unchanged.

COMMENT: One provider indicated that he felt the following rules were "trivial but time consuming requirements": ARM 46.5.809(4) (a) (Rule III), ARM 46.5.825(1) (c) and (2) (e) (iv) (Rule VII), and ARM 46.5.834(7) (Rule X).

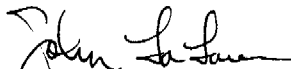
RESPONSE: The rules cover necessary documentation, records and application procedures and remain unchanged.

COMMENT: One provider felt the requirement "that the hot water temperature be limited to 120° could be dangerous because clients would not learn that hot water taps can scald. They may leave the home and get scalded while using hot water in restaurants or other facilities in the community.

RESPONSE: While this could be a concern, there have been several instances of scalding in community homes that had excessive hot water temperature. Since the rules address safety within the community home, the rule remains unchanged.

COMMENT: One provider objected to the requirement on ARM 46.5.840 (Rule XII) that residents receive at least an annual check-up. The respondent requested that it be changed to a minimum of every two years.

RESPONSE: The community home resident population as a general rule is more in need medically than in the past. Community homes are accepting more multiple-handicapped clients. While some residents may be physically healthy, the Department feels all residents should have an annual "check-up". The rule, therefore, remains unchanged.

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

Certified to the Secretary of State \_\_\_\_\_ December 5 \_\_\_\_\_, 1983.

VOLUME NO. 40

OPINION NO. 26

COURTS - Justice court's hours of business;  
JUSTICES OF THE PEACE - Calling in an acting justice due to absence or disqualification;  
JUSTICES OF THE PEACE - Office hours;  
MONTANA CODE ANNOTATED - Sections 3-10-102, 3-10-208, 3-10-231, 3-11-203(1)(d);  
OPINIONS OF THE ATTORNEY GENERAL - 38 Op. Att'y Gen. No. 113 (1980).

- HELD: 1. A board of county commissioners may not appoint an acting justice of the peace in advance, to act whenever a justice is sick, disabled or absent.
2. If the only justice of the peace in a county is disqualified from acting in any action, he must be replaced by a justice from a neighboring county.
3. There is no minimum amount of time that a justice of the peace must be sick, disabled or absent before an acting justice of the peace may be appointed.
4. A justice court is always open for the transaction of business except on legal holidays and nonjudicial days. However, the office hours that must be kept by a justice of the peace are set by the county commissioners and need not include hours on every day that the justice court is open for the transaction of business.

21 November 1983

John V. Potter, Jr., Esq.  
Meagher County Attorney  
Meagher County Courthouse  
White Sulphur Springs MT 59645

Dear Mr. Potter:

You have requested my opinion on the following questions:

1. Whether the Board of County Commissioners can appoint an acting justice of the peace in advance and by resolution.
2. Whether an acting justice of the peace may be appointed in cases where the duly elected justice of the peace is disqualified from acting.
3. Whether there is a specific length of time for which a regular justice of the peace must be absent before the county commissioners can appoint an acting justice of the peace.
4. Whether a justice of the peace must maintain office hours on all days on which his court is open for the transaction of business.

Section 3-10-231, MCA, provides in pertinent part:

Circumstances in which an acting justice called in--by whom. (1) Whenever a justice of the peace is disqualified...he shall either transfer the action to another justice's court in the same county or call a justice from a neighboring county to preside in his behalf.

(2) Whenever a justice is sick, disabled, or absent and the county commissioners find that there is a delay in the proper administration of justice or the county attorney makes a written request, another justice, if there is one readily available, or a city judge or some other qualified person shall be called in to hold court for the absent justice until his return.

(3) During the time when a justice of the peace is on vacation or attending a training session, another justice of the peace of the same county shall be authorized to handle matters that otherwise would be handled by the absent justice. When there is no other justice of the peace in the county, the county commissioners shall handle the situation in

the same manner as if the justice were sick or absent.

(Emphasis added.) In 38 Op. Att'y Gen. No. 113 (1980), a statute similar to section 3-10-231, MCA, was construed. There the question raised was whether a city judge had the authority to appoint a regular deputy or substitute city judge with power and authority to act in all matters the same as the regular city judge. The opinion concluded that:

Section 3-11-203(1)(d), MCA, authorizes a city judge for a town who has determined that he or she is unable to act for any reason to call in a justice of the peace or a qualified resident of the town to act in his or her place. However, that provision does not authorize the city judge to appoint a regular deputy or substitute a city judge.

Likewise, section 3-10-231, MCA, is very specific about how and when an acting justice of the peace may be appointed and by whom. To appoint an acting justice of the peace in advance and by resolution would have the same effect as that contemplated in the opinion concerning city judges, i.e., the appointment of a regular deputy or substitute city judge. In this respect I find the rationale of Cox v. Allen, 188 Ky. 598, 222 S.W. 932 (1980), persuasive.

To construe the section as the county judge did in this case would result in having two or more county judges in the same county at the same time, but only one of whom was chosen by the people as provided by law. They might perchance be making contradictory orders concerning the same matter at the same time, and thus not only obstruct the orderly administration of the office, but create endless confusion.

222 S.W. at 934. I conclude that under section 3-10-231, MCA, a written request by the county attorney or a preliminary finding by the county commissioners that there is a delay in the proper administration of justice is a prerequisite to calling in "some other qualified person" to hold court for a justice in cases where he is sick, disabled or absent. This provision



clearly contemplates calling an acting justice of the peace only in cases where some need has been shown.

Section 3-10-231, MCA, sets no time limit by which the county commissioners might find that a delay in the proper administration of justice has occurred or is occurring. Such a determination must be made on a case-by-case basis depending on the particular facts of an individual case.

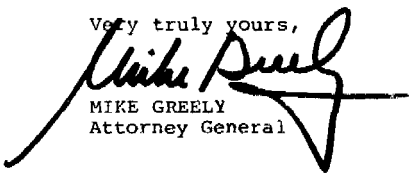
You have also asked if in counties where there is only one justice of the peace and that justice is disqualified in a given case under section 3-10-231(1), MCA, must he be replaced by a justice from a neighboring county or may he be replaced by "some other qualified person" as is permitted under section 3-10-231(2), MCA. Section 3-10-231(1), MCA, is clear and unambiguous on this point. This statute provides that when a justice of the peace is disqualified "he shall either transfer the action to another justice's court in the same county or call a justice from a neighboring county to preside in his behalf." Where a county has only one justice of the peace, the statute authorizes only one option: calling in a justice from a neighboring county to preside in his behalf.

Your final question concerns an ambiguity created when section 3-10-102, MCA, is read together with section 3-10-208, MCA. Section 3-10-102, MCA, provides: "A justice's court is always open for the transaction of business, except on legal holidays and nonjudicial days." Section 3-10-208, MCA, provides: "In the resolution providing for the salary, the county commissioners shall designate the office hours for each justice's court. Office hours shall be commensurate with the salary provided." Section 3-10-102, MCA, refers to when a justice court must be open for the transaction of business, i.e., filing of court documents such as complaints and answers. While the court must be open for the transaction of business, there is no specific requirement in the law under section 3-10-208, MCA, that a justice of the peace maintain a minimum number of office hours each day. The county commissioners have authority to designate the office hours for each justice and may do so without any specific statutory limitation.

THEREFORE, IT IS MY OPINION:

1. A board of county commissioners may not appoint an acting justice of the peace in advance, to act whenever a justice is sick, disabled or absent.
2. If the only justice of the peace in a county is disqualified from acting in any action, he must be replaced by a justice from a neighboring county.
3. There is no minimum amount of time that a justice of the peace must be sick, disabled or absent before an acting justice of the peace may be appointed.
4. A justice court is always open for the transaction of business except on legal holidays and nonjudicial days. However, the office hours that must be kept by a justice of the peace are set by the county commissioners and need not include hours on every day that the justice court is open for the transaction of business.

Very truly yours,



MIKE GREELY  
Attorney General

VOLUME NO. 40

OPINION NO. 27

COUNTY ATTORNEYS - Rural improvement districts, legal representation;  
RURAL IMPROVEMENT DISTRICTS - Legal representation;  
MONTANA CODE ANNOTATED - Sections 1-2-102, 7-4-2704, 7-4-2711 to 7-4-2717, 7-12-2101 to 7-12-2186, 7-12-2153, 7-13-218, 7-14-2138, 20-1-204, 50-2-115, 75-10-231, 77-1-111;  
OPINIONS OF THE ATTORNEY GENERAL - 9 Op. Att'y Gen. at 55.

- HELD: 1. It is not the duty of the county attorney to represent rural improvement districts formed pursuant to sections 7-12-2101 to 2186, MCA.
2. As part of his private practice, a part-time county attorney may represent a rural improvement district subsequent to its creation under section 7-12-2113, MCA, and receive compensation therefor.

22 November 1983

Keith D. Haker, Esq.  
Custer County Attorney  
Custer County Courthouse  
Miles City, Montana 59301

Dear Mr. Haker:

You have requested my opinion on the following question:

Is it the duty of a county attorney to act as counsel for a rural improvement district formed pursuant to sections 7-12-2101 to 2186, MCA?

It is my understanding that several part-time county attorneys have been performing legal services to rural improvement districts on a fee basis, as part of their private practice, since these districts are independent taxing entities. If it is the duty of a county attorney to represent rural improvement districts, then part-time

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county attorneys would not be allowed to collect fees for this service.

The duties of county attorneys are prescribed by sections 7-4-2711 to 2717, MCA. It is provided that:

(1) The county attorney is the legal adviser of the board of county commissioners. He must attend their meetings when required and must attend and oppose all claims and accounts against the county which are unjust or illegal. He must defend all suits brought against his county.

(2) The county attorney must:

(a) give, when required and without fee, his opinion in writing to the county, district, and township officers on matters relating to the duties of their respective offices;

(b) act as counsel, without fee, for fire districts in unincorporated territories, towns, or villages within his county; and

(c) when requested by a conservation district pursuant to 76-15-319, act as counsel, without fee.

§ 7-4-2711, MCA. The county attorney must also "perform such other duties as are prescribed by law."  
§ 7-4-2717, MCA.

Rural improvement districts may be created by the board of county commissioners upon petition of 60% of the freeholders within the proposed boundaries. § 7-12-2102, MCA. Before creating a rural improvement district, the board of county commissioners must pass a resolution of intention to do so, give notice of the passage of the resolution of intent, and hold a hearing upon any protests made by affected property owners. §§ 7-12-2103 to 2112, MCA. After following these statutory procedures, the board of county commissioners may pass a resolution creating the special improvement district. § 7-12-2113, MCA. Prior to the formal creation of the district pursuant to section 7-12-2113, MCA, the board of county commissioners are acting in their capacity as county commissioners. The county

attorney is the legal advisor for the board of county commissioners. Thus, any legal work required by the board prior to the formal creation of the rural improvement district is the duty of the county attorney.

Following the resolution of creation of the rural improvement district, the board of county commissioners acts in its capacity as a board of trustees for the district, except where a separate board of trustees is appointed for a multicounty district. See §§ 7-12-2121 to 2123, MCA. Upon creation of the district pursuant to section 7-12-2113, MCA, a separate legal entity with independent taxing authority comes into being. The statutes do not address the question of who is to perform the legal work incident to the business of the district.

As above noted, the county attorney must perform all duties required by law. § 7-4-2714, MCA. The Legislature has specifically required county attorneys to represent fire districts and conservation districts without fee. § 7-4-2711, MCA. In other parts of the Montana Code Annotated, the Legislature specifically provides for representation by the county attorney. See, e.g., §§ 7-13-218 (refuse disposal districts); 7-14-2138 (road districts); 20-1-204 (school districts and community college districts); 50-2-115 (local boards of health); 75-10-231 (solid waste management systems); and 77-1-111 (state lands), MCA.

The intent of the Legislature is to be pursued in the construction of a statute. § 1-2-102, MCA. Since the Legislature has specifically enumerated the duties of the county attorney concerning other types of districts but has remained silent on the subject with respect to rural improvement districts, it is clear the Legislature did not intend that county attorneys have a duty to provide legal representation for rural improvement districts. This is supported by an earlier Attorney General's opinion interpreting the 1919 version of the rural improvement district statutes. 9 Op. Att'y Gen. at 55. The logic of that opinion remains valid today.

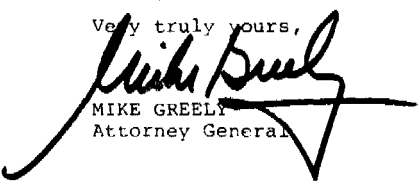
Except as prohibited in section 7-4-2704, MCA, county attorneys may engage in private practice. As part of this private practice, a part-time county attorney may represent a rural improvement district subsequent to its

creation under section 7-12-2113, MCA, and receive compensation therefor.

THEREFORE, IT IS MY OPINION:

1. It is not the duty of the county attorney to represent rural improvement districts formed pursuant to sections 7-12-2101 to 2186, MCA.
2. As part of his private practice, a part-time county attorney may represent a rural improvement district subsequent to its creation under section 7-12-2113, MCA, and receive compensation therefor.

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

Definitions. Administrative Rules of Montana (ARM) is a looseleaf compilation by department of all rules of state departments and attached boards present 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<br>Subject<br>Matter          | 1. Consult ARM topical index, volume 16.<br>Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute<br>Number and<br>Department | 2. Go to cross reference table at end of each title which lists MCA section numbers and corresponding ARM rule numbers.  |



## ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies which have been designated by the Montana Procedure Act for inclusion in the ARM. The ARM is updated through September 30, 1983. This table includes those rules adopted during the period October 1, 1983 through December 31, 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 September 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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