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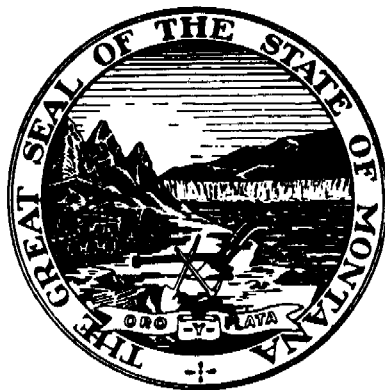
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MONTANA ADMINISTRATIVE REGISTER

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1984 ISSUE NO. 23
DECEMBER 13, 1984
PAGES 1778-1817



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 The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing, and where written comments may be submitted.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

In the matter of the proposed) NOTICE OF AMENDMENT OF 8.
amendment of 8.22.1025 sub-) 22.1025 PENALTIES, HEARINGS
section (1)(a) & (b) con-) AND APPEALS
cerning penalties, hearings)
and appeals.)

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On January 12, 1985, the Board of Horse Racing proposes to amend subsections (1)(a) and (b) of 8.22.1025 concerning penalties, hearings and appeals.

2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at pages 8-716.18 through 8-716.20, Administrative Rules of Montana)

"8.22.1025 PENALTIES, HEARINGS AND APPEALS (1) If the board of judges finds that a person has been in violation of the rules or of the directives of the board, or any proper order or direction of a judge or judges, the board of judges may, with respect to that person:

- (a) impose a fine not exceeding ~~\$500.00~~ \$1,000.00,
- (b) suspend a license for a period not exceeding 60 days two years;
- (c) ... "

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

3. The board is proposing the amendment to make the limits of fines and suspension in rules under harness horse racing consistent with rules under flat racing, specifically ARM 8.22.610 (8).

4. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Horse Racing, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than January 10, 1985.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any comments he has to the Board of Horse Racing, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than January 10, 1985.

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

BOARD OF HORSE RACING
HAROLD GERKE, CHAIRMAN

BY: 
GARY BUCHANAN, DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, December 3, 1984.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF NURSING

In the matter of the proposed	)	NOTICE OF PROPOSED AMENDMENTS
amendments of 8.32.305 con-	)	OF 8.32.305 EDUCATIONAL RE-
cerning educational require-	)	QUIREMENTS AND OTHER
ments and other qualifica-	)	QUALIFICATIONS APPLICABLE TO
tions applicable to specialty	)	SPECIALTY AREAS OF NURSING
areas of nursing, 8.32.403	)	8.32.403 RE-EXAMINATION -
concerning re-examination for	)	REGISTERED NURSE, and 8.32.
registered nurses and 8.32.	)	404 RE-EXAMINATION - PRACTI-
404 concerning re-examina-	)	CAL NURSE
tion for practical nurses.)	

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On January 12, 1984, the Board of Nursing proposes to amend the above-stated rules.

2. The amendment of 8.32.305 will amend subsections (1) (a) and (b) and will read as follows: (new matter underlined, deleted matter interlined)(full text of the rule is located at page 8-971, Administrative Rules of Montana)

"8.32.305 EDUCATIONAL REQUIREMENTS AND OTHER QUALIFICATIONS APPLICABLE TO SPECIALTY AREAS OF NURSING (1) Applicants for recognition in a specialty area of nursing shall possess the following educational and certification qualifications:

(a) Before June 30, 1985 December 31, 1985 --

(i) ...

(b) After June 30, 1985 December 31, 1985-- new recognitions will require:

(i) ..."

Auth: 37-8-202, MCA Imp: 37-8-202 (5), MCA

3. The amendment is being made to accommodate those applicants who will be writing the specialty area national certifying examinations in 1985. Two of the board approved certifying bodies offer the certification examinations once a year. One is offered in June and one in September.

4. The proposed amendment of 8.32.403 will amend subsection (1), delete subsection (2) and renumber subsection (3) and will read as follows: (new matter underlined, deleted matter interlined)

"8.32.403 RE-EXAMINATION - REGISTERED NURSE (1) Candidates may take who fail the licensing examination three times in a three year period, commencing from the first eligible exam will be permitted to re-write the examination.

(2) Failure to successfully pass the licensing examination the third time, the candidate will not be admitted to further registered nurse examinations in Montana.

{3} The fee for repeating the examination will be \$35.00."

Auth: 37-8-202, MCA Imp: 37-8-406 (1), (2), MCA

5. Changes are proposed in 8.32.403 and 8.32.404 to conform to the current licensing examinations for registered and practical nursing. Prior to 1982, the State Board Test Pool Examination was the accepted licensing exam. Limits were placed on the number of times a candidate was permitted to re-write the SBTPE because as a norm-referenced test the SBTPE did not provide for an equivalent measure of any candidate's ability when taken on more than one occasion. Since 1982, the National Council Licensure Examination is the accepted licensing examination. As a criterion-referenced examination the NCLEX is designed to provide a valid measure of safe competence at each testing regardless of how many times the exam is attempted. Consequently, there is no longer a rationale for limiting the number of times a candidate may re-write the registered nurse and practical nurse examinations.

6. The proposed amendment of 8.32.404 will amend subsection (1), delete subsection (2) and renumber subsection (3) and will read as follows: (new matter underlined, deleted matter interlined)

"8.32.404 RE-EXAMINATION - PRACTICAL NURSE (1)
Candidates may take who fail the licensing examination three times in a three year period; commencing from the first eligible exam will be permitted to re-write the examination.

(2) Failure to successfully pass the licensing examination the third time, the candidate will not be admitted to further licensed practical nurse examinations in Montana-

{3} The fee for repeating the examination will be \$35.00."

Auth: 37-8-202, MCA Imp: 37-8-416, MCA

7. The amendment is proposed for those reasons stated in paragraph 5 above.

8. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Nursing, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than January 10, 1985.

9. If a person who is directly affected by the proposed amendments wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any comments he has to the Board of Nursing, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than January 10, 1985.

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

BOARD OF NURSING
DONNA SMALL, R.N., PRESIDENT

BY: 

GARY BUCHANAN, DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, December 3, 1984.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF SOCIAL WORK EXAMINERS

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of 8.61.404 concern-) OF ARM 8.61.404 FEE SCHEDULE
ing the fee schedule.)

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On January 12, 1985, the Board of Social Work
Examiners proposes to amend the above-stated rule.

2. The amendment will add a new subsection (4) for
renewals and will read as follows: (new matter underlined)

"8.61.404 FEE SCHEDULE

(1) Application fee	\$50.00
(2) Original license fee	25.00
(3) Exam fee	50.00
(4) Renewal	<u>75.00"</u>

Auth: 37-1-134, 37-22-201, MCA Imp: 37-1-134, 37-22-302
(3), MCA

3. Sections 37-1-134 and 37-22-302 (3) require that the
board set fees commensurate with the cost of issuing or
renewing the license. This is the figure that the board has
determined necessary to cover the cost of renewals.

4. Interested persons may submit their data, views or
arguments concerning the proposed amendment in writing to the
Board of Social Work Examiners, 1424 9th Avenue, Helena,
Montana, 59620-0407, no later than January 10, 1985.

5. If a person who is directly affected by the proposed
amendment wishes to express his data, views or arguments
orally or in writing at a public hearing, he must make written
request for a hearing and submit this request along with any
comments he has to the Board of Social Work Examiners, 1424
9th Avenue, Helena, Montana, 59620-0407, no later than January
10, 1985.

6. If the board receives requests for a public hearing
on the proposed amendment from either 10% or 25, whichever is
less, of those persons who are directly affected by the
proposed amendment, from the Administrative Code Committee of
the legislature, from a governmental agency or subdivision, or
from an association having 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 15 based on the
155 licensees in Montana.

BOARD OF SOCIAL WORK EXAMINERS
JIM POMEROY, CHAIRMAN

BY: _____

GARY BUCHANAN, DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, December 3, 1984.

23-12/13/84

MAR Notice No. 8-61-2

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

In the matter of the proposed	)	NOTICE OF PROPOSED AMENDMENTS
amendments of 8.97.308 con-	)	OF 8.97.308 RATES, SERVICE
cerning rates, service	)	CHARGES AND FEE SCHEDULE, 8.
charges and fee schedule,	)	97.402 (3) CRITERIA FOR
8.97.402 (3) concerning	)	DETERMINING ELIGIBILITY, 8.
criteria for determining	)	97.507 APPLICATION PROCEDURE,
eligibility, 8.97.507 con-	)	8.97.709 TERMS, RATES, FEES
cerning the application pro-	)	AND CHARGES and PROPOSED
cedure, 8.97.709 concerning	)	ADOPTION OF A NEW RULE UNDER
terms, interest rates, fees &	)	SUB-CHAPTER 4 ENTITLED
charges, and proposed adoption	)	INTERIM FUNDING OF POOLED
of a new rule under sub-chapter	)	INDUSTRIAL REVENUE BOND LOANS
4 concerning interim funding of)	
pooled industrial revenue)	
bond loans)	

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On January 12, 1985, the Montana Economic Development Board proposes to amend and adopt the above-stated rules.

2. The amendment of 8.97.308 will add a new paragraph to subsection (5) (a) of that rule, amend subsections (6) and (7) and will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at pages 8-3475 through 8-3477, Administrative Rule of Montana)

"8.97.308 RATES, SERVICE CHARGES AND FEE SCHEDULE (1) ...

(5) Basic commitment fee. Financial transactions participated in by the board under these rules must be closed within 90 calendar days of the board's issuance of its commitment. In the event such loans or financial transactions are not closed within that time, the board may extend its commitment for an additional period of time at a fee herein specified, if the board determines such extension is warranted and in the best interest of the board's programs. The fee to be charged for extension of a commitment shall be calculated on the basis of the amount committed at the following rates:

(a) Period of Commitment	Rate
91 to 180 calendar days	1/2% of the amount committed
181 to 270 calendar days	1% of the amount committed
271 to 360 calendar days	1 1/2% of the amount committed

The administrator may waive the commitment fee requirement in cases where the administrator feels it is in the board's best interest to do so.

(b) ...

(6) Interest rate fee. At the time of submission of an application to the administrator, the borrower, through payment of a non-refundable fee, may fix a board interest rate for the investment proposed in the application at the rate in effect the date the fee is received by the board. The acceptance of the fee does not obligate the board to make the investment proposed in the application. From 0 to 90 days the fee is 1/4% of the amount committed. The fees in subsection (5) ~~apply for periods over 90 days.~~

(7) Once a fee has been paid under subsection (5) and ~~or (6) of this rule to secure an interest rate for a period beyond 90 days, and prior to the time the loan has closed,~~ the board will allow the loan to be closed at the lower of the interest rate previously secured or the board's interest rate in effect at the time the loan closes.

(8) ..."

Auth: 17-5-1521, 17-6-324, MCA Imp: 17-5-1504, 17-6-315, 324, MCA

3. The board is proposing this amendment to allow the administrator the flexibility to waive the commitment fee requirement and to more clearly state the board's intention to allow a borrower to receive the benefit of a lower rate, once the borrower pays an interest rate or commitment fee, if, prior to the loan closing, rates fall below that rate quoted upon approval of a loan.

4. The proposed amendment of 8.97.402 will amend subsection (3) and will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at pages 8-3488 and 8-3489, Administrative Rules of Montana)

"8.97.402 CRITERIA FOR DETERMINING ELIGIBILITY The board ...

(1)...

(3) All financing except short-term certificates of deposit and loans purchased under the Interim Funding of Pooled Industrial Revenue Bond Loans Program must be for the benefit of a business engaged in "basic" economic activity, import substitution activity, or the wholesale or retail distribution of Montana-made goods as defined in ARM 8.97.401.

(4) ..."

Auth: 17-6-324, MCA Imp: 17-6-303, 304, 305, 308, 314, MCA

5. The board is proposing this amendment to allow the board to use the in-state investment fund for short-term funding of Pooled IDB loans pending the sale of the board bonds. Using the fund in this manner enhances the flexibility and effectiveness of the Pooled Industrial Revenue Bond Program.

6. The proposed amendment of 8.97.507 will amend subsections (4) and (6) and will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at pages 8-3501 through 8-3503, Administrative Rules of Montana)

"8.97.507 APPLICATION PROCEDURE (1) ...

(4) If the local government declines to conduct the public hearing, fails to notify the board of its intention to conduct the hearing within fourteen days, or fails to notify the board to its determination of public interest within fourteen days of hearing, or determines the project is not in the public interest, the board "shall" in the first two instances or "may" under the other instance, hold a public hearing on the project for the purpose of a determination whether the project is in the public interest. At the conclusion of the public hearing, the board may issue its inducement resolution for the project if one has not been previously adopted or make other necessary findings with respect thereto.

(5) ...

(6) Upon receipt of the local government's determination, or upon its own determination as the case may be, that the project is in the public interest, the board may adopt a resolution of intention. If the local government determines that the project is not in the public interest, the board may conduct a public hearing and make its own determination of public interest or it may decline to adopt a resolution of intention. This resolution of intention shall only constitute an expression of present intention of the board with respect to the project and shall not constitute a binding commitment on the part of the board that its bonds or notes will be issued for the project. This resolution expires one year from its date of adoption.

(7) ..."

Auth: 17-5-1504, 1521, MCA Imp: 17-5-1521, 1526, 1527,
MCA

7. The board is proposing the amendment to conform with the Attorney General's opinion that the board does not have the authority to overrule a local government's determination of public interest.

8. The proposed amendment of 8.97.709 will repeal subsection (3) and renumber subsection (4) and will read as follows: (new matter underlined, deleted matter interlined)

8.97.709 TERMS, INTEREST RATES, FEES AND CHARGES

(1) The terms of obligations shall be established by the board at the time of purchase, unless established at the time the agreements contemplated by ARM 8.97.708 are executed.

(2) The board may require a local government unit to pay interest on its obligations at a rate or rates sufficient to enable the board to pay debt service on any bonds or notes issued by the board, to reimburse the board for its administrative costs incurred in undertaking the program and its general operating and administrative expenses and to provide a reasonable allowance for losses that may be incurred in the program, including funding the reserve fund.

(3) A local government unit shall submit a non-refundable application fee of \$500 with an application.

(4) (3) The costs of the issuance of any bonds or notes by the board, including, but not limited to, underwriters discount, fees and charges of bond counsel and financial advisors, and the cost of advertising, printing, executing and delivering the bonds or notes, trustee and paying agent fees, may be financed with the proceeds of the bonds or notes, may be recovered by the board through the interest rate borne by obligations in accordance with ARM 8.97.709 (2), or may be allocated among local government units participating in the program and charged to them directly."

Auth: 17-5-1605, MCA Imp: 17-5-1611, 1643, MCA

8. The board is proposing the amendment to allow local governments to apply for financing through the program without incurring up front costs.

9. The proposed adoption of the new rule under subchapter 4 will read as follows:

"1. INTERIM FUNDING OF POOLED INDUSTRIAL REVENUE BOND LOANS (1) The board may use its funds to purchase from a financial institution a loan originated pursuant to Title 17, Chapter 5, Part 15, MCA, in order to provide project funding pending the sale of the board's bonds.

(2) The board may invest its funds under this rule only after all conditions of loan closing as required in the loan purchase agreement are satisfied.

(3) The board's investment shall be secured by a first lien on the financed property and any other security devices deemed prudent by the board, including but not limited to the letter of credit issued by the financial institution pursuant to ARM 8.97.503 (2).

(4) The terms of the financing shall be determined by the board at the time of the purchase of the loan.

(5) The principal amount of the investment and any accrued interest outstanding shall be paid in full at the time of the sale of the board's bonds, at which point all security devices shall be released to be assigned to the trustee of the board's bonds.

(6) If the board has not sold its bonds within six months of the date of the loan purchase, the board may alter

the terms of the financing to more appropriately reflect a long-term investment of its funds.

(7) The board has determined that this use of the in-state investment fund will strengthen the pooled industrial revenue bond program and will thereby serve to strengthen, diversify, and stabilize the Montana economy."

Auth: 17-6-324, MCA Imp: 17-6-308, MCA

10. The board is proposing the adoption to allow the board to use the in-state investment fund for short-term funding of pooled IDB loans pending their sale of the board bonds. Using the fund in this manner enhances the flexibility and effectiveness of the Pooled Industrial Revenue Bond Program.

11. Interested persons may submit their data, views or arguments concerning the proposed amendments and adoption in writing to the Montana Economic Development Board, 1424 9th Avenue, Helena, Montana, 59620, no later than January 10, 1985.

12. If a person who is directly affected by the proposed amendments and 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 the Montana Economic Development Board 1424 9th Avenue, Helena, Montana, 59620, no later than January 10, 1985.

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

MONTANA ECONOMIC DEVELOPMENT
BOARD

D. PATRICK MCKITTRICK
CHAIRMAN

BY 

GARY BUCHANAN, DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, December 3, 1984.

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

In the matter of the amendment	)	NOTICE OF PUBLIC HEARING
of rule 16.20.401 concerning	)	ON PROPOSED AMENDMENT OF
plans for public water and	)	RULE 16.20.401
wastewater systems	)	(Water Quality)

TO: All Interested Persons

1. On January 18, 1985, at 10:30 a.m., a public hearing will be held in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the amendment of rule 16.20.401 concerning the submission and review of plans and specifications for public water and wastewater systems.

2. The proposed amendment replaces present rule 16.20.401 found in the Administrative Rules of Montana. The proposed amendment would revise certain aspects of the current "plan and spec" rule under which plans for public water and wastewater systems are submitted for review and approval by the Department of Health and Environmental Sciences.

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

16.20.401 PLANS FOR PUBLIC WATER SUPPLY OR WASTEWATER SYSTEM (1) The purpose of this rule is to assure the protection of public health and the quality of state waters by requiring Department review and approval of plans and specifications for siting, construction, ~~operation~~ and modification of public water supply ~~systems~~ and waste water systems prior to the beginning of construction.

(2) As used in this rule, the following definitions apply in addition to those in section 75-6-102, MCA.

(a) "Applicant" means a person who submits plans and specifications for approval pursuant to this rule.

(b) "Public sewage system" means a system for collection, transportation, treatment or disposal of sewage that is designed to serve or serves ten or more families or 25 or more persons daily for a period of at least 60 days out of the calendar year.

(i) "Community sewage system" means any public sewage system which serves year-round residents.

(ii) "Non-community sewage system" means any public sewage system which is not a community sewage system.

(c) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other wastes to an ultimate disposal point.

(d) "Subsurface sewage treatment system" means the method of sewage treatment in which the effluent is applied ~~to~~ below the soil or subseii- surface.

(e) "Wastewater" means ~~either any combination of~~ sewage, industrial waste, ~~or~~ other wastes or any combination thereof.

(f) "Wastewater system" means a public sewage system or other system that collects, transports, treats or disposes of industrial wastes.

(g) "Professional engineer" means an engineer licensed or otherwise authorized to practice engineering in Montana pursuant to Title 37, Chapter 67, MCA.

(h) "Public water supply system" means a system for the provision of water for human consumption from any community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that serves 10 or more families or 25 or more persons daily or has at least 10 service connections at least 60 days out of the calendar year.

(i) "Community water system" means any public water supply system which serves at least 10 service connections used by year-round residents or regularly serves at least 25 year-round residents.

(ii) "Non-community water system" means any public water supply system which is not a community water system.

(3) Before the applicant commences commencing the construction, alteration or extension of a public water supply system or wastewater system, he the applicant shall submit an engineering a design report along with the necessary plans and specifications for the system to the department for its review and written approval. Two sets of plans and specifications are needed for final approval.

(a) The engineering design report, plans and specifications for a public community water supply system shall be prepared and designed by a professional engineer in accordance with the format and criteria set forth in the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers Recommended Standards for Water Works, also known as the Ten State Standards, 1976 1982 edition, published by the Health Education Service, Inc., P. O. Box 74267, 7283, Albany, New York, 12224.

(i) The department hereby adopts and incorporates herein by reference the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers, Recommended Standards for Water-works 1976 edition, also known as the "Ten State Standards", published by the Health Education Service, Inc. "Ten State Standards" is a like publication setting forth the requirements for the design and preparation of plans and specifications for public water supply systems. A copy of 1976 "Ten State Standards" may be obtained from the Water Quality Bureau, Department of Health and Environmental Sciences, Helena, MT.

(b) The design report, plans and specifications for non-community water systems shall be prepared in accordance with the format and criteria set forth in Department of Health and Environmental Sciences Circular No. 84-11, "Minimum Design Standards for Small Water Systems", July 1984 edition. The department may require the plans and specifications for such

a system to be prepared by a professional engineer when the complexity of the proposed system warrants such engineering (e.g., systems using gravity storage, pressure booster/reduction stations, or disinfection facilities).

(b) (c) The engineering design report, plans and specifications for all a wastewater system systems, except non-community sewage systems and other public subsurface sewage treatment systems, shall be prepared and designed by a professional engineer in accordance with the format and criteria set forth in the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers Recommended Standards for Sewage Works, also known as the Ten State Standards, 1978 edition, published by the Health Education Service, Inc., P. O. Box 7126, Albany, New York, 12224. The engineering design report, plans and specifications for a wastewater system shall also be designed to ensure the safety of the public health and compliance with the Montana Water Quality Act, Title 75, Chapter 5, sections 75-5-101 et seq., MCA, and rules adopted pursuant thereto, thereunder.

(i) The department hereby adopts and incorporates herein by reference the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers, Recommended Standards for Sewage Works, 1978 edition, also known as the "Ten State Standards", published by the Health Education Service, Inc. "Ten State Standards" is a like publication setting forth the requirements for the design and preparation of plans and specifications for sewage works. A copy of the 1978 "Ten State Standards" may be obtained from the Water Quality Bureau, Department of Health and Environmental Sciences, Helena, MT.

(e) A subsurface sewage treatment system may be designed in accordance with publications such as "Manual of Septic Tank Practice" by U.S. Department of Health, Education and Welfare, "Treatment and Disposal of Wastewater- from Homes- by Soil Infiltration--- and Evapotranspiration" by Alfred P. Bernhart, "Wastewater Treatment- Systems for Rural Communities" by Goldstein- and Moberg, or Bulletin 332 "Septic Tanks" by Cooperative Extension Service, Montana State University.

(d) The design report, plans and specifications for non-community sewage systems or other public subsurface sewage treatment systems shall be prepared in accordance with the format and criteria set forth in Department of Health and Environmental Sciences Circular No. 84-10, "Sewers and Sewage Treatment for Multi-Family and Non-Residential Buildings", July, 1984 edition. The Department may require the plans and specifications for such system to be prepared by a professional engineer when the complexity of the proposed system warrants such engineering.

(d) (e) The department may grant a deviation from the standards referenced in subsections (3)(a), and (b), (c), and (d) of this rule when the design engineer for the system

applicant has demonstrated to the satisfaction of the department that strict adherence to the standards of this rule is not necessary to protect public health and the quality of state waters (e.g., systems that are experimental, pressure dosed, or use more than 500 linear feet of drainfield; systems which require pumping or which use lagoons or other non-subsurface facilities).

(e) (f) The applicant must identify to the department's satisfaction that a legal entity exists which is responsible for the ownership, maintenance, operation and perpetuation of the public water supply system or wastewater system.

(4) The department shall issue a written approval for a public water supply system or wastewater system if it determines that the engineering design report, plans and specifications are complete and the applicant has complied with all provisions of this rule.

(a) Upon issuance of the written approval, the department shall specify to the applicant- those tests, analyses, and other information required- to be performed or provided under section (6)(a).

(b) (a) The department's approval of a public water supply system may set forth conditions of approval which may include but shall not be limited to those specifying limits on quantities available for irrigation and fire flows, limited storage, standby power sources, and peak flows.

(b) (b) The department's approval of a wastewater system may set forth conditions of approval which may include but shall not be limited to expected performance characteristics and performance limitations such as operations, staffing, financing, wastewater loads, standby power and access.

(5) Unless the applicant has commenced the construction, alteration, or extension of a public water supply or wastewater system within 2 years after the department has issued its written approval, the approval shall be deemed void and an engineering a design report, plans and specifications shall be resubmitted as required by subsection (3) of this rule.

(6) The applicant shall not deviate from the approved plans and specifications without first receiving department approval.

(6) (7) Within 90 days after the construction, is completed upon extension, or addition of a public water supply system or wastewater system has been completed, or upon an extension of or addition to such a system, the applicant project engineer shall certify to the department that the construction, alteration, or extension was completed in accordance with the plans and specifications approved by the department. In cases where the system was designed by a professional engineer, the applicant shall submit a professional engineer's certification that the construction, alteration or extension was completed in accordance with the plans and specifications approved by the department. This certification

shall be accompanied by a complete set of "as built" drawings signed by the applicant or, in cases where the system is designed by an engineer, the project professional engineer, and an operation and maintenance manual if applicable.

(8) The department may require that chemical analyses, microbiological examinations, flow tests, pressure tests, treatment plant performance records or other measures of performance for a public water supply or wastewater system be conducted by the applicant to substantiate that the system complies with the criteria set forth in the engineering design report, plans and specifications.

(9) When engineering design reports, plans and specifications submitted pursuant to this rule are also part of a submittal for compliance with plan review pursuant to the Sanitation in Subdivisions Act, (~~76-4-101 et seq.~~ Title 76, Chapter 4, MCA) the applicant shall so indicate by written notice accompanying ~~has~~ the submittal. Review ~~pursuant to~~ under this rule will then be conducted pursuant to ~~76-4-101 et seq.~~ Title 76, Chapter 4, MCA.

(10) The department hereby adopts and incorporates by reference the following publications:

(a) The Great Lakes-Upper Mississippi River Board of State Sanitary Engineers, Recommended Standards for Waterworks, 1982 edition, also known as the "Ten States Standards", published by the Health Education Service, Inc., P. O. Box 7283, Albany, New York, 12224, which sets forth the requirements for the design and preparation of plans and specifications for public water supply systems. A copy of 1982 "Ten States Standards" may be obtained from the Water Quality Bureau, Department of Health and Environmental Sciences, Helena, Montana, 59620.

(b) The Great Lakes-Upper Mississippi River Board of State Sanitary Engineers, Recommended Standards for Sewage Works, 1978 edition, also known as the "Ten States Standards", published by the Health Education Service, Inc., P. O. Box 7283, Albany, New York, 12224, which sets forth the requirements for the design and preparation of plans and specifications for sewage works. A copy of 1978 "Ten States Standards" may be obtained from the Water Quality Bureau, Department of Health and Environmental Sciences, Helena, Montana, 59620.

(c) Department of Health and Environmental Sciences' Circular 84-11, July 1984 edition, which sets forth minimum design standards for small water systems. A copy of Circular 84-11, July 1984 edition, may be obtained from the Water Quality Bureau, Department of Health and Environmental Sciences, Helena, Montana, 59620.

(d) Department of Health and Environmental Sciences' Circular 84-10, July 1984 edition, which sets forth minimum design standards for sewage treatment and disposal facilities serving multi-family and non-residential buildings. A copy of

Circular 84-10, July 1984 edition, may be obtained from the Water Quality Bureau, Department of Health and Environmental Sciences, Helena, Montana, 59620.

AUTHORITY: Sec. 75-6-103 MCA

IMPLEMENTING: Sec. 75-6-103, 75-6-112 MCA

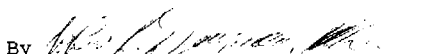
4. The Board is proposing this amendment to the rule to clarify the definitions and certain requirements for community and non-community water and wastewater systems and the primary change here will be to eliminate the requirement that plans for non-community water and wastewater systems be prepared by a licensed professional engineer. The Board is also proposing the amendments to establish standards for non-community systems and to conform such requirements in 16.20.401 to the closely related rules for non-community systems within subdivisions which requirements were recently clarified by the Department of Health and Environmental Sciences. Finally, the Board is adopting the most recent editions of "Recommended Standards for Waterworks."

5. Interested persons may present their data, views or arguments, either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Robert L. Solomon, Cogswell Building, Capitol Station, Helena, Montana, 59620, no later than January 15, 1985.

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

7. The authority of the Board to make the proposed amendment is based on section 75-6-103, MCA, and the rule implements sections 75-6-103 and 75-6-112, MCA.


JOHN F. MCGREGOR, M.D., Chairman

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

Certified to the Secretary of State December 3, 1984

BEFORE THE WORKERS' COMPENSATION DIVISION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED
amendment of rules.	)	AMENDMENT OF RULE
	)	24.29.3801.
	)	(No Public Hearing
		Contemplated)

TO: All Interested Persons

1. On January 14, 1985, the Workers' Compensation Division proposes to amend its rule concerning attorney fee regulation and the submission of attorney fee contracts.

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

24.29.3801 ATTORNEY FEE REGULATION (1) An attorney representing a claimant on a workers' compensation claim shall submit to the division, in accordance with section 39-71-613 MCA, a contract or a copy of a contract of employment stating specifically the terms of the fee arrangement. The contract of employment shall be signed by the claimant and the attorney, and must be approved by the Administrator of the Division of Workers' Compensation. A contract complying with these rules shall be deemed approved by the Administrator unless good cause requires otherwise. The Administrator shall notify the attorney in writing of any contracts which do not comply with these rules.

(2) An attorney representing a claimant on a workers' compensation claim, and who plans to utilize a contingent fee system to establish the fee arrangement with the claimant, may not charge ~~a fee above the following amounts:~~

~~(a) For cases that have not gone to a hearing before the workers' compensation judge, a fee above twenty-five percent (25%) of the amount of compensation payments the claimant receives due to the efforts of the attorney.~~

~~(b) For cases that go to a hearing before the workers' compensation judge, thirty-three percent (33%) of the amount of compensation payments the claimant receives from an order of the workers' compensation judge.~~

~~(c) For cases that are appealed to the Montana supreme court, forty percent (40%) of the amount of compensation payments the claimant receives based on the order of the supreme court.~~

(3) The amount of medical and hospital benefits received by the claimant shall not be considered in calculating the fee, unless the workers' compensation insurer has denied all liability, including medical and hospital benefits, in the claimant's case, or unless the insurer has denied the payment of certain medical and hospital costs and the attorney has been successful in obtaining such benefits for the claimant.

(4) For good cause shown, the division may allow contingent fees in excess of the maximum fees as set forth in the above schedule. Such a variation from the maximum contingent fee schedule must be approved by the division before a final fee contract is entered into between the attorney and the claimant.

(5) The fee schedule set forth above does not preclude the use of other attorney fee arrangements, such as the use of a fee system based on time. When such a fee arrangement is utilized, the contract of employment shall specifically set forth the fee arrangement, such as the amount charged per hour.

(6) The contingent fee schedule set forth above is a maximum schedule, and nothing prevents an attorney from charging a contingent fee below the maximum contingent fee schedule. The division encourages attorneys to review each workers' compensation claim on a case by case basis in order to determine an appropriate fee. An attorney may also reduce the attorney's fee from what was originally established in the fee contract, without the approval of the division.

(7) ~~The division retains its authority to regulate the attorney fee amount in any workers' compensation case even though the contract of employment fully complies with the rules set forth above.~~ Attorneys' compensation in claims settled prior to the hearing of a petition before the workers' compensation court shall be determined solely by the approved fee arrangement and shall be paid out of the funds received in settlement or other funds available to the claimant. Upon the occurrence of a hearing before the workers' compensation court, that court shall have exclusive jurisdiction for the award of attorney's fees on the claim.

(8) In the event a dispute arises between any claimant and an attorney relative to attorney's fees in a workers' compensation claim not having gone to hearing on a petition before the workers' compensation court, the Administrator, upon request of either the claimant or the attorney, shall review the matter and issue his order resolving the dispute pursuant to procedures set forth in Section 24.29.201, et seq., ARM. The fee contract between attorney and client shall clearly identify the rights granted by this subsection.

(9) This rule constitutes the administrator's regulation of the amount of attorney's fees in any workers' compensation case as permitted by section 39-71-613, MCA.

Auth: 39-71-203 MCA; Imp: 39-71-611, 612, 613 MCA

3. The rationale for amending ARM 24.29.3801 is to set forth the manner in which attorneys, who represent or act on behalf of a claimant or any other party on any workers' compensation claim, submit to the division a contract of employment between the attorney and the claimant, and to set forth the manner in which the administrator of the division regulates the amount of the attorney's fee in any workers' compensation case. The amendment of this rule is necessary to distinguish the division's responsibility to regulate attorney

fees pursuant to section 39-71-613, MCA, and the workers' compensation court's responsibility to award attorney fees pursuant to section 39-71-611, or 39-71-612, MCA.

4. Interested parties may submit their data, views or arguments concerning these changes in writing to William R. Palmer, Assistant Administrator, Workers' Compensation Division, 5 South Last Chance Gulch, Helena, Montana 59601, by January 11, 1985.

5. If a person who is directly affected by the proposed amendment wishes to express data, views and arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments to William R. Palmer, address above, no later than January 11, 1985.

6. If the division receives requests for a public hearing on the proposed amendment from 25 persons who are directly affected by the proposed amendment or ten percent of the population of the state of Montana, 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. The rule will affect each individual in the state. Notice of hearing will be published in the Montana Administrative Register.


GARY L. BLEWETT, Administrator

CERTIFIED TO THE SECRETARY OF STATE: December 3, 1984
(date)

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF ADOPTION OF
adoption of rules 2.21.8106	)	RULES 2.21.8106 THROUGH
through 2.21.8109 relating	)	2.21.8109 RELATING TO
to the administration of the	)	THE STATE'S EQUAL
state's equal employment	)	EMPLOYMENT OPPORTUNITY
opportunity and affirmative	)	AND AFFIRMATIVE ACTION
action program	)	PROGRAM

TO: All Interested Persons.

1. On October 25, 1984, the department of administration published notice of the proposed adoption of rules ARM 2.21.8106 through 2.21.8109 relating to the state's equal employment opportunity and affirmative action program at page 1533 of the 1984 Montana Administrative Register, issue number 20.

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

2.21.8107 POLICY AND OBJECTIVES (1) (a) Same as proposed rule.

(b) discriminatingory barriers to employment in state government based on race, color, religion, creed, sex, national origin, age, handicap, marital status or political belief must be eliminated, in accordance with relevant state and federal law, and

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

2.21.8108 DEPARTMENT OF ADMINISTRATION RESPONSIBILITIES
(1) - (2)(a)-(e) Same as proposed rule.

(f) encourage agencies to make a commitment to provide training through upward mobility programs and/or through other available training programs where there is evidence that there have been barriers to employment for those classes of people who have traditionally been denied equal employment opportunity.

2.21.8109 AGENCY PROGRAM (1) The department director or head of each ~~executive-branch~~ agency is responsible for the implementation of that agency's equal employment opportunity/affirmative action program. Agencies covered by this rule are all executive branch departments, those agencies allocated to the state board of education under 2-15-1511, MCA, and those institutions under the Department of Institutions listed in 53-1-202, MCA.

(2) - (4)(b) (i) Same as proposed rule.

(ii) make a commitment to ~~make-any~~ provide reasonable accommodation to any known disability that may interfere with a disabled applicant's ability to compete in the selection process or a disabled employee's ability to perform the duties of ~~his~~ the job.

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

(5) An agency shall establish an affirmative action plan as prescribed by the state's equal employment opportunity guidelines (available from the state personnel division, department of administration) or in another format approved prior to submission by the department of administration which is based on an analysis of current data which identifies problem areas and establishes goals, timetables and action items to correct problem areas.

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

3. On November 20, 1984, a public hearing was conducted on the proposed rules. The following comments were received at the hearing and during the comment period.

COMMENT: Those protected characteristics found in state law should be included in ARM 2.21.8107 so that it is clear they cover the entire policy.

RESPONSE: The department has incorporated the list of those protected characteristics into that rule.

COMMENT: The agency policy statement should include a commitment to training through upward mobility or other programs for classes of people traditionally denied equal employment opportunity.

RESPONSE: The department cannot by rule direct an agency to make a commitment to training. However, training is an important type of affirmative action which an agency may take and the department has incorporated, as one of its responsibilities in ARM 2.21.8108 the requirement to encourage agencies to make such a commitment to training where there is evidence of employment barriers.


COMMENT: The term agency needs to be clarified, as used in this policy.

RESPONSE: In ARM 2.21.8109, the department has specified those agencies which are covered by this policy.

COMMENT: In ARM 2.21.8109, agencies may use an alternate format for an affirmative action plan, if it is approved by the department of administration.

Whether such approval must be made before or after submission of the plan should be clarified.

RESPONSE: The department has clarified the rule to require approval before submission of the plan.



Morris L. Brusett, Director
Department of Administration

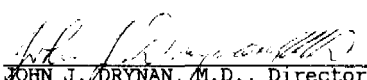
Certified to the Secretary of State, December 3, 1984.

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

In the matter of the	)	NOTICE OF
amendment of rule 16.16.304	)	AMENDMENT OF RULE
concerning individual)	
sewage treatment systems	)	(Sanitation in Subdivisions)

TO: All Interested Persons

1. On September 27, 1984, the department published notice of amendment of rule 16.16.304 regarding individual sewage treatment systems at page 1402 of the 1984 Montana Administrative Register, issue number 18.
2. The department has amended the rule as proposed.
3. No comments or testimony were received.


JOHN J. DRYNAN, M.D., Director

Certified to the Secretary of State December 3, 1984

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

In the matter of the amendment	)	NOTICE OF
of rules 16.20.605, 16.20.607,	)	AMENDMENT OF RULES
16.20.617, 16.20.618, 16.20.619,)	
16.20.620, 16.20.621, 16.20.622,)	
16.20.624, 16.20.631)	
relating to water quality)	
standards and classifications	)	(Water Quality)

TO: All Interested Persons

1. On October 11, 1984, the board published notice of the proposed amendment of rules relating to water quality standards and classification at page 1447 of the 1984 Montana Administrative Register, issue number 19.

2. The board has amended the rules as proposed with the exception of two changes which are discussed in the comments below.

3. The following comments were received on the proposed amendments:

Comment: (Garvin Engineering) Rule 16.20.607(4) should be changed in order to clarify that the Marias River below Highway 233 and the Teton River below I-15 are warm water fisheries.

Response: The Board agrees and has inserted the words "and segments" after the word "tributaries" in 16.20.607(4).

Comment: (Montana Petroleum Association) The extension of 16.20.633(4) to oil exploration and production operations will require permit coordination between DHES and the Montana Board of Oil and Gas Conservation which already addresses this operational aspect. Also, the 180-day lead time in section (4)(a) is often impractical. Finally, there should be some grandfathering of facilities with a proven history of environmentally sound operation.

Response: The Board has requested the Department to evaluate and report back on these comments and has deferred amending the rule until the Board reviews the report.

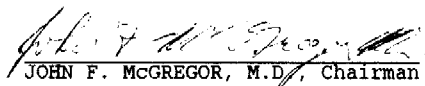
Comment: (Champion International) Extending 16.20.633(4) to operations such as the Frenchtown pulp mill will invalidate MPDES permits which allow technologies that are designed to seep and infiltrate (e.g. rapid infiltration, overland flow, and spray irrigation).

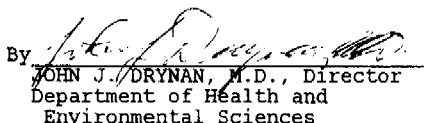
Response: The amendment would not invalidate such MPDES permits and the technologies referred to remain acceptable treatment and storage modes under MPDES. See the last sentence in the definition of "pollution" in 75-5-103(5), MCA.

Comment: (Flathead River Basin Commission) The entire main stem of the Flathead River above Flathead Lake should be classified A-1.

Response: The proposed amendment of this rule is justified because of the earlier misclassification caused by the Glacier National Park boundary line. However, the Board has

requested the Department to determine whether the Commission's comments suggest the need for a revision of the classification above Flathead Lake.


JOHN F. MCGREGOR, M.D., Chairman

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

Certified to the Secretary of State December 3, 1984

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

In the matter of the amendment)	NOTICE OF
of rules 16.20.701, 16.20.702,)	AMENDMENT OF
16.20.703, 16.20.704, 16.20.705,)	RULES RELATING TO
relating to non-degradation of)	NON-DEGRADATION OF
water quality)	WATER QUALITY

TO: All Interested Persons

1. On October 11, 1984, the Board published notice of the proposed amendment of rules relating to the nondegradation of water quality at page 1453 of the 1984 Montana Administrative Register, issue number 19.

2. The Board has amended rules 16.20.702, 16.20.703, 16.20.704 and 16.20.705 as proposed. The Board has amended rule 16.20.701 with the following changes:

16.20.701 DEFINITIONS In this sub-chapter, the following terms have the meanings indicated below and are supplemental to the definitions set forth in section 75-5-103, MCA:

(1)(a)(i) - (iii) Same as proposed.
(iv) the concentration in groundwater of other pollutants, outside of applicable mixing zones, has become worse and will adversely affect existing beneficial uses or beneficial uses reasonably expected to occur in the future.

(1)(b)(i) - (9) Same as proposed.

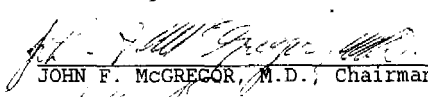
3. The following comments were received.

Comment: (Champion International) As proposed the definition of "degradation" operates to prohibit any increase in pollutant levels no matter how small (e.g., 1 part per billion). Instead, degradation should be allowed up to the maximum contaminant levels (MCL's) established by the U.S. EPA for drinking water supplies.

Response: Allowing degradation up to the MCL's would plainly violate the requirement in 75-5-303, MCA, that existing high water quality be maintained. The perceived severity of this prohibition is offset by the procedure in 16.20.704 whereby the Board may allow degradation under appropriate circumstances.

Comment: (Exxon) The proposed rule is confusing over which mixing zone is intended to apply to groundwater discharges.

Response: Exxon's comment is well taken and the Board has inserted the word "applicable" in 16.20.701(1)(a)(iv) to clarify that there are different mixing zones for surface and ground water discharges.


JOHN F. MCGREGOR, M.D., Chairman

By 
JOHN J. BRYNAN, M.D., Director

Certified to the Secretary of State December 3, 1984

Montana Administrative Register

23-12/13/84

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

In the matter of the amendment	)	NOTICE OF
of rule 16.20.914	)	AMENDMENT OF
and the adoption of RULE I	)	ARM 16.20.914
concerning issuance of	)	AND ADOPTION OF
general permits for	)	NEW RULE 16.20.1022
Montana pollutant discharge)	
elimination systems and)	
Montana groundwater pollution)	
control systems	)	(Water Quality)

TO: All Interested Persons

1. On October 11, 1984, the Board published notice of the proposed amendment of ARM 16.20.914 and the adoption of a new rule, both concerning the issuance of general permits for discharges to surface waters and ground waters at page 1459 of the 1984 Montana Administrative Register, issue no. 19.

2. The Board has adopted the new rule as proposed.

3. The Board has amended rule 16.20.914 as proposed with the following changes:

16.20.914 GENERAL PERMITS (1) Same as proposed.

(2) The department may issue general permits for the following categories of point sources which the board has determined are appropriate for general permitting under the criteria listed in 40 CFR ~~122-59~~ 122.28:

(a) - (i) Same as proposed.

(j) Groundwater discharges from mobile oil and gas drilling wastewater treatment units.

(3) - (9) Same as proposed.

(10)(a), (b) Same as proposed.

(c) Determination by the department that the discharge from any authorized source is a significant contributor to pollution as determined by the factors set forth in 40 CFR ~~122-57(e)(2)~~ 122.26(c)(2); or

(d) A change in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to a source or to a category of sources; or

(e) Occurrence of one or more of the circumstances listed in ARM 16.20.907(1)(c) or 16.20.1015(3).

(11) - (12)

(13) For purposes of this rule, the board hereby adopts and incorporates by reference:

(a) 40 Code of Federal Regulations (CFR) section ~~122-59~~ 122.28 which sets forth criteria for selecting categories of point sources appropriate for general permitting;

(b) 40 CFR section 124.10(d)(1) which sets forth minimum contents of public notices;

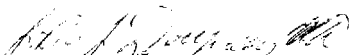
(c) 40 CFR section ~~122-57(e)(2)~~ 122.26(c)(2) which sets forth criteria for determining when a point source is considered a "significant contributor of pollution";

4. The following comments were received.

Comment: (Department of Health and Environmental Sciences) The new category of discharges eligible for general permitting (mobile oil and gas drilling wastewater treatment units) should be limited to groundwater discharges since surface discharges from such units apparently are not authorized under current federal regulation. Also, two references to federal regulations in the general permit rule should be updated to reflect a reorganization of EPA's NPDES rules.

Response: The Board has inserted the words "groundwater discharges from" in front of the words "mobile oil and gas drilling wastewater treatment units" to clarify that such category may receive general permits only for their groundwater discharges. In addition, the Board has updated the references to 40 CFR 122.59 (changed to 122.28) and 40 CFR 122.57(c)(2) (changed to 122.26(c)(2)).


JOHN F. MCGREGOR, M.D., Chairman

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

Certified to the Secretary of State December 3, 1984

BEFORE THE BOARD OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the adoption)	NOTICE OF THE ADOPTION OF
of an emergency rule pertain-)	AN EMERGENCY RULE WAIVING
ing to a brucellosis test per-))	IN SIX COUNTIES THE RE-
formed on livestock before)	REQUIRED BRUCELLOSIS TEST
they are moved or sold in)	ON CATTLE BEFORE CHANGE OF
Montana.)	OWNERSHIP OR MOVEMENT
)	WITHIN THE STATE

TO: All Interested Persons.

1. On October 4, 1983, the Board of Livestock took emergency action for economic reasons to the livestock industry, eliminating intrastate change of ownership and change of movement testing in the 49 counties recommended for USDA recognition as a brucellosis "FREE" area. This change relieved cattlemen of the economic burden of testing, which had cost upwards of 15 million dollars in eight years.

According to federal regulations, before an area may be granted a federal classification of BRUCELLOSIS "FREE", it must have had no known natural brucellosis infections for 12 months or longer.

On December 1, 1983, Montana was granted federal dual status brucellosis recognition, with 49 counties "FREE" and seven counties "A". This recognition then eliminated the test requirement for both interstate and intrastate sales. Montana has now been notified that effective November 15, 1984 six more counties were accepted for inclusion in the federally recognized "FREE" area.

The fall season is a time when sales and movement of cattle (both intrastate and interstate) are at their peak. Continued requirement of brucellosis testing in the proposed BRUCELLOSIS "FREE" area would be an unnecessary economic hardship.

The Board of Livestock finds this matter to be an economic emergency, and in the interests of eliminating or preventing a peril to the welfare of the cattle industry of Montana, and in order to allow cattle producers in the new six county "FREE" area the same economic relief being enjoyed by producers in the initial 49 county area, the Board of Livestock proposes to take emergency action. The Board can, by their action of dropping test requirements in six more Montana counties, relieve these producers of the economic burden of meeting change of ownership and change of movement brucellosis tests. Therefore, for the reasons stated above, the Board of Livestock intends to adopt the following emergency rule amendment.

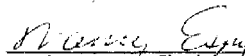
2. The text of the rule is as follows:

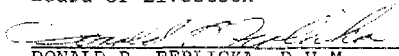
32.3.406 TESTING OF ANIMALS

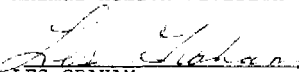
- (1) Remains the same.
- (2) Remains the same.
- (3) Any female cattle, bison or elk under domestication, capable of breeding in which the eruption of the first pair of permanent incisor teeth has occurred, or which are in the third trimester of the first pregnancy, and female swine and boars six months of age and over not consigned for immediate slaughter or to an out-of-state destination which change ownership, shall in the ~~counties~~ counties of Flathead, ~~Lincoln, Lake, Sanders, Mineral, Missoula, and Ravalli~~
- (a) Be determined to be negative as the result of an official test for brucellosis performed not more than 30 days prior to the date sold or moved, as evidenced by an official brucellosis test form of the department showing the results of the test; or
- (b), (c), (d), (e), and (f) remain the same.
- (4) Remains the same.

AUTH: 81-2-102, 81-2-103 MCA IMP: 81-2-102

The emergency action is effective November 21, 1984.


NANCY ESPY, Chairman
Board of Livestock


DONALD P. FERLICKA, D.V.M.
Administrator & State Veterinarian
Animal Health Division

By: 
LES GRAHAM
Executive Secretary to Board of Livestock

Certified to the Secretary of State November 21, 1984.

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 presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR) is a soft back, bound publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statute and rules by the attorney general (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding register.

Use of the Administrative Rules of Montana (ARM):

- | | |
|-------------------------------------|---|
| Known
Subject
Matter | 1. Consult ARM topical index, volume 16. Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute
Number and
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, 1984. This table includes those rules adopted during the period October 1, 1984 through December 31, 1984, 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, 1984, 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 1984 Montana Administrative Registers.

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