

**RESERVE**

STATE OF MONTANA  
DEPARTMENT OF REVENUE  
CITIZENSHIP DIVISION

**MONTANA  
ADMINISTRATIVE  
REGISTER**

DOES NOT  
CIRCULATE

1984 ISSUE NO. 7  
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PAGES 548-621



MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 7

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 The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing, and where written comments may be submitted.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

In the matter of the proposed ) NOTICE OF PROPOSED AMENDMENTS  
amendments of 8.14.814 con- ) OF 8.14.814 FEES, GENERAL  
cerning fees for cosmetolo- ) INITIAL, RENEWAL AND LATE  
gists and amendment of ) RENEWAL FEES and 8.14.1010  
8.14.1010 concerning fees for ) FEE SCHEDULE  
electrologists )

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

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

2. The proposed amendment of rule 8.14.814 changes the catchphrase as well as amending the rule and will read as follows: (new matter underlined, deleted matter interlined)

"8.14.814 FEES, GENERAL INITIAL, RENEWAL, PENALTY, AND LATE RENEWAL REFUNDS FEES (1) Fees - general

~~(a)~~ Student registration and processing fees shall be ~~\$5-00~~ \$35.00 for initial enrollment plus ~~\$5-00~~ \$10.00 for each re-enrollment following a withdrawal.

(2) Application fee for licensing or examination, shall be \$25.00 in addition to any other license or examination fee.

(a) Applications are not considered complete until all information, including fees, have been received by the department.

(b) Applications not completed within 90 days will be considered withdrawn and a new application and fee will be required.

~~(b)~~ (3) Temporary license fee shall be ~~\$6-00~~ \$10.00.

~~(c)~~ (4) Applicant for eExamination to practice shall pay ~~\$30-00~~ \$40.00, plus \$25.00 manager-operator license fee.

~~(d)~~ (5) Applicant for eExamination to teach shall pay ~~\$75-00~~ \$100.00 plus ~~\$15-00~~ \$25.00 instructor license fee.

~~(e)~~ (6) Applicant for iItinerant processing license shall pay be \$70.00 plus ~~\$15-00~~ \$25.00 manager-operator license fee.

~~(f)~~ (8) Applicant for rReciprocal license shall pay ~~\$75-00~~ be \$100.00 plus ~~\$30-00~~ \$25.00 manager-operator license fee.

~~(g)~~ (9) Duplicate license fee shall be ~~\$4-00~~ \$6.00.

~~(h)~~ (10) Initial inspection fee, ~~for~~ of a salon shall be ~~\$30-00~~ \$50.00.

(11) Transcripts - certification of training and licensing fee shall be \$10.00.

(12) Manager-operator license fee shall be \$25.00.

(2) Renewal fees-

(a) All cosmetology licenses are to be renewed on or before December 31st of each year except the manager operator license which shall be subject to a 2-year renewal:

(b) Manager operator license fee shall be \$20.00 for a 2-year renewal and must be renewed on or before December 31st.

(i) New applicants for a manager operator license must apply for a 2-year license; however, the renewal must be made on December 31st, of the second year following the original date of issue:

(c) Cosmetology salon license fee shall be \$15.00.

(d) Instructor license fee shall be \$15.00.

(e) Cosmetology school license fee shall be \$50.00.

(f) Advanced training license fee shall be \$50.00.

(g) Teacher-training license fee shall be \$50.00.

(h) Late renewals

(a) A fee of \$15.00 for each year shall be levied for late renewal of all licenses, in addition to the license fee.

(13) Salon license fee shall be \$35.00.

(14) Basic school license fee shall be \$100.00.

(15) Advance training school license fee shall be \$75.00, plus basic school license fee.

(16) Teacher training unit school license fee shall be \$75.00, plus basic school license fee.

(17) All licenses expire on December 31 of each year and must be renewed on or before December 31 of each year.

(18) All licenses will be renewed for one year.

(19) Renewal fees shall be the same as initial license fees.

(20) Renewal requests postmarked on or before December 31 will be considered received on December 31, provided fee amount is correct and renewal request is completed properly.

(21) A penalty fee for late renewal shall be \$25.00 for each year a license has lapsed in addition to the regular annual license fee. Any portion of a year is considered to be a full year.

(22) When a license, examination, or inspection application or a license, registration or renewal has been withdrawn or denied, the department shall retain the fees.

(23) Refunds for errors in payment of fees will be made only if in excess of \$5.00."

Auth: 37-1-134, 37-31-203, MCA Imp: 37-1-134, 37-31-302, 303, 304, 306, 307, 312, 321, 322, 323, MCA

3. The board is proposing the amendment as the department has advised the board that present revenues are insufficient to permit expenditures appropriated and budgeted for the present and coming year. If the present license fees are maintained, revenue will be insufficient to fund current level budgeted expenditures for FY 85. These are the fees the board has determined are necessary to cover program area costs. Also proposed is a return to the annual renewals for

manager operators. The board has found the biennial renewal system unworkable.

4. The proposed amendment of 8.14.1010 will read as follows: (new matter underlined, deleted matter interlined)

"8.14.1010 FEE SCHEDULE INITIAL, RENEWAL, PENALTY AND REFUNDS

(1) Initial:

(a) Application fee for licensing or examination, shall be \$25.00 in addition to any other license or examination fee.

(b) Applications are not considered complete until all information, including fees, have been received by the department.

(c) Applications not completed within 90 days will be considered withdrawn and a new application and fee will be required.

(1) (d) Applicant for examination to practice shall pay ~~\$30.00~~ be \$40.00, plus ~~\$15.00~~ \$25.00 license fee.

(2) (e) Applicant for examination fee to teach shall pay ~~\$75.00~~ be \$100.00, plus ~~\$15.00~~ \$25.00 instructor license fee.

(3) (f) Applicant for reciprocal license processing fee shall pay ~~\$75.00~~ be \$100.00, plus ~~\$15.00~~ \$25.00 license fee.

(4) (g) Duplicate license fee shall be ~~\$4.00~~ \$6.00.

(h) Transcripts - certification of training and licensing fee shall be \$10.00.

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

(5) (2) Renewal fees:

(a) All electrolysis licenses are to be renewed on or before December 31st of each year. Electrolysis operator license fee shall be \$25.00.

(b) Electrology salon license fee shall be ~~\$15.00~~ \$35.00.

(c) Electrolysis instructor license fee shall be ~~\$15.00~~ \$25.00.

(d) Electrology school license fee shall be ~~\$50.00~~ \$100.00.

(6) Late renewals:

(a) A fee of ~~\$15.00~~ for each year shall be levied for late renewal of all licenses, in addition to the license fee.

(e) All licenses expire on December 31 of each year and must be renewed on or before December 31 of each year.

(f) Renewal requests postmarked on or before December 31 will be considered as received on December 31, provided the fee amount is correct and renewal request is completed properly.

(g) All licenses will be renewed for one year.

(h) A penalty fee for late renewal shall be \$25.00 for each year a license has lapsed, in addition to the regular annual license fee. Any portion of a year is considered to be a full year.

(i) When a license, examination, or inspection application or a license, registration or renewal has been withdrawn or denied, the department shall retain the fee.

(j) Refunds for errors in payment of fees will be made only if in excess of \$5.00.

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

Auth: 37-1-134, 37-32-201, MCA Imp: 37-1-134, 37-32-305, MCA

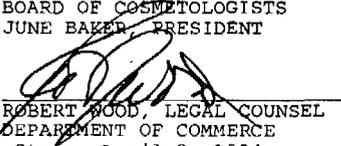
5. The amendment is proposed as the department of commerce has advised the board that present revenues are insufficient to permit expenditures appropriated and budgeted for the present and coming year. If present license fees are maintained, revenue will be insufficient to fund current level budgeted expenditures for FY 85. These are the fees the board has determined necessary to cover program area costs as mandated by section 37-1-134, MCA.

6. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Cosmetologists, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than May 10, 1984.

7. If a person who is directly affected by the proposed amendments wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any comments he has to the Board of Cosmetologists, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than May 10, 1984.

8. If the board receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of those persons who are directly affected by the 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. Ten percent of those persons directly affected has been determined to be 553 based on the 5535 licensees in Montana.

BOARD OF COSMETOLOGISTS  
JUNE BAKER, PRESIDENT

BY:   
ROBERT WOOD, LEGAL COUNSEL  
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, April 2, 1984.

7-4/12/84

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  
amendment of 8.16.602 concern- ) ON THE PROPOSED AMENDMENT  
ing allowable functions for ) OF ARM 8.16.602 ALLOWABLE  
dental auxiliaries. ) FUNCTIONS FOR DENTAL  
 ) AUXILIARIES

TO: All Interested Persons:

The notice of proposed board action published in the Montana Administrative Register on November 25, 1983, at pages 1693 - 1694 has been amended as follows because the Montana Dental Hygienists' Association requested a public hearing.

1. On May 9, 1984, at 8:00 a.m., a public hearing will be held in the Kaytop Room of the Sheraton Hotel, 27 North 27th, Billings, Montana to consider the amendment of 8.16.602 concerning allowable functions for dental auxiliaries.

2. The proposed amendment is the same as originally published at pages 1693 and 1694, 1983 Montana Administrative Register, issue number 22.

3. The board is proposing the amendment for the reason stated in the original notice.

4. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Board of Dentistry, 1424 9th Avenue, Helena, Montana 59620-0407, no later than May 10, 1984.

5. Brinton Markle, Attorney, Department of Commerce, Helena, will preside over and conduct the hearing.

6. The authority of the board to make the proposed amendment is based on sections 37-4-205 and 37-4-408, MCA and implements section 37-4-408, MCA.

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

BY:   
ROBERT WOOD, LEGAL COUNSEL  
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, April 2, 1984.

BEFORE THE MONTANA ARTS COUNCIL  
AND THE MONTANA HISTORICAL SOCIETY  
OF THE STATE OF MONTANA

In the matter of the adoption)  
criteria applied by the )  
Cultural and Aesthetic Pro- )  
jects Advisory Committee in )  
evaluation of grant proposals)

NOTICE OF PUBLIC HEARING  
FOR ADOPTION OF RULES  
SPECIFYING CRITERIA FOR  
GRANTS EVALUATION.

TO: All Interested Persons.

1. On May 12, 1984 at 9:30 a.m. a public hearing will be held in the conference rooms of the offices of the commissioner of higher education, 33 South Last Chance Gulch, Helena, Montana, to consider adoption and implementation of proposed rules specifying the manner and procedure to be followed by the Cultural and Aesthetic Advisory Projects Committee in submission and recommendation of grant proposals to the state legislature from coal tax fund for cultural and aesthetic projects.

2. The proposed rules provide as follows:

Rule I ELIGIBLE APPLICANTS (1) Any person, association, or representative of a governing unit may submit an application for funding of a cultural and aesthetic project from the income of the trust fund. The term "governing unit" includes state, regional, county, city, town, or Indian tribe.

(2) APPLICATION FORM FOR GRANT PROPOSALS. The Committee shall have prepared a standard application form for grant proposals to the Committee and shall include requests for information from the applicant concerning the following:

(a) Sponsorship by the governing unit whereby the unit indicates the availability of accounting and financial services and responsibilities for the proposal, if funded:

(b) A narrative description of the project.

(c) A statement specifying the community, regional or statewide need addressed by the project.

(d) A statement of the purpose of the project.

(e) A statement addressing the means and methods for implementation of the project.

(f) A statement of the end result of the project as intended by the applicant, and for evaluation on termination of the project.

(g) A statement describing the audiences, area and population to be served.

(h) A statement addressing project publicity and accessibility.

(i) A complete line item budget request to include planned expenditures of granted funds and a statement of available or supplementary source(s) of funding and in-kind or matching contributions.

(j) Resumes or descriptions of related experience or expertise of staff or volunteers.

7-4/12/84

MAR Notice No. 10-111-1

(k) Additional information may be required by the Committee of the applicant, which may include the following for general operating support applicants:

(i) a complete funding history of the applicant,  
(ii) a statement of the necessity for support from the coal tax fund.

(3) APPLICATION DEADLINE. Applications must display a local postmark not later than September 1 of the year preceding the convening of a regular legislative session.

(4) ELIGIBLE PROJECTS. Grant proposals must be for the purpose of protecting works of art in the state capitol or other cultural and aesthetic projects, including but not limited to the visual, performing, literary and media arts, history, archaeology, folklore, archives, libraries, historical preservation and the renovation of cultural facilities.

(5) EVALUATION CRITERIA. Recommendations for funding of individual applications must be based upon evaluation of the following considerations:

(a) Quality of the project-

(i) whether the technical, artistic and administrative abilities and experience of the applicant, its staff and/or volunteers makes probable the completion and implementation of the project within the grant period.

(ii) whether the project has as its base concepts which are creative or innovative, practical or beneficial, and whether the project may stimulate other projects.

(b) Cultural Impact of the project-

(i) whether the project may contribute to or improve the cultural development of the community, county, region or state.

(ii) whether the project addresses an established need within the proposed area, or establishes or augments an activity or service.

(iii) whether the project has stated goals that are within the resource capability of the applicant and whether there is a reasonable likelihood that the goals will be attained.

(iv) whether the project has benefit, availability and accessibility to the public.

(c) Cost factors of the project.

(i) The need for one-time project support or general operating support or capital support.

(ii) The cost-effectiveness of the project.

(iii) The level of local support as demonstrated by cash match from local sources or in-kind goods and services.

(iv) The level of cost-sharing as reflected in the mix of earned income, private contributions, governmental support and interest income (historical and art museums are encouraged to obtain county mill levy, general fund appropriation or revenue sharing support).

(v) the potential of the project to stimulate other sources of funding or to become self-supporting.

(vi) the probability of accomplishing the project within budget and with available resources.

(6) CRITERIA FOR RECOMMENDATIONS. Committee recommendations to the legislature of those projects which meet the evaluation criteria to the extent possible also must address the following considerations:

(a) Geographical diversity - taken as a whole, grants should assist the entire state.

(b) Cultural Diversity - recognizing the wide variety of cultural and aesthetic needs of Montana, grants should reflect a balance among those serving the population at large and those serving special sub-groups such as ethnic and racial communities, women, disabled or institutionalized populations or specific age groups.

(c) Project Diversity - a variety of different interests and disciplines within the eligible projects should be served which may include but not be limited to the following:

(i) service to local communities or counties, multi-county regions and the state.

(ii) service to urban and rural populations.

(iii) one-time projects, operating support and renovation of buildings.

(iv) single sponsors and those representing coalitions of a number of organizations.

(d) Cost diversity - a balance should be reached among projects such that grant requests for smaller amounts of funding may be compared and contrasted with grant requests for larger amounts of funding.

AUTH: 2-15-1521 MCA

IMP: 22-2-303 MCA

3. The rule is proposed for the purpose of providing notice to the public of objective criteria applied by the committee in making funding recommendations to the state legislature from coal tax funds.

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 the Montana Arts Council, 1280 South Third Street West, Missoula, Montana, 59801, no later than April 30, 1984

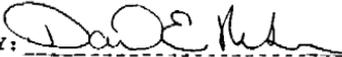
5. David E. Nelson, Executive Director, MAC, 1280 South Third Street West, Missoula, Montana, and Robert Archibald, Director, MHS, 225 North Roberts, Helena, Montana, have been designated to preside over and conduct the hearing.

6. The authority of the Montana Arts Council and the Montana Historical Society to make the proposed rule is based on 2-15-1521 MCA and the rule implements 22-2-303 MCA.

MONTANA HISTORICAL SOCIETY  
225 North Roberts  
Helena, MT 59620

MONTANA ARTS COUNCIL  
1280 South Third Street West  
Missoula, Montana 59801

BY:   
ROBERT ARCHIBALD  
Director

BY:   
DAVID E. NELSON  
Executive Director

Certified to the Secretary of State March 30, 1984

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

In the matter of the amendment )	NOTICE OF PUBLIC HEARING
of rules 16.32.301, defini- )	ON PROPOSED AMENDMENT
tions; 16.32.302, setting )	OF RULES
minimum construction standards )	16.32.301, 16.32.302,
for health care facilities; )	16.32.306, 16.32.309,
16.32.306, setting minimum )	16.32.310, 16.32.380,
standards for blood banks )	16.32.382, and 16.32.385
and transfusion services; )	AND THE ADOPTION OF
16.32.309, setting minimum )	NEW RULES I through VII
physical plant and equipment )	
maintenance standards for )	
health care facilities; )	
16.32.310, stating environ- )	
mental controls required of )	
all health care facilities; )	
16.32.380, setting adminis- )	
trative requirements for )	
personal care facilities; )	
16.32.382, setting require- )	
ments for handling of )	
medication in personal care )	
facilities; and 16.32.385, )	
stating furnishing, equipment, )	
and supply requirements for )	
personal care facilities; )	
and the adoption of rules )	
setting laundry and bedding )	
requirements for health care )	
facilities; minimum standards )	
for an intermediate develop- )	
mental disability care )	
facility; general services/ )	
administration, and food )	
service requirements for )	
adult day care centers; )	
and residency application )	
procedures, resident screening )	
requirements, and screening )	
decision appeal procedure )	
for personal care homes )	(Health Care Facilities)

TO: All Interested Persons

1. On May 9, 1984, at 1:30 p.m., a public hearing will be held in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the amendment of rules 16.32.301, 16.32.302, 16.32.306, 16.32.309, 16.32.310, 16.32.380, 16.32.382, and 16.32.385, and the adoption of new rules concerning health care facilities in general, and intermediate developmental disability care facilities, adult day care centers, and personal care homes in particular.

2. The proposed amendments replace present rules 16.32.301, 16.32.302, 16.32.306, 16.32.309, 16.32.310, 16.32.380, 16.32.382, and 16.32.385 found in the Administrative Rules of Montana. The proposed amendments would clarify the facilities to be considered adult day care centers; update and augment construction standards for health care facilities, set construction and fire code requirements for personal care facilities and adult day care centers; update the blood bank and transfusion service standards; add cleaning and hot water safety requirements for health care facilities, clarify and add standards designed to ensure cleanliness and safety in health care facilities; clarify and augment staffing and record-keeping requirements for personal care homes, delete references no longer consistent with personal care home law; add resident screening requirements for personal care homes, clarify and augment provisions designed to ensure the proper handling of medication in personal care homes; and clarify and augment the furnishings, equipment, and supplies a personal care home must provide its residents.

3. The proposed new rules would add standards which a commercial laundry must meet before a health care facility may utilize it and specify laundry and bedding requirements for all health care facilities; set minimum standards for intermediate developmental disability care facilities; establish general services/administration and food service requirements for adult day care centers; and establish residency application procedures, resident screening requirements, and screening decision appeal procedures for personal care homes.

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

5. For the convenience of the reader, the proposed new rules are intermingled with the amended rules in order to maintain continuity. The amendments (new material underlined, deleted material interlined) and proposed new rules provide as follows:

16.32.301 DEFINITIONS The following definitions apply in this sub-chapter:

(1) Same as existing rule.

(2) "Adult day-care center" means a facility as defined in Section 50-5-101(2), MCA, but does not include day habilitation programs for the developmentally disabled and handicapped or a program offered by a church or senior citizens organization for purposes other than personal care.

~~{2}~~ (3) through ~~{13}~~ (14) Same as existing rule, except for renumbering.

AUTHORITY: Sec. 50-5-103 MCA

IMPLEMENTING: Title 50, Chapter 5, Parts 1 and 2, MCA

16.32.302 MINIMUM STANDARDS OF CONSTRUCTION FOR A LICENSED HEALTH CARE FACILITY -- ADDITION, ALTERATION, OR NEW CONSTRUCTION -- GENERAL REQUIREMENTS (1) Except as may otherwise be provided in subsection (2) of this rule, A a health care facility licensed as of the effective date of this rule, and the construction of, alteration, or addition to a facility shall comply with:

(a) all standards set forth in "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" Publication No. (HRA) 79-14500, as revised August, 1979, and subsequent editions, except that a facility already licensed under the "Life Safety Code 1967" published by the National Fire Protection Association (21st edition), is not required to comply with later editions of the Life Safety Code. Copies of the cited editions are available at the department.

(b) the water supply system requirements of ARM 16.10.635;

(c) the sewage system requirements of ARM 16.10.636.

(2) A personal care facility or a free-standing adult day care center:

(a) must meet all applicable building and fire codes and be approved by the officer having jurisdiction to determine if the building codes are met by the facility and by the state fire marshal or his designee;

(b) meet the water and sewer system requirements in (1)(b) and (c) above.

(3) A patient or resident may not be admitted, housed, treated, or cared for in an addition or altered area until inspected and approved, or in new construction until licensed.

(4) The department hereby adopts and incorporates by reference:

(a) "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" Publication No. (HRA) 79-14500, as revised August, 1979, which set forth minimum construction and equipment requirements deemed necessary by the federal department of health and human services to ensure health care facilities can be efficiently maintained and operated to furnish adequate facilities.

(b) "Life Safety Code 1967", published by the National Fire protection Association (21st edition), which sets forth construction and operation requirements designed to protect against fire hazards.

(c) ARM 16.10.635, which sets forth requirements for construction and maintenance of water supply systems, including supplies of ice.

(d) ARM 16.10.636, which sets forth requirements for construction and maintenance of sewage systems.

Copies of the material cited above are available from the licensing and certification bureau of the department, Helena, Montana 59620.

IMPLEMENTING: Sec. 50-5-103, 50-5-201, 50-5-204 MCA

AUTHORITY: Sec. 50-5-103 MCA

16.32.306 MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES -- BLOOD BANK AND TRANSFUSION SERVICES (1) A health care facility shall comply with the requirements set forth in "Standards for Blood Banks and Transfusion Services, Ninth Edition (1978) Tenth Edition (1981)", published by the American Association of Blood Banks, and subsequent editions.

(2) The department hereby adopts and incorporates by reference the "Standards for Blood Banks and Transfusion Services, Tenth Edition (1981)", which set forth requirements for agencies operating blood banks and providing transfusion services concerning staffing, equipment, administration, blood collection, distribution, and handling, testing, record-keeping, and procedures to deal with transfusion complications. A copy of the ated edition is available at the department material cited above may be obtained from the licensing and certification bureau of the department, Helena, Montana, 59620.

AUTHORITY: Sec. 50-5-103, 50-5-404 MCA

IMPLEMENTING: Sec. 50-5-103, 50-5-204, 50-5-404 MCA

16.32.309 MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES -- PHYSICAL PLANT AND EQUIPMENT MAINTENANCE (1) Each facility shall have a written maintenance program describing the procedures that must be utilized by maintenance personnel to keep the building and equipment in repair and free from hazards.

(2) A health care facility shall provide housekeeping services on a daily basis.

(3) All electrical, mechanical, plumbing, fire protection, heating, and sewage disposal systems must be kept in operational condition.

(4) Floors must be covered with an easily cleanable covering; e.g. resilient flooring or ceramic tile. This covering must be cleaned daily.

(5) Carpets are prohibited in bathrooms, dining rooms, kitchens, laundries, storage rooms, or janitor closets.

(6) Walls and ceilings must be kept in good repair and be of a finish that can be easily cleaned.

(7) Every facility must be kept clean and free of odors. Deodorants may not be used for odor control in lieu of proper ventilation.

(8) The temperature of hot water supplied to handwashing and bathing facilities must not exceed 120° F.

AUTHORITY: Sec. 50-5-103, 50-5-404 MCA

IMPLEMENTING: Sec. 50-5-103, 50-5-204, 50-5-404 MCA

16.32.310 MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES -- ENVIRONMENTAL CONTROL (1) A health care facility shall take protective measures against the presence of insects and rodents; must be constructed and maintained so as to prevent entrance and harborage of rats, mice, insects, flies, or other vermin.

(2) Hand cleansing soap or detergent and individual towels must be available at each lavatory in the facility. A waste receptacle must be located near each lavatory.

(3) A health care facility shall develop and follow a written infection control surveillance program describing the procedures that must be utilized by the entire facility staff in the identification, investigation, and mitigation of infections acquired in the facility.

(4) Cleaners used in cleaning bathtubs, showers, lavatories, urinals, toilet bowls, toilet seats, and floors must contain fungicides or germicides with current EPA registration for that purpose.

(5) Toilet bowl brushes, mops, or sponges may be used only for cleaning toilet bowls or urinals and must be stored separately from any other cleaning devices. Cleaning devices used for lavatories, showers, and bathtubs may not be used for other purposes.

(6) Dry dust mops and dry dust cloths may not be used for dusting or other cleaning purposes. Treated mops, wet mops, treated cloths, moist cloths or other means approved by the department which will not spread soil from one place to another must be used for dusting and cleaning and must be stored separately from the cleaning devices described in (5) above.

(7) A minimum of 10 foot candles of light must be available in all rooms and hallways, with the following exceptions:

(a) All reading lamps must have a capacity to provide a minimum of 30 foot candles of light.

(b) All toilet and bathing areas must be provided with a minimum of 30 foot candles of light.

(c) General lighting in food preparation areas must be a minimum of 50 foot candles of light.

(d) Hallways must be illuminated at all times by at least a minimum of 5 foot candles of light at the floor.

AUTHORITY: Sec. 50-5-103, 50-5-404 MCA

IMPLEMENTING: Sec. 50-5-103, 50-5-204, 50-5-404 MCA

RULE I (to be codified as 16.32.313) MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES -- LAUNDRY AND BEDDING (1) If a health care facility processes its laundry on the facility site, it must:

(a) Set aside and utilize a room solely for laundry purposes.

(b) Equip the laundry room with a mechanical washer and dryer (or additional machines if necessary to handle the laundry load), handwashing facilities, mechanical ventilation to the outside, a fresh air supply, and a hot water supply system which supplies the washer with water of at least 160° F. (71° C.) during each use.

(c) Sort and store soiled laundry in an area separate from that used to sort and store clean laundry.

(d) Provide well-maintained carts or other containers impervious to moisture to transport laundry, keeping those used for soiled laundry separate from those used for clean laundry.

(e) Dry all bed linen, towels, and washcloths in the dryer.

(f) Protect clean laundry from contamination.

(g) Ensure that facility staff handling laundry cover their clothes while working with soiled laundry, use separate clean covering for their clothes while handling clean laundry, and wash their hands both after working with soiled laundry and before they handle clean laundry.

(2) If laundry is cleaned off-site, the health care facility must utilize a commercial laundry (not self-service) which satisfies the requirements stated in (1)(a) through (g) above.

(3) A health care facility with beds must:

(a) Keep each resident bed dressed in clean bed linen in good condition.

(b) Keep a supply of clean bed linen on hand sufficient to change beds often enough to keep them clean, dry, and free from odors.

(c) Supply each resident at all times with clean towels and washcloths.

(d) Provide each resident bed with a moisture-proof mattress or a moisture-proof mattress cover and mattress pad.

(e) Provide each resident with enough blankets to maintain warmth while sleeping.

AUTHORITY: Sec. 50-5-103, 50-5-404 MCA

IMPLEMENTING: Sec. 50-5-103, 50-5-204, 50-5-404 MCA

RULE II (to be codified as 16.32.347) MINIMUM STANDARDS FOR AN INTERMEDIATE DEVELOPMENTAL DISABILITY CARE FACILITY

(1) An intermediate developmental disability care facility shall comply with the conditions of participation for intermediate care facilities for the mentally retarded as set forth in 42 CFR 442, Subpart G.

(2) The department hereby adopts and incorporates by reference 42 CFR 442, Subpart G, which is a federal agency rule setting forth administrative, personnel, programmatic, and health standards that must be met by any intermediate care facility for the mentally retarded in order to be Medicaid-eligible. A copy of 42 CFR 442, Subpart G, may be obtained from the licensing and certification bureau of the department, Helena, Montana 59620.

AUTHORITY: Sec. 50-5-103 MCA

IMPLEMENTING: Sec. 50-5-103, 50-5-201, 50-5-204 MCA

RULE III (to be codified as 16.32.356) ADULT DAY-CARE CENTERS -- GENERAL SERVICES AND ADMINISTRATION (1) An adult day-care center shall provide the staff assistance to clients

that each requires for activities of daily living, including but not limited to eating, walking, and grooming.

(2) Except as provided in subsection (4), an adult day-care center shall comply with the requirements of ARM 16.32.380, 16.32.381, and 16.32.382, with the following exceptions:

(a) The word "resident" is replaced with "client", and "personal care facility" is replaced with "adult day-care center".

(b) Section 16.32.381(1)(h) is not incorporated herein.

(c) The staff of an adult day-care center must be present only when a client is present.

(3) Except as provided in subsection (4)(a), an adult day-care center may not provide overnight service.

(4) If an adult day-care center is operated on the premises of another licensed health care facility:

(a) the center may provide to day-care clients any of the services for which the other facility is licensed; and

(b) adequate facilities and staff must be provided to prevent overcrowding or diminished services to the residents or inpatients of the latter facility..

(5) An adult day-care center must set aside at least one room for resting, and must furnish that room with at least one bed, lounge chair, or the equivalent.

(6) The department hereby adopts and incorporates by reference ARM 16.32.380, 16.32.381 (with the exception of 16.32.381(1)(h)), and 16.32.382, which are department rules setting forth, respectively, administrative, record-keeping, and medication standards which must be met by personal care facilities. Copies of ARM 16.32.380, 16.32.381, and 16.32.382 may be obtained from the department's licensing and certification bureau, Helena, Montana 59620.

AUTHORITY: Sec. 50-5-103 MCA

IMPLEMENTING: Sec. 50-5-103, 50-5-201, 50-5-204 MCA

RULE IV (to be codified as 16.32.357) ADULT DAY-CARE CENTERS -- FOOD SERVICE (1) An adult day-care center must provide at least one meal a day to clients who stay at the center up to 8 hours. The meal must be of suitable quality and quantity to supply at least one-third of the recommended daily dietary allowances for the age and sex of the individuals served that meal which are established by the Food and Nutrition Board of the National Research Council, National Academy of Sciences, as of 1980.

(2) Clients who stay at the center over 8 hours must be provided with 2 meals per day which, together, supply at least two-thirds of the recommended daily dietary allowances for the age and sex of the individuals served those meals which are established by the Food and Nutrition Board of the National Research Council, National Academy of Sciences, as of 1980.

(3) Supplemental feedings must be offered.

(4) The standards set in ARM 16.32.384 must be met.

(5) The department hereby adopts and incorporates by reference the recommended daily dietary allowances published in 1980 by the Food and Nutrition Board of the National Research Council, National Academy of Sciences, which set the minimum amounts of all nutrients required daily by most normal persons living in the U.S. under usual environmental stresses in order to maintain health, depending upon the age and sex of the individual. Copies of the recommended daily dietary allowances may be obtained from the department's licensing and certification bureau.

(6) The department hereby adopts and incorporates by reference ARM 16.32.384, which sets forth the minimum standards which must be met by a personal care food service. Copies of ARM 16.32.384 may be obtained from the department's licensing and certification bureau, Helena, Montana 59620.

AUTHORITY: Sec. 50-5-103 MCA

IMPLEMENTING: Sec. 50-5-103, 50-5-201, 50-5-204 MCA

16.32.380 MINIMUM STANDARDS FOR A PERSONAL CARE

FACILITY -- ADMINISTRATION (1) A person employed by the facility Any employee having responsibility for residents must be at least 18 years of age.

(2) The person who manages the facility shall not admit or continue to care for residents whose condition indicates the need for a level of service and care that is not available in the facility.

(3) A resident who requires skilled nursing or intermediate care shall not be admitted or allowed to remain in the facility.

(4) (2) Employee Written daily work schedules for employees showing the personnel on duty at any given time must be kept in writing for the previous 3-month period showing the personnel on duty at any given time at least one year.

(5) (3) Facility staff At least one facility staff member must be present in the facility on a 24-hour basis at any time.

(6) (4) The family or other person responsible for a resident must be notified promptly if the resident is removed from the facility. A notation of the date of the contact and the person contacted must be made in the resident's record.

(7) (5) There must be a written agreement with the facility and each resident or other person responsible for a resident pertaining to cost of care, type of care, services to be provided, and manner by which the responsible party will be notified of significant changes in a resident's condition and the need to transfer or discharge the resident.

(8) (6) A Each resident shall must have access to a telephone at a convenient location within the building.

{9} (7) The individual in charge of each work shift shall have keys in his possession to all doors in his possession.

{10} Residents of one sex shall not pass through a bedroom occupied by a member of the opposite sex to reach a bathroom, living room, dining room, corridor or similar area.

{11} (8) A manager shall institute a prompt investigation of the cause of any accident involving a resident. A record must be kept of all accidents and corrective measures taken.

{12} (9) The facility shall provide opportunities for recreational and social activities for residents.

{13} (10) The facility shall make adequate provisions for identification of resident's personal property and for safekeeping of valuables.

{14} A licensed personal care facility may be used only as a personal care facility.

(11) A resident who is ambulatory only with mechanical assistance may not be housed above the ground floor of the facility.

(12) The facility must at all times employ sufficient staff to provide the services required by the number and characteristics of its residents.

AUTHORITY: Sec. 50-5-103 MCA

IMPLEMENTING: Sec. 50-5-103, 50-5-204 MCA

16.32.382 MINIMUM STANDARDS FOR A PERSONAL CARE FACILITY -- MEDICATION (1) All residents shall take their own medication. The staff shall remind the resident to take his medication at the proper time and shall observe and record this activity on the resident's record, deliver medication at the proper time to each resident needing it, observe to ensure the dosage is correct, and record on the resident's record the time and amount of medication taken or the fact that medication was refused and the reason why, if expressed.

(2) No staff member may remove medication from its bottle, administer injections, or otherwise administer medication.

{2} (3) The facility shall provide locked storage for all medications, must ensure that all medications are kept in locked storage except when presented to residents for self-administration.

{3} (4) All pharmaceutical containers having soiled or otherwise damaged or illegible labels shall be returned to the issuing pharmacy for relabeling.

(5) All medication must be left in the container in which it was provided to the resident by the pharmacist or physician.

AUTHORITY: Sec. 50-5-103, 50-5-227 MCA

IMPLEMENTING: Sec. 50-5-103, 50-5-204, 50-5-225 MCA

16.32.385 MINIMUM STANDARDS FOR A PERSONAL CARE FACILITY -- FURNISHINGS, EQUIPMENT, AND SUPPLIES (1) Each resident bedroom must satisfy the following requirements:

(a) No more than 4 residents may reside in a single bedroom.

(b) Exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules, each single bedroom must contain at least 100 square feet, and each multi-bedroom must contain at least 80 square feet, per bed.

(c) Each resident must have a wardrobe, locker, or closet with minimum clear dimensions of 1'10" by 1'8". A clothes rod and adjustable shelf must be provided.

(d) Each resident must have access to a toilet room without entering another resident's room, kitchen, dining, or living area.

(1) (2) Each resident in a personal care facility must be provided the following:

(a) A bed, linen, bedspread, moisture-proof mattress, and blankets.

(i) Clean linen must be supplied on a weekly basis.

(ii) Blankets must be laundered as often as necessary.

(b) (a) Bedside table or its equivalent with a drawer and washable top.

(b) Individual towel rack.

(c) Chair Individual chair in each his or her bedroom.

(d) Separate drawer and wardrobe or closet space for each occupant in a bedroom.

(e) Reading lamp or equivalent for each bed.

(f) Mirror mounted on the wall at convenient height in each bedroom.

(g) Clean, flame-resistant shades or equivalent for every bedroom window.

(h) Call Electric call system within reach of each resident bed and each toilet which will sound at an area that is staffed 24 hours a day.

(i) Clean bath towel and washcloth, which must be changed at least 2 times a week.

(k) Flame-resistant cubicle curtains to insure privacy in each multiple-bed room.

(3) (3) The facility must provide:

(a) Living rooms in a personal care facility must be furnished with reading lights, tables, chairs, and sofas.

(b) Dining room furnishings in a personal care facility must be which are well constructed and tables must be designed to accommodate wheel chairs.

(c) Cleaning equipment and supplies in sufficient quantity to meet the housekeeping needs of the facility, and maintenance of equipment in good condition.

(d) A toilet and lavatory in each toilet room.

(e) At least one toilet for every 4 residents.

- (f) One bathing facility for every 12 residents.
- (g) Thirty square feet per resident in each dining and living/recreation room.
- (h) For each multiple-bed room, either flame-resistant cubicle curtains for each bed or movable flame-resistant screens to provide privacy upon request of a resident.
- (i) Grab bars at each toilet, shower, and tub with a minimum of 1 1/2" clearance between the bar and the wall and strength and anchorage sufficient to sustain a concentrated 250-pound load.

(4) Towels for common use are not permitted.

(5) Following the discharge of a resident, all of his the equipment and bedding used by the resident must be cleaned and sanitized.

AUTHORITY: Sec. 50-5-103 MCA

IMPLEMENTING: 50-5-103, 50-5-204 MCA

RULE V (to be codified as 16.32.386) PERSONAL CARE FACILITIES -- RESIDENCY APPLICATION PROCEDURE As part of an initial application for residency in a personal care facility, the personal care facility must provide each prospective resident with the following:

- (1) A written statement containing:
  - (a) A list of those cited in section 50-5-226(1), MCA, who may not reside in a personal care facility;
  - (b) Notice that a resident must leave the facility if his condition deteriorates to the point that:
    - (i) he is ineligible to be a resident, according to section 50-5-226, MCA;
    - (ii) he requires care not provided by the facility or a third party;
    - (iii) he needs mechanical assistance to walk, and the facility either cannot physically accommodate the type of mechanical assistance in question in all common living areas or has no bedroom available for the resident on the ground floor of the facility.
  - (c) Notice that the personal care facility may not provide nursing services but that the resident may arrange to have needed care provided by a third party, including a home health agency.
  - (d) A list of the services provided by the personal care facility.
  - (e) A list of the services, other than those provided by the facility, for which a resident may contract with an entity other than the personal care facility.
- (2) A request for the name, address, and phone number of the prospective resident's physician, and permission to send a copy of the information cited in subsection (1) above to that physician.
- (3) If the personal care facility determines that it may not admit the prospective resident, written notice of rejection

of the application containing:

- (a) The grounds for the rejection;
- (b) the right to appeal the decision to the department within 15 days after receipt of the notice; and
- (c) the information which any appeal request must contain, as specified in RULE VII(1).

AUTHORITY: Sec. 50-5-103, 50-5-227 MCA

IMPLEMENTING: Sec. 50-5-226 MCA

RULE VI (to be codified as 16.32.387) PERSONAL CARE FACILITIES -- RESIDENT SCREENING (1) A personal care facility may not admit or continue to accept as a resident any individual:

- (a) Who is prohibited by section 50-5-226, MCA, from being a resident in a personal care facility;
  - (b) Whose condition indicates the need for care that is not available in the facility or who requires skilled or intermediate nursing care, unless needed services are provided by a third party other than the personal care facility; or
  - (c) Who is ambulatory only with mechanical assistance and either the facility cannot physically accommodate the type of mechanical assistance in question in all common living areas or there is no bedroom for the individual on the ground floor of the facility.
- (2) For purposes of this rule, a person is ambulatory if he is capable of self-mobility, either with or without mechanical assistance. If mechanical assistance is necessary, a person is considered ambulatory only if he can, without help from another person, utilize the mechanical assistance, exit and enter the facility, or access all common living areas in the facility.
- (3) For purposes of this rule, a person is in need of medical restraints if he must take medication in order to prevent him from being a danger to himself or others.
- (4) Whenever a personal care facility is surveyed for licensure, all residents of the facility will be screened against the criteria in subsections (1), (2) and (3) of this rule for appropriateness of placement.
- (5) Unless appealed pursuant to RULE VII, the surveyor's decision regarding the appropriateness of the placement will be binding on the facility management and the resident in question.
- (6) The information cited in RULE V(3) must be provided in writing to:
- (a) the manager of the personal care facility and to the affected resident or his representative whenever a licensing surveyor makes a screening decision that an individual is inappropriately residing in a personal care facility;
  - (b) to the resident or his representative if the personal care facility decides that resident is precluded by

this rule from continuing to reside in a personal care facility.

AUTHORITY: Sec. 50-5-103, 50-5-227 MCA

IMPLEMENTING: Sec. 50-5-103, 50-5-204, 50-5-226 MCA

RULE VII (to be codified as 16.32.388) PERSONAL CARE FACILITIES -- APPEAL (1) Any screening decision by either a licensing surveyor or the personal care facility may be appealed to the department by sending to the department, within 15 calendar days after receipt of the written screening decision, written notice containing the following:

(a) Name of the individual concerning whom the screening decision was made.

(b) Name of the personal care facility affected.

(c) Grounds for the screening decision.

(d) Statement of evidence contradicting the screening decision.

(2) Unless the appealing party agrees to a time extension, the director of the department of health and environmental sciences will make a final decision within 15 working days after receipt of the notice.

AUTHORITY: Sec. 50-5-103, 50-5-227 MCA

IMPLEMENTING: Sec. 50-5-103, 50-5-204, 50-5-226 MCA

6. The Department is proposing these amendments and new rules, generally speaking, to update and improve licensure standards for health care facilities and to add standards required by legislation passed by the 1983 legislature. Specifically, the purpose of, and necessity for, each of the proposed rule actions is as follows:

(a) ARM 16.32.301: a definition was needed to clarify those types of programs which are not considered adult day care centers, to alleviate concern on the part of those programs that they might be subject to licensure.

(b) ARM 16.32.302: construction and equipment standards for hospitals and related medical facilities needed to be updated, water and sewer minimum standards needed to be added to ensure their adequacy for all health care facilities, and a standard was needed to ensure personal care homes and adult day care centers meet state and local building and fire codes as a condition of licensure.

(c) ARM 16.32.306: the standards to be met by health care facilities with blood bank and transfusion services needed to be updated.

(d) ARM 16.32.309: more specific physical plant and maintenance standards were needed to ensure cleanliness and cleanability of health care facilities, as well as to protect residents from hot water burns.

(e) ARM 16.32.310: more specific cleaning standards were needed to ensure sanitation, as were lighting requirements for comfort and safety of residents.

(f) A new rule was needed to ensure cleanliness in the handling of laundry by a health care facility; bedding requirements were transferred from ARM 16.32.385 to meet the need for such a standard for all health care facilities, not just personal care homes, and they were augmented slightly to ensure adequate clean linen for residents.

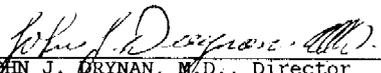
(g) A new rule stating the standards to be required of intermediate developmental disability facilities was necessary to comply with federal standards for participation of such facilities in the Medicaid program and with HB-299 passed by the 1983 Legislature.

(h) Three new rules were added establishing standards for adult day care centers, as required by sections 50-5-103 and 50-5-204, MCA.

(i) Existing rules pertaining to personal care facilities were amended to comply with statutory changes made by the 1983 Legislature (SB-446), clarify the responsibility of the facility in handling of medication, ensure that adequate documentation is kept of actual day-to-day staff assignments and of notice to families of changed resident status, ensure adequacy of staff to serve residents, add fire safety requirements ensuring those who work with mechanical assistance can get out of the building, add requirements designed to ensure adequate space and facilities for each resident, and further assure the facility is kept clean. New rules establishing a residency application procedure, resident screening standards, and appeal procedure were added in response to the mandate of Section 50-5-227, MCA, adopted by the 1983 Legislature.

7. Interested persons may present their data, views or arguments, either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Robert L. Solomon, Cogswell Building, Capitol Complex, Helena, Montana, no later than May 10, 1984.

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

  
JOHN J. DRYNAN, M.D., Director

Certified to the Secretary of State April 2, 1984

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

In the matter of the	)	NOTICE OF PROPOSED
amendment of rule 16.32.373	)	AMENDMENT OF ARM
concerning minimum standards	)	16.32.373
for licensure of hospice	)	
programs	)	(Hospice Programs)
		NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On May 15, 1984, the department proposes to amend ARM 16.32.373, to delete the words "licensing and certification" from the catchphrase.

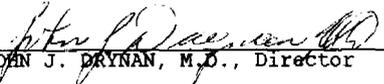
2. The change is necessary because all the rules in subchapter 3 pertain to construction and licensure, and 16.32.373 does not set standards for certification. The existing catchphrase, therefore, is redundant and misleading.

4. Interested persons may submit their data, views, or arguments concerning the proposed amendment in writing to Robert L. Solomon, Cogswell Building, Capitol Station, Helena, Montana, 59620, no later than May 15, 1984.

5. 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 Robert L. Solomon at the address above no later than May 15, 1984.

6. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action, from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be more than 25, based on the 15 hospice groups currently operating within the state, as well as persons and other health care institutions using or interrelating with such hospice groups.

7. The authority of the department to make the proposed amendment is based on Section 50-5-103, MCA, and the rule implements Sections 50-5-103 and 50-5-204, MCA.

  
 JOHN J. DRYNAN, M.D., Director

Certified to the Secretary of State April 2, 1984

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In The Matter of the Adoption	) NOTICE OF PROPOSED
of Rules Establishing Standards	) ADOPTION OF RULES
for Child Safety Restraint	) ESTABLISHING STANDARDS
Systems and providing Exemptions	) FOR CHILD SAFETY
for Certain Persons.	) RESTRAINT SYSTEMS AND
	) PROVIDING EXEMPTIONS
	) FOR CERTAIN PERSONS.
	)
	) NO PUBLIC HEARING
	) CONTEMPLATED.

TO: All Interested Persons

1. On May 12, 1984, the Division of Motor Vehicles, Department of Justice proposes to adopt rules establishing standards for child safety restraint systems and providing exemptions for certain persons.

2. The proposed rules provide as follows:

RULE I. STANDARDS FOR CHILD SAFETY RESTRAINT SYSTEMS

All child safety restraint systems purchased after January 1, 1984, for use in motor vehicles to comply with the provisions of sections 61-9-419 through 61-9-423, MCA, must conform to federal standards outlined in Federal Motor Vehicle Safety Standard No. 213 and any subsequent amendments to that standard. The Division of Motor Vehicles, Department of Justice hereby adopts and incorporates by reference Federal Motor Vehicle Safety Standard No. 213, in 49 CFR Part 571, which sets forth requirements and standards for child safety restraint systems. A copy of Federal Motor Vehicle Safety Standard No. 213, in 49 CFR Part 571 may be obtained from the Division of Motor Vehicles, Department of Justice, 303 Roberts, Helena, Montana 59620. Auth: 61-9-420, MCA; Imp: 61-9-420, MCA.

RULE II. DIVISION MAY ESTABLISH ADDITIONAL OR DIFFERENT STANDARDS.

Nothing in these rules, or in the rules, regulations, or standards contained in Federal Motor Vehicle Safety Standard No. 213, in 49 CFR Part 571, shall prevent the Motor Vehicles Division from adopting or establishing additional or different standards, specifications, requirements, or tests for child safety

restraint systems. Auth: 61-9-420 MCA; Imp: 61-9-420, MCA.

RULE III. EXEMPTIONS. The provisions and requirements of section 61-9-420(1), MCA, do not apply to any child who, because of a physical or medical condition, or because of body size, cannot be placed in a child safety restraint system or safety belt. Auth: 61-9-420, MCA; Imp: 61-9-420, MCA.

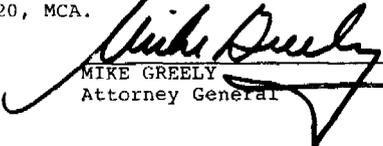
3. The rules are proposed in response to the enactment of sections 61-9-419 through 61-9-423, MCA, by the 1983 Montana Legislature. Section 61-9-420(3), MCA, mandates that the Division of Motor Vehicles establish standards for approved child safety restraint systems. Section 61-9-420(5), MCA, authorizes the Division to by rule exempt certain individuals from the requirements of the new laws.

4. Interested parties may submit their written data, views or arguments concerning the proposed rules to Assistant Attorney General Jim Scheier, Justice Building, 215 North Sanders, Helena, Montana 59620, no later than May 10, 1984.

5. If a person who is directly affected by the proposed rules wishes to express data, views or arguments orally or in writing at a public hearing, he or she must make written request for a hearing and submit the requests along with any written comments to Assistant Attorney General Jim Scheier, Justice Building, 215 North Sanders, Helena, Montana 59620, no later than May 10, 1984.

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

7. The authority of the department to adopt these rules is based on section 61-9-420, MCA.

  
MIKE GREELY  
Attorney General

Certified to the Secretary of State April 2, 1984,  
1984.

MAR Notice No. 23-2-70

7-4/12/84

BEFORE THE BOARD OF CRIME CONTROL  
OF THE STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PROPOSED AMEND-
amendments of rule 23.14.401,	)	MENTS OF 23.14.401 ADMIN-
rule 23.14.402 and rule	)	ISTRATION OF PEACE OFFICER
23.14.403	)	STANDARDS AND TRAINING,
	)	23.14.402 MINIMUM STANDARDS
	)	FOR THE EMPLOYMENT OF PEACE
	)	OFFICERS, 23.14.403 REQUIRE-
	)	MENTS FOR PEACE OFFICERS
	)	HIRED BEFORE AND AFTER THE
	)	EFFECTIVE DATE OF THIS
	)	REGULATION.
	)	NO PUBLIC HEARING CONTEM-
	)	PLATED

TO: All Interested Persons:

1. On May 17, 1984, the Board of Crime Control proposes to amend the above stated rules.
2. The proposed amendment of 23.14.401 will read as follows:

"23.14.401 ADMINISTRATION OF PEACE OFFICER STANDARDS AND TRAINING Subsections (1) through (5) shall remain the same.

(6) For the purposes of this regulation the terms "law enforcement officer" and "peace officer" shall mean the undersheriffs and deputy sheriffs of each county, the members of the police force of every organized city or town, the marshals of every town, state highway patrolmen, state fish and game wardens, any reserve, special, part-time, and auxiliary police officers or deputy sheriffs campus security police of the state university system and the airport police organized by airport commissions or boards who are given general police powers to enforce the state laws and city ordinances, and all persons employed to police and enforce the law on the campuses of the public and private colleges and universities located in this state, and are salaried, full-time employees of their law enforcement agencies."

Auth: 44-4-301, MCA Imp: 7-32-303 MCA

3. The board is proposing the amendment to the rule to conform with the change in the statute which occurred in the 1983 legislative session which defined the peace officers specifically affected by the statute.

4. The proposed amendment to 23.14.402 will read as follows:

"23.14.402 MINIMUM STANDARDS FOR THE EMPLOYMENT OF PEACE OFFICERS Subsection (1) shall remain the same.

7-4/12/84

MAR Notice No. 23-3-21

(2) Every sworn law enforcement officer employed in the state of Montana by any law enforcement agency which is administered by the state or any political subdivision thereof, and who is responsible for the prevention and detection of crime, and the enforcement of the penal, traffic and game laws of this state, and who has been granted general arrest powers to enforce such laws shall:

- (a) Be a citizen of the United States.
- (b) Be at least 18 years of age.
- (c) Be fingerprinted and a search made of the local, state and national fingerprint files to disclose any criminal record.
- (d) Not have been convicted of a crime for which he could have been imprisoned in a federal penitentiary or state prison.
- (e) Be of good moral character as determined by a thorough background investigation.
- (f) Be a high school graduate or furnish evidence of successful completion of an examination indicating an equivalent achievement as determined by criteria established by the board of crime control.
- (g) Be examined by a licensed physician or surgeon and meet the physical requirements as established by the board of crime control.
- (h) Successfully pass an oral interview examination by the hiring law enforcement agency.
- (i) Possess a valid Montana driver's license.

(2) Every deputy sheriff, undersheriff, police officer, highway patrolman, fish and game warden, campus security officer and airport police officer must meet the employment, education and certification standards of Section 7-32-303 MCA.

AUTH: 44-4-301, MCA IMP: 7-32-303, MCA

5. The board is proposing the amendment to the rule to conform with the change in the statute which occurred in the 1983 legislative session which defined the peace officers specifically affected by the statute.

6. The proposed amendment to 23.14.403 will read as follows:

"23.14.403 REQUIREMENTS FOR PEACE OFFICERS HIRED BEFORE AND AFTER THE EFFECTIVE DATE OF THIS REGULATION Subsection (1) shall remain the same.

(a) Each applicant must meet the minimum selection employment, education and certification standards for employment as set by the board of crime control and Section 7-32-303, MCA."

Auth: 44-4-301, MCA Imp: 7-32-303, MCA

7. The board is proposing the amendment to the rule to conform with the change in the statute which occurred in the 1983 legislative session which defined the peace officers specifically affected by the statute and also stated the employment, education and certification standards.

8. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Mr. Clayton Bain, Executive Director, P.O.S.T. Advisory Council, 303 North Roberts, Helena, Montana 59620 no later than May 15, 1984.

9. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Mr. Bain no later than May 15, 1984.

10. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental 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 145 persons based on the number of peace officers registered with the P.O.S.T. Advisory Council.

  
\_\_\_\_\_  
(Administrator)

Certified to the Secretary of State on March 21, 1984

BEFORE THE BOARD OF CRIME CONTROL  
OF THE STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PROPOSED AMEND-
amendments of rule 23.14.412,	)	MENTS OF RULE 23.14.412
rule 23.14.413, repeal of	)	(QUALIFICATIONS FOR CERTIFI-
23.14.414, and the adoption of	)	CATION OF ACADEMY AND TRAIN-
a new rule.	)	ING COURSES), RULE 23.14.413
	)	(CERTIFICATION REQUIREMENTS
	)	FOR TRAINEE ATTENDANCE AND
	)	PERFORMANCE) AND ADOPTION OF
	)	NEW RULE (INSTRUCTOR CER-
	)	TIFICATION REQUIREMENTS)
	)	NO PUBLIC HEARING CONTEM-
	)	PLATED

TO: All Interested Persons:

1. On May 17, 1984 the Board of Crime Control proposes to amend, adopt and repeal the above stated rules.

2. Rule 23.14.414 proposed to be repealed is found on page 23-424 of the Administrative Rules of Montana. The proposed amendments provide as follows:

"23.14.412 QUALIFICATIONS FOR CERTIFICATION OF LAW ENFORCEMENT ACADEMY AND TRAINING COURSES (1) The board shall establish establishes the following requirements for certification of the Montana law enforcement academy to present one or more of the prescribed courses and other courses:

(1) (a) The bureau chief shall be responsible for scheduling, presentation and general administration of the mandated training programs, regional training programs and any other specialized training programs certified by the POST advisory council and presented or sponsored by the academy.

(2) (b) The bureau chief shall be responsible for the selection of instructors and for the preparation, maintenance and proper filing of all reports and records required by the council on those courses presented or sponsored by the law enforcement academy.

(3) (c) For certification purposes, any training facility utilized by the Montana law enforcement academy or by any agency sponsoring a POST certified specialized regional training course must meet the following standards:

(a) (i) classrooms must be comfortable and well-lighted with a seating capacity of not less than 20 or more than 60;

(b) (ii) when applicable, must provide the facilities and equipment necessary for training in defensive tactics;

(c) (iii) when applicable, have or obtain access to a firing range which will have sufficient lighting to conduct safe night firing exercises;

(d) (iv) provide such equipment and instructional devices necessary for any training;

(e) (v) on-site inspection of any facility utilized by the academy or by any sponsoring agency may be conducted by the

staff of the POST advisory council according to the above requirements and those contained in POST-10(73) inspection form for law enforcement training facilities. When the council staff does not provide conduct the inspection the academy bureau chief shall file an inspection form with the council at the time he files of filing the reports required at the end completion of the course. The course coordinator of the sponsoring agency will file the form with the academy bureau chief at the completion of regional courses sponsored by the agency.

(4) Requirements for training administration:

(a) (d) The Montana law enforcement academy shall operate continuously on a yearly schedule and be maintained by a full-time staff.

(b) Whenever, in the judgement of the academy staff, it is impractical or inefficient for trainees to attend the academy and there is sufficient demand for a particular course, the academy shall provide for such training in the region where the law enforcement agency requesting the training is located. The mandated courses are exempt from this regulation.

(c) To receive certification, any training conducted in Montana must be administered by the academy. Regional training courses must be specialized training for all agencies and not in-service training applicable to the needs of only one agency. Such courses must be at least 15 hours in length, be presented on consecutive days, must not be less than 6 hours a day and the last day may not be less than 3 hours. The agency requesting a regional training course must show a need for the course exists and can demonstrate the need. Each course must be advertised and open to all other agencies in the area or region of the requesting agency.

(d) Law enforcement agencies wishing certification of any course must notify the Montana law enforcement academy not less than 35 days prior to the commencement of the course on the intent to offer an approved course and request the necessary assistance of the academy. The academy will notify the P.O.S.T. advisory council within 10 days after receiving the notice of intent.

(e) The academy will assign staff to meet with the requesting agencies to inspect training facilities available, establish curriculum, schedule courses, assign instructors and coordinate the training activities. It shall be the responsibility of the academy staff to follow the required reporting procedures and monitor the standards for training, trainee attendance and performance as set by the board of crime control.

(f) Not less than 10 days prior to the commencement of the course, the academy shall provide the P.O.S.T. advisory council with the hourly schedule containing the course curriculum, assigned instructors and when possible, a roster of the prospective trainees.

(g) The council shall review all submitted materials and shall notify the academy of any deficiencies. The academy bureau chief shall notify the council of any corrections prior to the commencement of the course.

(h) The academy bureau chief shall immediately advise in writing to the head of the trainee's employing agency and to the council any trainee who voluntarily or involuntarily terminates his training before the completion of any course. The academy bureau chief shall write a detailed report to the head of the trainee's employing agency and to the council any conduct that is unbecoming or unethical on the part of any trainee.

(i) The academy bureau chief will notify the council in writing immediately during the presentation of a course any content changes or changes of instructors.

(j) Within 10 days after the completion of any training course, the academy bureau chief shall submit to the council the final course grade score and firearms qualification (if applicable) of each trainee attending the course. The pink copy of P.O.S.T.-12(73) form notice of course completion will be submitted to the council on each trainee.

(e) It shall be the responsibility of the academy bureau chief to follow the required reporting procedures and monitor the standards for training, trainee attendance and performance as set by the board of crime control for any courses presented or sponsored by the law enforcement academy.

(f) Within 20 days after the completion of any training course presented or sponsored by the law enforcement academy, the academy bureau chief shall submit to the POST advisory council the final course grade score and firearms qualification score (if applicable) of each trainee attending the course. The pink copy of POST-12(73) form notice of course completion will be used for this.

(k) (g) Attendance records and master copies of each examination given shall be retained by the academy for at least one year after the completion of the course.

(l) No individual shall be admitted to any course unless he is 18 years of age.

(m) The academy bureau chief shall not accept admittance of any individual who has not met the minimum selection standards under the provision of section 23-214.402 as set by the board of crime control except elected sheriffs and those peace officers hired before the effective date (12-5-73) of the rule. Waivers may be authorized by the board of crime control for good cause and unusual circumstances for those individuals who do not meet the selection standards upon the written application of that individual's agency head submitted at least 15 days prior to the commencement of the course.

(n) Trainees enrolled in any P.O.S.T. certified course shall be admitted only in accordance with rules of eligibility and admission as either contained herein or contained in the course offering announcement.

(2) For the purposes of Sections 23.14.412, 23.14.413 and Rule I the following definitions are used:

(a) roll-call training is instruction or training of short duration, 1 hour or less, within any law enforcement agency, conducted when officers change shifts;

(b) on-the-job training is instruction, training or skill practice rendered to an officer by another officer or

officers on a tutorial basis during a tour of duty while performing the normal activities of that officer's employment;

(c) in-service training is training provided within a law enforcement agency of less than 15 hours duration utilized to review the skills and knowledge for those officers in need of retraining;

(d) specialized training are courses of 15 hours or more duration meant to impact specific in-depth knowledge or skills or provide new techniques, new operational procedures and new developments in the law;

(3) These regulations do not apply to roll-call training, on-the-job training or in-service training.

(4) These regulations apply to specialized training provided by the Montana law enforcement academy and to certified regional schools.

(5) Requirements for regional training courses presented or sponsored by the law enforcement academy are:

(a) such courses must meet the requirements contained in subsection (1) above, the requirements for trainee attendance and performance and the instructor requirements;

(b) such courses must meet the definition of specialized courses;

(c) the courses will be based on the needs or requests of law enforcement agencies in the region or by a training needs assessment;

(d) the courses must be presented on consecutive days of not less than 6 hours a day and the last day may not be less than 3 hours; and

(e) law enforcement agencies requesting the law enforcement academy to present a regional training course must notify the academy not less than 60 days before the commencement of the course. If the academy bureau chief decides the course meets the criteria and the academy can accommodate the request, the bureau chief will assign staff to establish the curriculum, schedule the course, assign the instructors, coordinate the training activities and administer the course.

(6) Certification requirements for regional courses presented or sponsored by law enforcement agencies are:

(a) any law enforcement agency requesting certification of a regional training course that is not administered by the law enforcement academy must notify the law enforcement academy bureau chief not less than 35 days before the commencement of the course;

(b) the course must be justified either by a training needs assessment survey conducted by the POST advisory council or the requesting agency must show a need for the course and can demonstrate that need;

(c) each course must be advertised and open to all other law enforcement agencies in the area or region of the requesting agency;

(d) the course must meet the requirements of this rule 23.14.412, and:

(i) the requirements for training facilities of subsection (1)(c) above;

(ii) the course must be a minimum of 15 hours, must be presented on consecutive days of not less than 6 hours a day and the last day may not be less than 3 hours;

(iii) meet the requirements for instructors of section Rule 1;

(iv) the academy bureau chief may require that instructors submit lesson plans and course objectives to determine if the lesson plans meet the objectives of the course;

(v) the requirements for trainee attendance and performance of section 23.14.413 which includes the maximum number of trainees for any regional training course shall not exceed 60 and the minimum number of trainees shall not be less than 10.

(e) a qualified course coordinator will be assigned by the academy bureau chief to coordinate and administer the course;

(f) the course coordinator shall be responsible for monitoring the standards for training, trainee attendance and performance, instructor performance, and within 10 days of completion of the course submit to the academy bureau chief on POST form 12(73) pink copy the final course grade and firearms qualification score (when applicable) of each trainee attending the course;

(g) all costs and expenses associated with the course shall not be assessed to the law enforcement academy;

(h) the course must be a specialized training course as defined in these rules; and

(i) the sponsoring law enforcement agency shall be responsible for maintaining attendance records and master copies of each examination given for at least one year after the completion of the course.

(7) Requirements for course coordinator:

(a) must be a certified instructor;

(b) must have completed a course on monitoring, coordinating and administering certified training courses;

(c) must have the respect for fairness, honesty, moral character and objectivity amongst his or her peers;

(d) must be qualified and appointed by the law enforcement academy bureau chief with the consent of the POST advisory council; and

(e) must have the endorsement of the law enforcement administrator of the coordinator's employing agency if serving in the capacity of a peace officer.

(8) Waivers may be authorized by the POST advisory council for good cause and unusual circumstances.

Auth: 44-4-301, MCA Imp: 44-4-301, MCA

3. The amended rule establishes definitions for various types of training programs, provides for the certification of specialized training programs and provides for the certification of regional training programs that are not presented by the law enforcement academy but are sponsored by state and local law enforcement agencies. The amended rule also provides for a method of administering these regional schools. Rules 23.14.412 (4)(h),(l),(m) and (n) have been deleted and placed in Rule 23.14.413 as these pertain to trainee attendance and performance.

4. The proposed amendment of 23.14.413 will read as follows:

23.14.413 CERTIFICATION REQUIREMENTS FOR TRAINEE ATTENDANCE AND PERFORMANCE: (1) The academy bureau chief shall not accept admittance of any individual who has not met the minimum selection standards under the provision of section 23-3.14.402 as set by the board of crime control except elected sheriffs and those peace officers hired before the effective date (12-5-73) of the rule. Waivers may be authorized by the board of crime control for good cause and unusual circumstances for those individuals who do not meet the selection standards upon the written application of that individual's agency head submitted at least 15 days prior to the commencement of the course.

(2) Trainees enrolled in any POST certified course shall be admitted only in accordance with rules of eligibility and admission as either contained herein or contained in the course offering announcement.

(3) No individual shall be admitted to any course unless he is 18 years of age.

(4) Each trainee shall be required to attend all sessions of any training course in which he is enrolled except for approved absences by the academy bureau chief or his designated representative. No trainee shall receive credits for certification if his unexcused absences exceed 10% of the total hours for the course. The academy bureau chief or his designated representative shall terminate any trainee whose unexcused absences exceed 10%.

(5) The academy bureau chief shall immediately advise in writing to the head of the trainee's employing agency and to the council any trainee who voluntarily or involuntarily terminates his training before the completion of any course. The academy bureau chief shall write a detailed report to the head of the trainee's employing agency and to the council any conduct that is unbecoming or unethical on the part of any trainee.

(6) Each trainee enrolled in any training courses may be required to personally prepare and maintain an acceptable notebook for permanent retention of class notes and supplementary material. Notebooks will be examined by the academy staff to ensure neatness, content, and quality and to assist in determining final grade score.

(7) To receive credit for certification of the basic training course the trainee must achieve 70% out of a total possible 100% in a final grade score. To receive credit for certification in any other training course the trainee must achieve 75% out of a total possible 100% in a final grade score. Pretest scores shall not be considered in developing final grade scores on course completion.

(8) Percentage development for final grade score must have the approval of the P-O-S-T POST advisory council.

(9) The trainee enrolled in the basic course shall achieve a firearms qualification of not less than 80% out of a possible 100% to receive credit for certification. The trainees enrolled in all other courses which include firearms qualification in the curriculum shall achieve a firearms qualification

score of not less than 80% out of a possible 100% to receive credit for certification.

~~(6)~~ (10) The minimum number of trainees for the basic course shall not be less than 15. The maximum number of trainees for the basic course shall be 40. The maximum number of trainees for any regional training course shall be 60 and the minimum number of trainees shall be 10.

~~(7)~~ (11) Any trainee who fails to comply with these rules pertaining to his attendance, performance and behavior may result in a denial of credits for certification.

~~(8)~~ (12) Failure on the part of the academy staff, training instructors or heads of law enforcement agencies to comply with the rules contained herein may result in either denial of course certification or a revocation of course certification.

~~(9)~~ (13) Waivers may be authorized by the board for good cause and unusual circumstances shown upon the written application of the academy bureau chief."

Auth: 44-4-301, MCA Imp: 44-4-301, MCA

5. The board proposes to amend the rule to place the rules deleted from Rule 23.14.412 (4)(h),(l),(m) and (n) in Rule 23.14.413 (5),(3),(1) and (2) respectively as these pertain to trainee attendance and performance. Present Rule 23.14.413 (1) through (9) become (4) and (6) through (13). The only substantive change is the requirement for "the minimum number of trainees in the basic course shall be 15" has been deleted. The minimum number should be based on a cost analysis of providing the course to determine what the minimum should be to be cost effective.

6. The proposed new rule provides as follows:

RULE I INSTRUCTOR CERTIFICATION REQUIREMENTS (1)

This regulation is to assure that all law enforcement instructors certified by the POST advisory council possess minimum qualifications.

(2) This regulation shall apply only to the Montana law enforcement academy staff instructors and instructors who are providing courses of instruction at a law enforcement regional school certified by the POST advisory council.

(3) To qualify as a certified instructor the person shall apply to the council, on a form approved by the POST advisory council, and shall meet the following requirements:

(a) three years of law enforcement experience or experience in the specific field, subject matter or academic discipline to be taught;

(b) a bachelor's degree, or higher degree, or lacking an academic degree, applicant must have a minimum of a high school diploma, or the GED equivalency stated in section 7-32-303(2)(f) MCA, and must have successfully completed an instructor's course of council approved classroom instruction;

(c) be of good moral character;

(d) must have sincere interest, ability and desire to instruct law enforcement officers, as supported by a signed

statement from the applicant's agency head or training school director;

(e) submission of a sample lesson plan which includes a unit description and unit objectives;

(f) in those instances where the council deems the 3 years experience is not necessary or pertinent to the subject matter, the council may waive this requirement.

(4) The POST advisory council will certify approved instructors to instruct in those specific subjects for which the council has found them qualified. Each certified instructor shall be listed in an official register of the council, and each subject that each instructor is certified to teach shall be noted in said register. The register will be published every 2 years with a supplement published on the odd years.

(5) Any applicant for an instructor's certificate who is employed by a public law enforcement agency shall be endorsed by the agency head. If he is employed by the Montana law enforcement academy, he shall be endorsed by the academy director. The council may require recommendations as to proficiency for other applicants.

(6) Instructor certificates shall be issued for periods of 24 months. At the end of a 24 month period, certificates may be renewed by the council if the instructor has participated in approved training programs during the period of the certificate and:

(a) the council may request recommendations from persons acquainted with the proficiency of the instructor and request any evaluations made of the instructor;

(b) the council may request evidence of instructors keeping their proficiency current by studies or research;

(c) in order to determine an instructor's capabilities, each certified instructor shall, where practical, be monitored by MLEA staff supervisor or by a person designated by the council to monitor instructors within 12 months following certification or after the instructor begins teaching.

(7) After 4 years of continuous certification instructors may, at the discretion of the council, be certified for 4 years.

(8) Records of courses not certified by the council but taught by certified instructors should be kept by the sponsoring agency. The records should show the course schedule, number of hours and subject matter the instructor taught. This is necessary to verify the experience of the certified instructors for certificate renewal.

(9) The council may deny applications for instructor certification for failure to satisfy the required qualifications and may revoke certificates at any time for demonstrated incompetence, immoral conduct or other good cause to ensure the quality of the training programs. In addition, any instructor who has not instructed during the 24 month period of certification shall be required to apply for original certification after that time or the council may deny a request to renew the certificate.

(10) In cases of renewal of certification, the council may, on written request by the instructor applicant, waive any of the requirements.

(11) Applications for instructor certification and renewal shall be investigated and reviewed by the council. Action on the application shall be made at the council's first regularly scheduled meeting following the council's investigation and review of the application.

(12) Whenever the council denies an application for certification, denies a renewal of certification or revokes an existing certification, the council will notify the applicant or holder within 15 days from the date of the council's action. Persons so notified will have 30 days from the date of receipt of notification to file with the council a written appeal from the denial or revocation. An informal hearing of the appeal will be held at the next regularly scheduled meeting of the council. If the council upholds the decision to deny or revoke, the applicant or holder has 30 days from the date of the informal hearing to appeal to the board of crime control for a formal hearing. During the period of the appeal, the certificate shall be suspended.

(13) No person shall act in the capacity of a certified instructor for the council or MLEA unless that person has been certified as an instructor by the council.

(14) Those persons who have been invited by the council or MLEA as guest instructors shall submit to the council a detailed resume, course outline and lesson plan for the body of instruction to be taught. This material shall be submitted at least 35 days prior to the commencement of the course. Such guest instructors are not required to be certified.

(15) Qualified secondary and post-secondary instructors may be waived from the certified instructor requirements at the discretion of the council.

Auth: 44-4-301, MCA      Imp: 44-4301, MCA

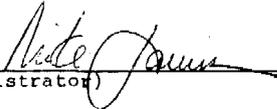
7. The new rule provides for the certification of instructors of law enforcement training courses and the requirements for such certification. The purpose is to insure the quality of the training courses whether the courses are presented by the state law enforcement academy or sponsored by state and local law enforcement agencies. The new rule is the result of a year long research and development project by the POST advisory council in consultation with training officers and law enforcement administrators of state and local law enforcement agencies and with the POST standards programs of other state.

8. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Mr. Clayton Bain, Executive Director, P.O.S.T. Advisory Council, 303 North Roberts, Helena, Montana 59620 no later than May 15, 1984.

9. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Mr. Bain no later than May 15, 1984.

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

amendment; from the Administrative Code Committee of the legislature; from a governmental 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 145 persons based on the number of peace officers registered with the P.O.S.T. Advisory Council.

  
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(Administrator)

Certified to the Secretary of State on March 21, 1984

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the )  
amendment of Rule 1.2.217 ) NOTICE OF PROPOSED AMENDMENT  
Rule History Notes ) OF RULE 1.2.217 - Rule History  
 ) Notes  
 )  
 ) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On May 12, 1984, the Secretary of State proposes to amend rule 1.2.217 RULE HISTORY NOTES concerning history format for interpretive rules.

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

1.2.217 RULE HISTORY NOTES

(1) through (5) remain the same.

(6) Chapter 637, L. 1983 (House Bill 47) requires the publication of a statement in the rule history notes at the end of each adjective or interpretive rule that such a rule is advisory only but may be a correct interpretation of the law.

(a) The statement must be inserted in the history note of any rule newly adopted, or amended, after October 1, 1983, and must be inserted in the notice of adoption at the time the rule or rule amendment is proposed for adoption.

(b) The statement may also be inserted in history notes existing in the Administrative Rules of Montana at replacement page time as pages are being reprinted, ie, amending a rule, or adding a new rule, on any page.

Example: (History: This rule is advisory only but may be a correct interpretation of the law, Ch. 637, L. 1983, Eff. 10/1/83; Sec. 46-2-303 MCA; IMP, Sec. 46-2-308 MCA; Eff. 12/31/72; AMD, 1984 MAR p. 713, Eff. 3/16/84.)

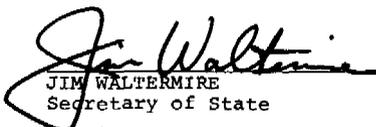
3. Chapter 637, L. 1983 requires the statement as given in the proposed amendment to be placed in new rules where applicable. This statement may also be inserted in applicable existing rules. Mr. David Niss, Legislative Council, suggested the rule on history notes be expanded to include interpretative rules. Therefore, in order to explain and clarify the terminology and method required, the Secretary of State will amend the rule.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to the Secretary of State, Room 202, State Capitol, Helena, Montana 59620 no later than May 10, 1984.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Secretary of State, Room 202, State Capitol, Helena, Montana 59620, no later than May 10, 1984.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 38 persons based on 389 subscribers.

7. The authority of the agency to make the proposed amendment is based on section 2-4-306 MCA, and the rule implements sections 2-4-306, and 2-4-308, MCA.

  
JIM WALTERMIRE  
Secretary of State

Dated this 2nd day of April 1984.

BEFORE THE STATE AUDITOR'S OFFICE  
SECURITIES DEPARTMENT  
OF THE STATE OF MONTANA

In the matter of the adoption ) NOTICE OF ADOPTION  
of a rule creating a venture ) OF A NEW RULE -  
capital exemption from the ) SECURITY REGULATION  
registration provisions of )  
the Securities Act of Montana. )

TO: All Interested Persons:

1. On February 29, 1984, the State Auditor's Office, Securities Department published a notice of adoption of the above stated rule at pages 352 through 354, 1984 Montana Administrative Register, issue number 4.

2. The Department has adopted Rule I as proposed with the following amendment;

6.10.124 THE MONTANA VENTURE CAPITAL EXEMPTION (1) By the authority delegated to the commissioner in Section 30-10-105 (16), MCA (1983), Sections 30-10-202 through 30-10-207, MCA (1983) shall not apply to transactions by an issuer involving the sale of its securities to not more than ~~25~~ 35 persons in this state during any period of 12 consecutive months, provided that the securities are offered and sold in compliance with the following terms and conditions.

Subsections (1)(a), (b), (c), (d), and (e) as well as sections (2) and (3) are adopted exactly as proposed.

3. The Department received no comments in opposition to this rule.

State Auditor's Office  
Securities Department

E. V. "SONNY" OMHOLT  
State Auditor & Ex Officio  
Commissioner of Insurance and  
Securities Commissioner

  
\_\_\_\_\_  
R. G. "RICK" TUCKER  
Chief Deputy Securities Commissioner

CERTIFIED TO THE SECRETARY OF STATE APRIL 2, 1984.

STATE OF MONTANA  
DEPARTMENT OF COMMERCE  
BEFORE THE BOARD OF PHARMACY

In the matter of the amendments ) NOTICE OF AMENDMENT OF  
of 8.40.405 sub-section (2) ) 8.40.405 EXPLOSIVE CHEMICALS  
concerning explosive chemicals ) AND 8.40.1215 ADDITIONS,  
and 8.40.1215 concerning ) DELETIONS, AND RESCHEDULED-  
additions, deletions, and re- ) ING OF DANGEROUS DRUGS  
scheduling of dangerous drugs. )

TO: All Interested Persons:

1. On February 29, 1984, the Board of Pharmacy published a notice of amendments of the above-stated rules at pages 357 through 359, 1984 Montana Administrative Register, issue number 4.
2. The board has amended the rules exactly as proposed.
3. No comments or testimony were received.

DEPARTMENT OF COMMERCE  
BEFORE THE BOARD OF PRIVATE SECURITY PATROLMEN AND INVESTIGATORS

In the matter of the amendments ) NOTICE OF AMENDMENTS OF  
of 8.50.101 organization rule, ) 8.50.101 ORGANIZATION,  
8.50.201 concerning procedural ) 8.50.201 PROCEDURAL RULES,  
rules, repeal of rules 8.50.401 ) REPEAL OF RULES 8.50.401 -  
through 8.50.422 substantive ) 8.50.422 SUBSTANTIVE RULES,  
rules, and adoption of new ) ADOPTION OF RULES, 8.50.202  
rules governing the board of ) PUBLIC PARTICIPATION, RULES  
private security patrolmen and ) 8.50.423 - 8.50.431, 8.50.433  
investigators ) - 8.50.438 GENERAL, 8.50.501  
) - 8.50.506 MINIMUM CURRICULUM  
) AND STANDARDS FOR THE CERTI-  
) FICATION OF A FIREARMS  
) TRAINING PROGRAM AND FOR  
) THE CERTIFICATION OF FIREARMS  
) INSTRUCTORS, RULES 8.50.801 -  
) 8.50.805 PROFESSIONAL CONDUCT  
) RULES 8.50.901 - 8.50.903  
) COMPLAINT PROCEDURE

TO: All Interested Persons:

1. On December 29, 1983, the Board of Private Security Patrolmen and Investigators published a notice of amendments, repeals, adoptions of the above-stated rules at pages 1862 through 1879, 1983 Montana Administrative Register, issue number 24.

The hearing was held on Friday, January 20, 1984, at 9:00 a.m. in the Scott Hart Auditorium, 303 Roberts, Helena, Montana. In addition to staff and board members,

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approximately 11 persons attended the hearing. All 11 presented oral statements with only 1 person providing a written statement. One letter was received regarding a proposed addition. Based on comments and testimony at the hearing, the letter received and comments from David Niss, attorney, Administrative Code Committee, the rules have been amended, repealed and adopted with the following changes: (new matter underlined, deleted matter interlined)

Rules 8.50.101 and 8.50.201 amended as proposed. Rules 8.50.401 through 8.50.422 repealed as proposed. Rules I - now 8.50.202, rule II - now 8.50.423 are adopted as proposed. Rule III - now 8.50.424 is adopted with the following changes:

III. now 8.50.424 TEMPORARY EMPLOYMENT WITHOUT REGISTRATION OR IDENTIFICATION CARD The board may authorize a licensee to employ temporarily without first obtaining a registration card or an identification card under the following conditions:

(1) the licensee is employing the person under an apprenticeship or training program;

(2) this provides the licensee an opportunity to evaluate the person's performance to determine if the person can adequately perform the duties assigned;

(3) No one person may be temporarily employed more than once by the same licensee in a calendar year unless specifically authorized by the board, on a fragmented work schedule for more than 90 days total in any one calendar year.

(4) The licensee must notify the board within 5 days of employing such a person, the conditions of the employment and must furnish the board any information the board may request regarding these conditions, for the 90 consecutive calendar day period and must notify the board on a quarterly basis those persons employed on a fragmented schedule.

(5) the temporary employment shall will not be for more than 90 consecutive calendar days;

(6) At the end of this period of time the licensee must either terminate the person or have the person make application for either a registration or identification card;

(7) The licensee shall will notify the board within 5 days of the termination of such temporarily those employed persons employed for the 90 consecutive calendar period.

(8) No attempt shall be made to utilize this rule to circumvent any portion of this act."

Two new rules are being added based on the comments received and will read as follows:

"8.50.425 RESIDENT MANAGERS AND QUALIFYING AGENTS (1) Every qualifying agent and resident manager shall satisfy all of the appropriate licensing requirements of section 37-60-

303, MCA, and the rules promulgated by the board as for those of an individual."

Auth: 37-60-202, MCA Imp: 37-60-302, MCA

"8.50.426 RULES FOR BRANCH OFFICE Branch offices of any licensee, except a proprietary security organization, shall be prohibited except upon application to the board indicating the licensee, location and resident manager/qualifying agent of such branch office."

Auth: 37-60-202, MCA IMP: 37-60-302, MCA

Rule IV is being adopted as 8.50.427 with a change in subsection (8) which should have been numbered (6). The change will read as follows:

"8.50.427 REQUIRED INFORMATION FOR APPLICATION (1)...

~~(8)~~ (6) Each person who applies for an original license shall supply with the application in addition to other pertinent information the board may require; 2 full face, head, and shoulders, ~~black and white~~ photographs of a size that may be cut to 1 1/2 inches by 1 1/2 inches and still retain the full face, head and shoulders in the photo. Name of applicant should be typed or printed on the back side of the photo."

Rule V. is being adopted as 8.50.428 with the following changes: (new matter underlined, deleted matter interlined)

"8.50.428 EXPERIENCE REQUIREMENTS (1) Experience requirements for contract security company and proprietary security organization shall be as follows:

(a) two years full time experience

~~(i)~~ verified experience as an employee or employer in the field to be licensed; or

~~(b)~~ verified experience (ii) as a sworn member of any federal investigative agency; or as a sworn member of the military police or as a sworn member of any state, county, city investigative or law enforcement group or police department; or

~~(c)~~ (iii) verified experience as a supervisor or administrator in industrial or governmental security; or

~~(d)~~ (b) professionally related and relevant education or training in the field to be licensed as the board may determine to be equivalent to the foregoing experience requirements. All education and training must be verified and supplied with application, including transcripts, diplomas, seminar certificates, course completion or other supporting evidence;

~~(e)~~ (c) six months of experience requirement may be met by successful completion of the basic course of the Montana Law Enforcement Academy and proper verification.

(2) Applicant may use a combination of experience, education and training to meet the experience requirement, but education and training may not exceed 1/2 the experience required.

(3) Experience as a licensed insurance adjuster may be counted towards the 3-year experience requirements as a private investigator."

Rules VI and VII are being adopted as 8.50.429 and 8.50.430 respectively. Rule VIII is being temporarily delayed. Rules IX and X are being adopted as rules 8.50.432 and 8.50.433 respectively. A new rule is being adopted as 8.50.434 based on comments received and will read as follows:

"8.50.434 RULES FOR RECORD KEEPING Each licensee shall maintain such employee records as are normally kept in the course of usual business practice."

Auth: 37-60-202, MCA IMP: 37-60-404, MCA

Rules XI and XII are being adopted as proposed as 8.50.435 and 8.50.436 respectively.

The proposed fee schedule under rule XIII is being replaced in its entirety with the following:

"8.50.437 FEE SCHEDULE

- |                                                                     |         |
|---------------------------------------------------------------------|---------|
| (1) License application fees                                        |         |
| (a) Contract security company                                       | \$75.00 |
| (b) Proprietary security organization                               | 75.00   |
| (c) Private investigator employer                                   | 75.00   |
| (d) Qualifying agents and resident managers                         | 75.00   |
| (e) License renewals                                                | 50.00   |
| (f) Duplicate licenses                                              | 10.00   |
| (2) Employee registration application fees                          |         |
| (a) Armed contract security employee                                | 75.00   |
| (b) Armed proprietary security employee                             | 75.00   |
| (c) Armed private investigator employee                             | 75.00   |
| (d) Renewals                                                        | 50.00   |
| (3) Employee Identification Application Fees                        |         |
| (a) Unarmed contract security employee                              | 25.00   |
| (b) Unarmed proprietary security employee                           | 25.00   |
| (c) Unarmed private investigator employee                           | 50.00   |
| (d) Renewals for unarmed contract and proprietary security employee | 10.00   |
| (e) Renewals for unarmed private investigator employee              | 25.00   |
| (4) Miscellaneous fees                                              |         |
| (a) Re-exams                                                        | 15.00   |
| (b) Late renewals                                                   | 5.00    |
| (c) Branch office application                                       | 25.00"  |

Rules XIV, XV, XVI, XVII, XVIII are being adopted as proposed as 8.50.501 through 8.50.505. Rule XIX is being adopted as 8.50.506 with the following changes: (new matter underlined, deleted matter interlined)

"8.50.506 TYPE OF SIDEARM (1) Solid frame revolver or pistols approved by the board, capable of single and double-action fire. Caliber .38 special or 357 (only regulation .38 special ammunition will be used), 380 and 9 millimeter automatic with barrel length from two to six inches, revolvers with five or six-round cylinder, all-steel construction, (except model 39 Smith) and fixed or adjustable sights will be approved by the board. Grips must allow firing with either hand. Minimum single-action trigger pull 2 1/2 pounds; double-action pull must be smooth. Trigger shoes will not be worn. Revolvers with any portion of the trigger guard and/or hammer spur removed will not be worn or used."

Rule XX, now 8.50.801 is amended by deleting subsection (1)(a) through (o) and replaces it with the following: (new matter underlined, deleted matter interlined)

"8.50.801 CODE OF ETHICS FOR A PRIVATE INVESTIGATOR (1) It is the responsibility of each private investigator to:

(a) extend the effectiveness of the profession by cooperating with other investigators and related professions, and by the exchange of information and experience, so long as the interest of clients or employers are not violated;

(b) avoid advertising his/her work, skill or merit in an unprofessional manner or in dramatic, misleading or exaggerated fashion and to avoid all conduct or practice likely to discredit or do injury to the dignity and honor of the profession;

(c) cooperate with recognized and responsible law enforcement and other criminal justice agencies; to comply with private investigator licensing and registration laws and other statutory requirements that pertain to the business;

(d) when the appropriate opportunity presents itself, explain to the public the role of the profession in the furtherance of the administration of justice;

(e) avoid violation of any right or privilege of any individual citizen which may be guaranteed or provided by the United States Constitution, any state constitution, or the laws of the state and federal governments or any subdivision thereof;

(f) make all his/her reportings based upon truth and fact and to only express honest opinions based thereon;

(g) avoid disclosing or relating or betraying in any fashion that trust or confidence placed in him/her by either client, employer or associate, without their consent;

- (h) avoid suggesting, condoning or participating in any fashion or degree, for any purpose whatsoever, in entrapment;
- (i) refrain from accepting an assignment or employment if a personal conflict of interest lies therein;
- (j) deal fairly and equitably with his/her client or employer and will clearly explain his/her duties and the basis for his/her charges in each undertaking;
- (k) avoid allowing personal feelings or prejudices to interfere with factual and truthful disclosures on the assignments in which he/she has been employed or consulted;
- (l) endeavor to provide the opportunity, education, and skill for the professional development and advancement of investigators in the profession;
- (m) avoid directly or indirectly injuring the professional reputation, prospects or practice of another investigator. However, if he/she considers that an investigator is guilty of unethical, illegal, or unfair practice or designs, he/she will present the information to the proper authority for action;
- (n) avoid criticizing another investigator's work except in the proper forum for technical discussion and criticism;
- (o) avoid illegal competition with other investigators in the solicitation of work.
- (a) strive to keep informed of developments and techniques affecting the profession;
- (b) conduct themselves in a business-like manner befitting a professional;
- (c) keep informed of laws and ordinances affecting the profession;
- (d) make no claims to qualifications the licensee does not possess;
- (e) be loyal to the client and divulge the information obtained only to the client or his representative;
- (f) will not become involved in investigations on behalf of a client with intent to break the law or to use the information unethically;
- (g) will not provide clients with advice or counsel of a discipline in which the licensee is not qualified;
- (h) will not use the position of trust for unethical gains;
- (i) will not accept investigations which conflict with previous or current investigations;
- (j) be honest, accurate, factual, and complete in reporting;
- (k) will not represent themselves as a member of law enforcement;
- (l) will charge the client according to mutual agreement;
- (m) honor verbal agreements as if it were written;
- (n) ~~(p)~~ avoid engaging in the unauthorized practice of law.
- (q) avoid soliciting clientele for any attorney-

{r} keep himself/herself informed of laws and ordinances affecting his/her business.  
{s} avoid making claims to qualifications he/she does not possess.  
{u} charge clients according to the agreements.  
{v} honor verbal agreements as if they were written.  
{w} {o} obey the laws of the United States, the state of Montana or any of its political subdivisions.  
{x} {p} avoid intermingling client's business funds with his/her the licensee's personal funds.  
{y} {q} avoid engaging in deceptive double billings.  
(2) Any violation of the above shall constitute unprofessional conduct."

Rule XXI is adopted with a change in the catchphrase and deletion of subsections (f), (i), (j) and will read as follows: (new matter underlined, deleted matter interlined)

8.50.802 CODE OF ETHICS FOR PRIVATE SECURITY MANAGEMENT LICENSEES (l) It is the responsibility of managers of private security functions and the licensed employees to:

(a) recognize that the principal responsibilities are, in the service of their organizations and clients, to protect life and property as well as to prevent and reduce crime against their business, industry, or other organizations and institutions; and in the public interest, to uphold the law and to respect the constitutional right of all persons.

(b) be guided by a sense of integrity, honor, justice and morality in the conduct of business; in all personnel matters; in relationships with government agencies, clients, and employers; and in responsibilities to the general public.

(c) strive faithfully to render security services of the highest quality and to work continuously to improve their knowledge and skills and thereby improve the overall effectiveness of private security.

(d) uphold the trust of their employers, clients, and the public by performing their functions within the law, not ordering or condoning violations of law, and ensuring that their security personnel conduct their assigned duties lawfully and with proper regard for the rights of others.

(e) respect the reputation and practice of others in private security but to expose to the proper authorities any conduct that is unethical or unlawful.

{f} apply uniform and equitable standards of employment in recruiting and selecting personnel regardless of race, creed, color, sex or age.

{g} {f} cooperate with recognized and responsible law enforcement and other criminal justice agencies; to comply with security licensing and registration laws and other statutory requirements that pertain to their business.

(h) (g) respect and protect the confidential and privileged information of employers and clients beyond the term of their employment, except where their interests are contrary to law.

(i) maintain a professional posture in all business relationships with employers and clients, with others in the private security field, and with members of other professions; and to insist that their personnel adhere to the highest standards of professional conduct;

(j) encourage the professional advancement of their personnel by assisting them to acquire appropriate security knowledge, education and training.

(2) Any violation of the above shall constitute unprofessional conduct."

Rule XXII is adopted with the following changes: (new matter underlined, deleted matter interlined)

"8.50.803 CODE OF ETHICS FOR PRIVATE SECURITY EMPLOYEES

(1) Private security employees shall:

(a) accept the responsibilities and fulfill the obligations of his/her their role: protecting life and property; preventing and reducing crimes against his/her their employer's business, or other organizations and institutions to which he/she they is are assigned; upholding the law; and respecting the constitutional rights of all persons,

(b) conduct himself/herself themselves with honesty and integrity and to adhere to the highest moral principles in the performance of his/her their security duties.

(c) be faithful, diligent, and dependable in discharging his/her their duties; and to uphold at all times the laws, policies; and procedures that protect the rights of others.

(d) observe the precepts of truth, accuracy and prudence; without allowing personal feelings, prejudices, animosities or friendships to influence his/her judgements.

(e) report to his/her superiors, without hesitation, any violation of the law or of his/her employer's or client's regulations.

(f) respect and protect the confidential and privileged information of his/her their employer or client beyond the term of his/her their employment, except where their interests are contrary to law.

(g) (e) cooperate with all recognized and responsible law enforcement and government agencies in matters within their jurisdiction.

(h) (f) accept no compensation, commission, gratuity, or other advantage without the knowledge and consent of his/her their employer.

(i) conduct himself/herself professionally at all times; and to perform his/her duties in a manner that

reflects credit upon the employee, his/her employer, and private security.

(j) strive continually to improve his/her performance by seeking training and educational opportunities that will better prepare him/her for his/her private security duties.

(2) Any violation of the above ethical code shall constitute unprofessional conduct."

Rules XXIII, XXIV, XXV, XXVI are adopted as proposed as rules 8.50.804, 8.50.901, 8.50.902, and 8.50.903.

2. Comments and testimony received were as follows:

COMMENT: Proposed wording in rule II is not in complete agreement with other definitions of casual already incorporated in other state laws.

RESPONSE: The board adopted the rule as proposed as an attorney of the department prepared the rule after discussion with the office of the legislative council and after review of the workmen's compensation law.

COMMENT: The proposed rule III as is places great burdens on security companies who many times have short-term employments that occur during short notice.

RESPONSE: The board amended this rule to help alleviate undue burden by being more specific. It was the feeling of the board that an experience factor may or may not dictate further consideration of this rule.

COMMENT: The board is adopting two new rules per the suggestion of the Administrative Code Committee office for "resident managers and qualifying agents" and also "branch offices".

COMMENT: Rule IV specifies "black and white" photograph, when it would be more convenient to obtain a colored photograph.

RESPONSE: This was an over--sight and the board has amended "black and white" out of the rule.

COMMENT: Rule V does not specify a "time" experience requirement. Two years minimum experience requirement was suggested for the security category.

RESPONSE: The board added the suggested "time" experience requirement and fully specified the types of experience that would be allowed.

COMMENT: The private sector felt the insurance requirement of rule VIII was too excessive and would place an undue burden on security to comply with the rule.

RESPONSE: The board temporarily delayed adopting this rule in order that it may be discussed once more perhaps segregating the different categories.

COMMENT: It was felt that the regulation of uniforms under rule IX should not be a matter for the board to decide.

RESPONSE: Public opinion changed about this rule after individuals went back and read the rule and it was explained

to them by the chairman. Rule was adopted as originally proposed.

COMMENT: The board is adopting a new rule regarding record keeping at the suggestion of the Administrative Code Committee.

COMMENT: The proposed rule XIII, schedule of fees is confusing and appears incomplete, discriminatory and in some instances would be exorbitant.

RESPONSE: The board adopted a completely revised fee schedule and will take the experience factor into consideration also.

COMMENT: The criteria under rule XVI, Criteria for a Certified Shooting Course, should be a demonstrative ability and skill of the type of firearm to be approved and the particular type of weapon that the person is using.

RESPONSE: The board felt the proposed rule would satisfy the criteria for a specified shooting course with either the revolver or the automatic. The rule was adopted as proposed.

COMMENT: It was felt that rule XIX was too restrictive on the type of sidearm, by not allowing other calibres and automatic type weapons, semi-automatic type weapons.

RESPONSE: The rule was amended to include other types of weapons and still be restrictive enough to keep control over it.

COMMENT: The code of ethics contained in rules XX, XXI, and XXII, in its entirety exceeds the statement of intent of House Bill 523.

RESPONSE: The board has amended the initially proposed code of ethics for all categories to shorter versions and will be defining unprofessional conduct for board members.

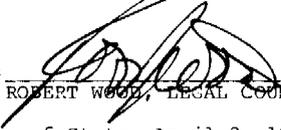
COMMENT: There was concern expressed that rule XXV as written might provoke a retaliatory action by a law enforcement agency against a private security company.

RESPONSE: The board felt that everyone has the right to face the accuser, and could see no way to avoid the problem by changing the procedures. Therefore, the rule was adopted as proposed.

No other comments or testimony were received.

DEPARTMENT OF COMMERCE

BY:

  
ROBERT WOOD, LEGAL COUNSEL

Certified to the Secretary of State, April 2, 1984.

BEFORE THE BOARD OF PERSONNEL APPEALS  
OF THE STATE OF MONTANA

In the matter of the revision )	
of rules pertaining to: )	
(1) Disqualification of a )	
hearing examiner; (2) Number of )	
votes by the Board necessary )	NOTICE OF THE ADOPTION
to make a decision; (3) an )	OF RULES AND AMENDMENT
internal reference in a rule; )	OF RULES PERTAINING
(4) who is responsible for )	TO PROCEDURES BEFORE
service of a counter petition )	THE BOARD OF
in a Decertification )	PERSONNEL APPEALS
Proceeding; (5) the window )	
period for filing a decertifi- )	
cation Proceeding; (6) deter- )	
mination of a bargaining unit )	
prior to an election; (7) dis- )	
missal of an unfair labor prac- )	
tice after investigation and )	
when briefs are to be filed )	
before the Board; (8) requests )	
for mediation. )	

TO: All Interested Persons.

1. On November 25, 1983, the Board of Personnel Appeals published notice of a proposed adoption of two rules and a proposed amendment of several rules concerning the matters in the above caption. The notice was published at pages 1708-1712 of the Montana Administrative Register, issue number 22.

2. Except as noted below, the agency has adopted and amended the rules as proposed.

The proposed amendment to ARM 24.26.680(4) is deleted. The original rule stands as is.

The agency has adopted New Rule I and New Rule II with the following changes:

~~NEW-RULE-I~~ 24.16.685 Disqualification of Hearing Examiner.

~~NEW-RULE-II--DISMISSAL-OF-COMPLAINT~~ 24.26.680 B Response to Complaint and Investigation of Complaint. (1)

The board shall serve the complaint upon the party charged with the unfair labor practice.

(2) The party so charged shall file a response with the board to the complaint within ten days after receipt of the charges. A response is a letter setting forth in detail facts relevant to the complaint which the Respondent wishes to bring to the Board's attention including a specific reply to each factual allegation made in the complaint.

(3) As Provided for in 39-31-405(1), MCA, after receipt of the response, the board shall appoint an investigator to investigate the alleged unfair labor practice.

(4) As Provided for in 39-31-405(2), MCA, if after the investigation, the agent designated by the board determines that the charge is without probable merit the board shall issue and cause to be served upon the complaining party and the person being charged notice of its intention to dismiss the complaint. The dismissal becomes a final order of the board unless either party requests a review of the decision to dismiss the complaint. The request for a review must be made in writing within ten days of receipt of the notice of intention to dismiss decision. This rule requires that the ~~This~~ request for review must clearly set forth the specific factual and/or legal reasons indicating how the investigator's finding of no probable merit is in error.

(5) As Provided for in 39-31-405(3), MCA, if after the investigation or after the appeal provided for in subsection (2) of 39-31-405, MCA, the investigator or the board determines that there is probable merit for the charge, the board shall issue and cause to be served upon the complaining party and the party charged a notice of finding of probable merit.

(6) As Provided for in 39-31-405(4), MCA, if a finding of probable merit is made, the person or entity against whom the charge is filed shall file an answer to the complaint.

(7) A finding of probable merit is appealable only after the decision of the hearing examiner has been issued.

AUTH: 39-31-104, MCA IMP: 39-31-405, (1), (2), (3), (4) MCA  
impasse

#### REQUESTS FOR MEDIATION

24.26.695 PETITION (1) remains the same as amended.

3. Comments were received from LeRoy H. Schramm, Chief Legal Counsel for the Commissioner of Higher Education and from Rod Sunsted, Chief of the Labor Relations and Employee Benefits Bureau.

The main thrust of both letters was an objection to the proposed amendment to Rule 24.26.102(2). Both persons believed that the rule should require the Board to do business only in the presence of a quorum which consisted of members from all three categories of 2-15-1705(3)(a)(i) through (iii), MCA.

This proposed amendment to Rule 24.26.102(2) offered by the letters was rejected by the Board for the reason that the Board was of the opinion that such a rule would contravene the explicit requirements and intent of 2-15-1705(3)(b), MCA. The Board's amendment to ARM 24.26.102 (2) was adopted as proposed.

4. In addition to the reasons for the new rules and the amendment of other rules stated in the original notice, following are additional reasons for reasonable necessity of the new rules and the rule amendments.

New Rule I 24.26.685(1) is necessary so that the agency has formal documentation of the exercise of the right of disqualification.

New Rule I 24.26.685(2) is necessary in order to state in advance how the agency would guarantee the right to exercise the disqualification in case of simultaneous requests to disqualify the same hearing officer.

New Rule I 24.26.685(3) is necessary in order that the parties be informed in advance how the agency will handle requests for disqualification on cases which are consolidated into one proceeding.

Additionally, the entirety of New Rule I was necessary to conform to the 1983 legislative amendments to 39-31-405 (5), MCA.

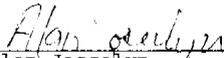
New Rule II 24.26.680 B subsections 1 through 6 inclusive are necessary to set forth in one place, in sequential order, the steps by which this agency will handle unfair labor practice complaints.

New Rule II 24.26.680 B(7) is necessary in order to prevent unnecessary delay by trying a case piecemeal.

Additionally, both the entirety of New Rule II and the amendment to ARM 24.26.681(1) were necessary to conform to the 1983 legislative amendments to Sections 39-31-405(1) through (4), MCA.

The amendment to ARM 24.26.684 is necessary to allow the Board members to review new briefs from the parties before they hear oral argument. The rule is intended to prevent the late filing of briefs which causes great delay in the Board's ability to fully consider a given case.

The authority to adopt the rules and the amendments is 39-31-104, MCA; the rules and the amendments implement the rules as stated in the notice mentioned in paragraph (1), supra.

  
\_\_\_\_\_  
Alan Joscelyn  
Chairman, Board  
of Personnel Appeals

Certified to the Secretary of State March 23, 1984.

VOLUME NO. 40

OPINION NO. 43

ALCOHOLIC BEVERAGE POSSESSION - Rights of youths charged in justice, municipal or city court for violation of section 45-5-624, MCA;  
CITY COURT - Rights of youths charged in city court for violation of section 45-5-624, MCA;  
JUSTICE COURT - Rights of youths charged in justice court for violation of section 45-5-624, MCA;  
MUNICIPAL COURT - Rights of youths charged in municipal court for violation of section 45-5-624, MCA;  
YOUTH COURT ACT - Rights of youths charged in justice, municipal or city court for violation of section 45-5-624, MCA;  
YOUTHS - Rights of youths charged in justice, municipal or city court for violation of section 45-5-624, MCA;  
MONTANA CODE ANNOTATED - Sections 41-5-203, 41-5-303, 41-5-304, 41-5-305, 41-5-306, 41-5-307, 41-5-402, 41-5-501, 41-5-511, 41-5-601, 41-5-602, 41-5-604, 45-5-624, 46-6-301, 46-8-111;  
UNITED STATES CONSTITUTION - Amendment XIV.

HELD: The provisions of the Montana Youth Court Act which apply to a youth charged with violation of section 45-5-624, MCA, in justice, municipal or city court proceedings are sections 41-5-303 to 307, 41-5-402, 41-5-601(1), 41-5-602 and 41-5-604, MCA. A youth charged with violation of section 45-5-624, MCA, is further entitled to the following rights in addition to those normally accorded defendants in justice, municipal or city court criminal proceedings: (1) service of the criminal summons upon both the youth and a custodial parent or guardian; (2) advisement of the right to counsel; and (3) waiver of the right to counsel only by both the youth and a custodial parent or guardian.

22 March 1984

P. L. "Stoney" Burk  
Deputy City Attorney  
Cities of Fairfield  
and Choteau  
P.O. Box 70  
Choteau MT 59422

Montana Administrative Register

7-4/12/84

Dear Mr. Burk:

You have requested my opinion concerning the following questions:

When a youth under the age of 18 is charged with violation of section 45-5-624, MCA, by complaint filed in justice, municipal, or city court rather than youth court, do all the provisions of the Youth Court Act apply? If not, which provisions do apply?

Your questions require construction of the Youth Court Act (the "Act"), §§ 41-5-101 to 807 MCA, and interpretation of Edward C. v. Collings, 38 St. Rptr. 1240, 632 P.2d 325 (1981). As I discuss below, many provisions of the Act have application to youths irrespective of whether formal proceedings have been commenced in youth court, while other provisions have specific reference to youth court matters. Edward C. is relevant only to the latter provisions' applicability in justice, municipal or city court proceedings under section 45-5-624, MCA, for illegal possession of alcoholic beverages.

Section 41-5-303, MCA, of the Act sets forth a youth's rights when detained "for investigation or questioning upon a matter which could result in a petition alleging that the youth being detained is either delinquent or in need of supervision." That provision clearly applies to interrogation concerning possible violation of section 45-5-624, MCA, which, as indicated by section 41-5-203, MCA, can result in proceedings before the youth court. A similar conclusion is warranted as to sections 41-5-304 to 307, MCA, since they pertain to the rights of youths generally and without reference to the actual commencement of youth court proceedings under section 41-5-501, MCA. The communications privilege under section 41-5-402, MCA, also applies to all proceedings, including those which may be initiated for alleged violation of section 45-5-624, MCA, in justice, municipal or city court.

Other provisions generally applicable to youths without reference to youth court proceedings are sections

41-5-601(1), 41-5-602 and 41-5-604, MCA. Section 41-5-601(1), MCA, prohibits, inter alia, giving publicity to the identity of any arrested youth except in specified circumstances; section 41-5-602, MCA, prohibits public inspection of "law enforcement records;" and section 41-5-604, MCA, provides for the sealing of "the legal and social files...of the...probation services[ ] and law enforcement agencies pertaining to a youth coming under this chapter...when the youth reaches the age of 18 years," excluding traffic records or those records relating to offenses for which publicity is authorized under section 41-5-601(2), MCA. The term "law enforcement records" is not defined but appears to refer to the records of law enforcement agencies in the actual possession of such agencies and to include copies of such records which have been disseminated to courts for use in proceedings alleging violation of section 45-5-624, MCA.

The issue of which provisions of the Act facially applicable only to the youth court have significance to proceedings in justice, municipal or city courts for violation of section 45-5-624, MCA, turns on the breadth of the reasoning in Edward C. v. Collings, supra. The question in that decision was whether a minor had effectively waived his constitutional right to counsel. In holding that such right had not been waived, the Court incorporated into justice court proceedings under section 45-5-624, MCA, the substantive protection of section 41-5-511, MCA, requiring consent by both the youth and a custodial parent to waiver of the right to counsel. While the result in Edward C. was premised on the Court's conclusion that the Legislature intended the rights accorded in section 41-5-511, MCA, to apply to alcoholic beverage possession proceedings in justice court, State ex rel. Maier v. City Court of City of Billings, 39 St. Rptr. 1560, 662 P.2d 276 (1982), on reh'g, 40 St. Rptr. 560, 662 P.2d 279 (1983), distinguished the earlier decision on constitutional grounds and concluded that a minor charged with a traffic offense was not entitled to representation by counsel as a fundamental right because incarceration was not possible. 40 St. Rptr. at 563, 662 P.2d at 281. Thus Edward C. is properly construed, in light of Maier, as extending to a youth in justice, municipal and city court proceedings under section 45-5-624, MCA, only those constitutional, or "fundamental," rights protected under the Act. This reading of Edward C. comports with

its actual holding which involved only extension of a constitutionally-protected right in juvenile proceedings to prosecutions under section 45-5-624, MCA.

Edward C. did not detail all constitutional rights protected under the Act which must be accorded youths in justice, municipal, or city court proceedings for alleged violation of section 45-5-624, MCA. Nonetheless, it is well established that youths have certain fundamental due process rights in juvenile proceedings where loss of personal freedom is possible. These rights include timely notice of the charge and the right to counsel to the youth and a custodial parent or guardian; the availability of appointed counsel, if indigent; the opportunity to confront and cross-examine witnesses; the privilege against self-incrimination; and the requirement that material offense allegations be proven beyond a reasonable doubt. See In re Gault, 387 U.S. 1 (1967); In re Winship, 397 U.S. 359 (1970); Fare v. Michael C., 442 U.S. 707 (1979).

The fundamental rights of youths in juvenile proceedings are generally consistent with defendants' rights in justice, municipal and city court proceedings for alleged violation of section 45-5-624, MCA. There are, however, two fundamental rights, in addition to the parental waiver right accorded in Edward C., which exist under the Act and are otherwise mandated in juvenile proceedings where loss of personal freedom is possible: (1) the right to have a notice of charges served on both the youth and a custodial parent or guardian, and (2) the right to appointed counsel if indigent. Accordingly, service of the summons in justice, municipal or city court proceedings alleging violation of section 45-5-624, MCA, must be made both on the youth and a custodial parent or guardian in accordance with section 46-6-301(2), MCA, and the youth must be informed of his right to appointed counsel if otherwise financially eligible under section 46-8-111, MCA. With these modifications, the procedures generally applicable to criminal proceedings in justice, municipal and city courts extend to youths charged with violation of section 45-5-624, MCA.

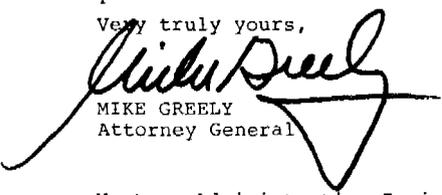
In conclusion, the substantive provisions of the Act which apply generally to youths and without reference to the commencement of youth court proceedings are sections 41-5-303 to 307, 41-5-402, 41-5-601(1), 41-5-602 and

41-5-604, MCA. The remaining provisions of the Act apply only to youth court proceedings or records. To the extent provisions of the Act apply generally, they are relevant to justice, municipal and city court proceedings for alleged violation of section 45-5-624, MCA. There are, however, certain due process rights under the Fourteenth Amendment of the United States Constitution particularly associated with juvenile proceedings, and those rights must be honored by justice, municipal and city courts in the exercise of their concurrent jurisdiction over alcohol beverage possession violations. Those rights are, with certain exceptions, in accord with the procedures ordinarily applicable in justice, municipal and city court criminal proceedings; however, the additional rights which a youth enjoys in proceedings in such courts for alleged violation of section 45-5-624, MCA, are (1) service of the criminal summons upon both himself and a custodial parent or guardian; (2) advisement of his right to retained or, if appropriate, appointed counsel; and (3) waiver of his right to counsel only by both himself and a custodial parent or guardian.

THEREFORE, IT IS MY OPINION:

The provisions of the Montana Youth Court Act which apply to a youth charged with violation of section 45-5-624, MCA, in justice, municipal or city court proceedings are sections 41-5-303 to 307, 41-5-402, 41-5-601(1), 41-5-602 and 41-5-604, MCA. A youth charged with violation of section 45-5-624, MCA, is further entitled to the following rights in addition to those normally accorded defendants in justice, municipal or city court criminal proceedings: (1) service of the criminal summons upon both the youth and a custodial parent or guardian; (2) advisement of the right to retained or, if appropriate, appointed counsel; and (3) waiver of the right to counsel only by both the youth and a custodial parent or guardian.

Very truly yours,



MIKE GREELY  
Attorney General

VOLUME NO. 40

OPINION NO. 44

COUNTIES - Modification of existing rural special improvement districts;  
COUNTY COMMISSIONERS - Modification of existing rural special improvement districts;  
RURAL SPECIAL IMPROVEMENT DISTRICTS - Modification of existing rural special improvement districts;  
MONTANA CODE ANNOTATED - Sections 7-12-2102, 7-12-2103, 7-12-2105, 7-12-2106, 7-12-2111, 7-12-2113, 7-12-2151, 7-12-2161.

HELD: Where a contemplated improvement would constitute a substantial expansion of both an existing improvement and a rural special improvement district, section 7-12-2161(4), MCA, is inapplicable, and the procedures for the creation of a new rural special improvement district in sections 7-12-2102 to 2113, MCA, must be followed.

30 March 1984

Ted O. Lympus, Esq.  
Flathead County Attorney  
Courthouse Annex  
P.O. Box 1516  
Kalispell MT 59901

Dear Mr. Lympus:

You have requested my opinion concerning a question which I have phrased as follows:

May section 7-12-2161(4), MCA, be utilized by a board of county commissioners to modify substantially an existing improvement and to expand significantly the geographical scope of a rural special improvement district? If not, then by what method may a rural special improvement district be modified and expanded?

The rural special improvement district involved is a sewer district which was created during the 1960's, and its facilities are presently at full utilization. A

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planning study is presently under way concerning the feasibility of doubling the district's service area and constructing significantly expanded sewer facilities. Thus, the contemplated improvement will involve, if not replacement of, at least a major addition to that presently in use and substantially increase the current district's geographical area.

Section 7-12-2102(1), MCA, permits a board of county commissioners, when petitioned by 60% of the affected freeholders, to order the creation of rural special improvement districts for certain specified purposes including the construction or purchase of sanitary and storm sewers. However, prior to creating the district, the board must: (1) adopt a resolution of intention to do so (§ 7-12-2103(1), MCA); (2) specify in the resolution, among other things, the character of the contemplated improvements and their approximate cost (§ 7-12-2103(2), MCA); (3) give notice of the resolution through newspaper publication, public posting and mailing to all real property owners within the proposed district (§§ 7-12-2105 to 2106, MCA); and (4) conduct hearings on any protests to the proposed improvement filed by affected property owners (§ 7-12-2111, MCA). After disposition of any objections, the board must create the improvement district in accordance with the resolution of intention and may then order the proposed improvement. § 7-12-2113(1), MCA. Section 7-12-2151, MCA, requires the cost of the improvement to be assessed on a prorated basis, calculated on either the size of the owner's property or, under certain circumstances, its value. § 7-12-2151(1) and (2), MCA.

Section 7-12-2161, MCA, provides a procedure for assessing property for costs associated with maintaining, preserving or repairing improvements. Subsection (4) grants to the board the power "of changing by resolution, not more than once a year, the boundaries of any maintenance district." (Emphasis supplied.) The term "maintenance district" is not defined or otherwise used in sections 7-12-2101 to 2186, MCA.

The statutory scheme for formation of rural special improvement districts clearly reflects a concern that, prior to creation of a district and implementation of an improvement, the affected property owners will be given appropriate notice. "[N]otification is the prime

purpose of the statute so that taxpayers will not be burdened with some improvement which they do not want, cannot afford, or do not need...." Koich v. City of Helena, 132 Mont. 194, 197-98, 315 P.2d 811, 813 (1957) (applying sections 7-12-4101 to 4191, MCA). Such notice and opportunity for protest have been held as required under the due process provision of the Montana Constitution where special assessments against property may be made to finance the improvement. Great Northern Railway Co. v. Roosevelt County, 134 Mont. 355, 358-59, 332 P.2d 501, 503 (1958) (statute permitting county commissioners to create fire districts upon petition but without further notice to real property owners unconstitutional). Moreover, as a taxing statute, the provisions permitting creation of rural special improvement districts will be strictly construed. Vail v. Custer County, 132 Mont. 205, 211, 315 P.2d 993, 997 (1957). The Montana Supreme Court thus held in Billings Bench Water Association v. Yellowstone County, 70 Mont. 401, 410, 225 P. 996, 999 (1924), that a failure to serve notice of a resolution of intention upon a property owner voided a proposed tax levy in connection with a rural special improvement district, noting that "it is quite generally held that failure to give the notice prescribed by statute in the attempted creation of an improvement district deprives the county of jurisdiction to proceed." Other decisions under a similar special improvement district statute have emphasized the need for literal compliance with the statutory procedure in creating a proposed district and have narrowly construed a governmental entity's authority under that statute. See, e.g., Shapard v. City of Missoula, 49 Mont. 269, 278-79, 141 P. 544, 547 (1914); Johnston v. City of Hardin, 55 Mont. 574, 579, 179 P. 824 (1919); Wood v. City of Kalispell, 131 Mont. 390, 393-94, 310 P.2d 1058, 1060-61 (1957); Smith v. City of Bozeman, 144 Mont. 528, 533, 398 P.2d 462, 465 (1965). Your questions must be resolved with reference to these general principles and the rural special improvement statutory provisions.

Presently the contemplated improvement is a substantial expansion of an existing improvement. It does not constitute merely maintenance, preservation or repair of a previously-constructed improvement. The provisions of section 7-12-2161, MCA, are, however, directed only to assessment for maintenance or repair work and, whatever the precise meaning or scope of section 7-12-2161(4),

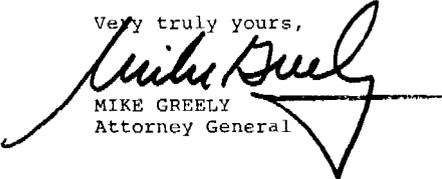
MCA, have no application to the proposed improvement or district expansion involved here. A contrary decision would, aside from ignoring the express provisions of section 7-12-2161, MCA, conflict with the notice procedures whose purpose, as stated, is to give affected property owners an opportunity to object to a proposed improvement or rural special improvement district creation whose cost may result in an assessment against their property.

Where the proposed improvement involves a substantial addition to both an existing improvement and district boundaries, the only method provided for its implementation is formation of a new rural special improvement district in accordance with the procedure described above. No other method, and especially one omitting notice and opportunity to protest to affected property owners, can be inferred. Existing improvements may be included as part of the proposed improvement and, upon formation, transferred to the new district. The present rural special improvement district will continue until its function is superseded by and its property transferred to the proposed district.

THEREFORE, IT IS MY OPINION:

Where a contemplated improvement would constitute a substantial expansion of both an existing improvement and a rural special improvement district, section 7-12-2161(4), MCA, is inapplicable, and the procedures for the creation of a new rural special improvement district in sections 7-12-2102 to 2113, MCA, must be followed.

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 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<br>Subject<br>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<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 December 31, 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 December 31, 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 and 1984 Montana Administrative Registers.

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