RESERVE

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 11

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 The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing, and where written comments may be submitted.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 opinion and state declaratory rulings. Special notices and tables are inserted at the back of each register.

TABLE OF CONTENTS

STATE OF MONTANA
DEPARTMENT OF AGRICULTURE
BEFORE THE MONTANA AGRICULTURAL LOAN AUTHORITY
OF THE STATE OF MONTANA

In the matter of the proposed amendments concerning applicant eligibility and tax deduction.	) NOTICE OF PROPOSED AMENDMENT OF RULES 4.14.305 AND 4.14.601 RELATING TO APPLICANT ELIGIBILITY AND TAX DEDUCTION NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On July 15, 1985, the Montana Agricultural Loan Authority proposes to amend rules 4.14.305 concerning applicant eligibility and 4.14.601 concerning tax deduction.

2. The proposed amendments to 4.14.305 and 4.14.601 provide as follows: (new matter underlined, deleted matter interlined)

"4.14.305 APPLICANT ELIGIBILITY (1) ...

~~(f) The Authority requires the beginning farmer, at the time of loan application, to show cause to the lender that he or she is unable to secure adequate financing from nongevernmental sources upon terms and conditions which he or she reasonably could be expected to fulfill. In many instances, this will mean the beginning farmer is unable to meet the necessary repayment provisions of a conventional loan with the standard rate of interest, and thus is unable to secure financing on terms or conditions which could be fulfilled. However, the beginning farmer may be able to succeed with interest at the tax-exempt rate. Therefore, the lender who is processing the application could make the determination on the question of unavailability of alternative credit without another lender being involved using the lower tax-exempt interest rate as the basis for determining that the beginning farmer could succeed.~~

~~(g)~~(f) The beginning farmer intending to purchase agricultural land cannot at any time have had any direct or indirect ownership interest in substantial agricultural land (land which is at least 15% of the median size of a farm/ranch in the county in which such land is located and which while held by the beginning farmer, at no time had a fair market value in excess of $125,000) in the operation of which the beginning farmer materially participated. For the purposes of this subsection, any ownership or material participation by the beginning farmer's spouse or minor children is treated as ownership and material participation by the beginning farmer.

~~(h)~~(g) The beginning farmer must intend to materially and substantially participate in the operation of the agricultural land or depreciable assets purchased through the Authority loan."

Auth: 80-12-103, MCA; IMP: 80-12-203 and 80-12-204, MCA.

"4.14.601 TAX DEDUCTION (1) The Authority will follow rules of the Montana Department of Revenue implementing the tax deduction provided in Title 80, Chapter 12, Section 80-12-211, MCA, for the sale of qualifying land on a long term contract to a beginning farmer. The repayment period (term) of the long term contract must extend for a period of ten (10) years or more. In addition, the dollar amount of the long term contract must be fifty one percent (51%) or more of the total purchased price of the land. The transaction must be approved ~~in advance~~ by the authority. The appropriate application for tax deduction must be received by the Authority within one year of closing on the respective sale and contract transaction. Applications for sale transactions closed prior to the April 18, 1985 effective date of the law are not eligible for the tax deduction.

(2)..."

Auth: 80-12-103, MCA; IMP: 80-12-211, MCA.

3. The Authority is proposing the amendments to conform to the changes in the Montana Codes Annotated.

4. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Montana Agricultural Loan Authority, Agriculture/Livestock Building, Capitol Station, Helena, Montana 59620, no later than July 15, 1985.

5. 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 Montana Agricultural Loan Authority, Agriculture/Livestock Building, Capitol Station, Helena, Montana 59620, no later than July 15, 1985.

6. If the Authority 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 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 hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

Montana Agricultural Loan Authority

By: Keith Kelly
Keith Kelly, Director
Montana Department of Agriculture

Certified to the Secretary of State, June 3, 1985.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF PHARMACY

In the matter of the proposed amendment of 8.40.1215 concerning additions, deletions, & rescheduling of dangerous drugs, proposed adoption of new rules under sub-chapter 4 concerning prescription requirements, records of dispensing, and transfer of prescriptions, and new rules under sub-chapter 5 computer regulations concerning definitions, automated data processing systems, and security	NOTICE OF PROPOSED AMENDMENT of 8.40.1215 ADDITIONS, DELETIONS, & RESCHEDULING OF DANGEROUS DRUGS, PROPOSED ADOPTIONS OF NEW RULES UNDER SUB-CHAPTER 4, PRESCRIPTION REQUIREMENTS, RECORDS OF DISPENSING, TRANSFER OF PRESCRIPTIONS, PROPOSED ADOPTIONS OF NEW RULES UNDER SUB-CHAPTER 5, COMPUTER REGULATIONS - DEFINITIONS, AUTOMATED DATA PROCESSING SYSTEMS, AND SECURITY NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On July 13, 1985, the Board of Pharmacy proposes to amend and adopt the above-stated rules.

2. The proposed amendment of 8.40.1215 will amend subsection (5)(a) by adding a new subsection (ii) and renumbering the current (ii) as (iii), adding a new subsection (i) under (5)(b) and renumbering the current (i) as (ii), and will add a new subsection (i) under (5)(c) and will renumber the current (i) as (ii), reading as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at pages 8-1180 and 8-1181, Administrative Rules of Montana)

"8.40.1215 ADDITIONS, DELETIONS, & RESCHEDULING OF DANGEROUS DRUGS (1) ...

(a) Schedule I

(5) In addition to the controlled substances identified and referred to above, the board has adopted, pursuant to the authorization in section 50-32-103, MCA, the following substances to be added, deleted or rescheduled thereto:

(i) ...

(ii) methaqualone under section 50-32-222 (4), MCA, depressants.

~~(iii)~~ (iii) ...

(b) Schedule II

(i) methaqualone listed in section 50-32-224 (4)(b), MCA, is rescheduled to Schedule I as listed above.

~~(ii)~~ (ii) ...

(c) Schedule V

(i) Narcotic drugs under section 50-32-232, MCA. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below:

(A) buprenorphine
~~(i)~~ (ii) ..."
Auth: 50-32-103, MCA Imp: 50-32-103, 222, 224, 232, MCA

3. Methaqualone is rescheduled to Schedule I from Schedule II. This action is required in order to comply with Public Law 98-329, an Act to provide for the rescheduling of methaqualone into Schedule I of the CSA and for the withdrawal of approval of its new drug application.

It is recommended that buprenorphine be rescheduled into Schedule V and that the drug continue to be classified as a narcotic because it is a derivative of the opiate thebaine. It was a Schedule II narcotic controlled substance by virtue of being a derivative of opium or an opiate. It is reported that buprenorphine has a low potential for abuse relative to the drugs in Schedule IV, that it has a currently accepted medical use in treatment in the United States and that abuse of buprenorphine may lead to limited physical dependence or psychological dependence relative to other drugs in Schedule IV.

4. The proposed new rules under sub-chapter 4 will read as follows:

"I. PRESCRIPTION REQUIREMENTS (1) Prescriptions [or drug orders] shall include, but not be limited to:
(a) date of issuance;
(b) name and address of patient [or patient location if an institution];
(c) name and address of prescriber [if not a staff physician of institution];
(d) DEA number of prescriber in the case of controlled substances;
(e) name, strength, dosage form and quantity [or stop date, and route of administration] of drug prescribed;
(f) refills authorized;
(g) directions of use for patient.
(Note: Information presented in brackets [] represents institutional pharmacy requirements.)"
Auth: 37-7-201 (2)(i), MCA Imp: 37-7-201 (2), MCA

"II. RECORDS OF DISPENSING (1) Records of dispensing for original and refill prescriptions are to be made and kept by pharmacies for at least two years and shall include, but not be limited to:
(a) quantity dispensed, if different;
(b) date of dispensing;
(c) serial number [or equivalent if an institution];
(d) the identification of the pharmacist responsible for dispensing;

(e) documentation of satisfaction of state requirements for drug product selection;
(f) records of refills to date.
(Note: Information presented in brackets [] represents institutional pharmacy requirements.)"
Auth: 37-7-201 (2)(i), MCA Imp: 37-7-201 (2), MCA

"III. TRANSFER OF PRESCRIPTIONS (1) The transfer of original prescription information for the purpose of refill dispensing is permissable between pharmacies subject to the following requirements:
(a) The transfer is communicated directly between two licensed pharmacists and the transferring pharmacist records the following information;
(i) write the word 'VOID' on the face of the invalidated prescription,
(ii) record on the reverse of the invalidated prescription the name and address of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information,
(iii) record the date of the transfer and the name of the pharmacist transferring the information.
(b) The pharmacist receiving the transferred prescription information shall reduce to writing the following;
(i) write the word 'TRANSFER' on the face of the transferred prescription,
(ii) provide all information required to be on a prescription pursuant to state and federal laws and regulations and include,
(A) date of issuance of original prescription
(B) original number of refills authorized on original prescription
(C) date of original dispensing
(D) number of valid refills remaining and date of last refill
(E) pharmacy's name, address, and original prescription number from which the prescription information was transferred
(F) name of transferor pharmacist.
(2) The transfer of original prescription information for a controlled (dangerous) substance listed in Schedules III, IV, or V for the purpose of refill dispensing is permissable between pharmacies on a one time basis only, by following the procedures listed above. In addition to:
(a) the transferring pharmacist record on the reverse of the invalidated prescription the DEA registration number of the pharmacy to which it was transferred, and
(b) the pharmacist receiving the transferred prescription record the DEA registration number of the pharmacy from which the prescription information was transferred.

(3) Both the original and transferred prescription must be maintained for a period of at least two years from the date of last refill.

(4) Pharmacies utilizing automated data processing systems must satisfy all information requirements of the manual mode for all prescription transferral and be certain that their system can void the original prescription once it is transferred, yet maintain the information on file."

Auth: 37-7-201 (2)(i), MCA Imp: 37-7-201 (2), MCA

5. The board felt that these rules are necessary in order to have a standard format to refer to for the computer rules. (See rules IV through VI)

6. The proposed rules under sub-chapter 5 will read as follows:

"IV. DEFINITIONS (1) 'Automated data processing system' means a system utilizing computer software and hardware for the purposes of recordkeeping.

(2) 'C R T' means cathode ray tube used to impose visual information on a screen.

(3) 'Computer' means programable electronic device capable of multifunctions including but not limited to storage, retrieval, and processing of information.

(4) 'Controlled (dangerous) substances' means those drug items regulated by federal (CSA of 1970) and/or Montana Dangerous Drug Act statutes and rules.

(5) 'Downtime' means that period of time when a computer is not operable.

(6) 'Hardware' means the fixed component parts of a computer.

(7) '[Physician drug order' means in institutional practice/settings, this is a drug order written in the patient's chart for a specific patient which is generally sent by the pharmacy to the nursing station for administration. It is not necessarily reduced to writing as a prescription would be.]

(8) 'Prescriber' means a practitioner authorized to prescribe and acting within the scope of this authorization.

(9) 'Prescription' means a written order from a practitioner authorized to prescribe and acting within the scope of this authorization (other terminology: prescription order), or a telephone order reduced to writing by the pharmacist.

(10) 'Printout' means a hard copy produced by computer that is readable without the aid of any special device.

(11) 'Regulatory agency' means any federal or state agency charged with enforcement of pharmacy or drugs laws and regulations.

(12) 'Software' means programs, procedures and storage of required information data.

(13) '[Stop date' means in institutional settings, the physician normally indicates on his drug order, the length of time to administer the medication. In absence of such a notation, a committee will have determined by policy, the length of administration of drugs by category.]

(Note: Information presented in brackets [] represents institutional pharmacy requirements.)"

Auth: 37-7-201 (2)(i), MCA Imp: 37-7-201 (2), MCA

"V. AUTOMATED DATA PROCESSING SYSTEMS (1) As an alternative to procedures in rules I. and II., an automated data processing system may be employed for the recordkeeping system, if the following conditions have been met:

(a) The system shall have the capability of producing sight-readable documents of all original and refilled prescription information. The term sight-readable means that a regulatory agent shall be able to examine the record and read the information. During the course of an on-site inspection, the record may be read from the CRT, microfiche, microfilm, printout or other method acceptable to the board. In the case of administrative proceedings before the board, records must be provided in a paper printout form.

(b) Such information shall include, but not be limited to the prescription requirements and records of dispensing as indicated in rules I. and II.

(c) The individual pharmacist responsible for completeness and accuracy of the entries to system must provide documentation of the fact that prescription information entered into the computer is correct. In documenting this information, the pharmacy shall have the option to either:

(i) maintain a bound log book, or separate file, in which each individual pharmacist involved in such dispensing shall sign a statement each day, attesting to the fact that the prescription information entered into the computer that day has been reviewed and is correct as shown. Such a book or file must be maintained at the pharmacy employing such a system for a period of at least two years after the date of last dispensing; or

(ii) provide a printout of each day's prescription information. That printout shall be verified, dated, and signed by the individual pharmacist verifying that the information indicated is correct and then sign this document in the same manner as signing a check or legal document (e.g, J. H. Smith, or John H. Smith). Such printout must be maintained at least two years from the date of last dispensing.

(d) An auxiliary recordkeeping system shall be established for the documentation of refills if the automated data processing system is inoperative for any reason. The auxiliary system shall insure that all refills are authorized

by the original prescription and that the maximum number of refills is not exceeded. When this automated data processing system is restored to operation, the information regarding prescriptions filled and refilled during the inoperative period shall be entered into the automated data processing system within 96 hours. However, nothing in this section shall preclude the pharmacist from using his professional judgment for the benefit of a patient's health and safety.

(e) Any pharmacy using an automated data processing system must comply with all applicable state and federal laws and regulations.

(f) A pharmacy shall make arrangements with the supplier of data processing services or materials to assure that the pharmacy continues to have adequate and complete prescription and dispensing records if the relationship with such supplier terminates for any reason. A pharmacy shall assure continuity in the maintenance of records.

Auth: 37-7-201 (2)(i), MCA Imp: 37-7-201 (2), MCA

"VI. SECURITY (1) The system shall contain adequate safeguards or security of the records to maintain the confidentiality and accuracy of the prescription or drug order information. Safeguards against unauthorized changes in data after the information has been entered and verified by the registered pharmacist shall be provided by the system.

Auth: 37-7-201 (2)(i), MCA Imp: 37-7-201 (2), MCA

7. The board is proposing to adopt the rules on automated data processing recordkeeping because of the proliferation of computer systems being made available. It was felt that such rules are necessary in order to make certain that all recordkeeping requirements are being met. It also makes available to providers of computer and hardware systems what requirements are necessary before selling or leasing systems to Montana registrants. The proposed rules are Model Rules adopted by the National Association of Boards of Pharmacy in response to pressure from its membership. Many states have since adopted these rules and have found them to be quite satisfactory.

8. Interested persons may submit their data, views or arguments concerning the proposed amendment and adoptions in writing to the Board of Pharmacy, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than July 11, 1985.

9. If a person who is directly affected by the proposed amendment and adoptions wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any comments he has to the Board of Pharmacy, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than July 11, 1985.

10. If the board receives requests for a public hearing on the proposed amendment and adoptions from either 10% or 25, whichever is less, of those persons who are directly affected by the proposed amendment and adoptions, 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 67 based on the 675 licensees in Montana.

BOARD OF PHARMACY
D. WAYNE BOLLINGER, R.Ph.

BY: Keith L. Colbo
KEITH L. COLBO, DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, June 3, 1985.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amend- ment of a rule relating to Experience Requirement for Counselors 10.57.301	)))	NOTICE OF PUBLIC HEARING FOR PROPOSED AMENDMENT OF A RULE - EXPERIENCE REQUIREMENT FOR COUNSELORS 10.57.301

TO: All Interested Persons.

1. On July 22, 1985, at 10:30 a.m., a public hearing will be held in the Commons Meeting Room, Butte Vocational Technical Center, Basin Creek Road, Butte, Montana 59701 in the matter of amendment of rule relating to Experience Requirement for Counselors 10.57.301.

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

10.57.301 ENDORSEMENT INFORMATION (1) through (6) remain the same.

(7) A guidance and counseling endorsement is granted on the class 1, class 2, or class 5 teaching certificates for applicants who have completed an approved programs in ~~these~~ this areas. ~~Such~~ The programs must ~~include~~ be a K-12 program and consist of at least 30 quarter (20 semester) credits; the recommendation of the appropriate official is required. Effective September 1, 1986, a guidance and counseling endorsement will require verification of three (3) years of teaching or counseling experience in addition to completion of a college approved guidance K-12 major or minor.

AUTH: Sec. 20-4-102, MCA
IMP: Sec. 20-4-103, MCA

3. The Board is proposing this rule in order to comply with a rule and timeline previously adopted and agreed upon by all segments of the education community in rule 10.55.406(1), ARM.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or argument may also be submitted to Ted Hazelbaker, Chairman, Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59620 no later than July 26, 1985.

5. Ted Hazelbaker, Chairman, and Hidde Van Duym, Executive Secretary to the Board of Public Education, 33 South Last Chance Gulch, Helena, Montana have been designated to preside over and conduct the hearing.

Ted Hazelbaker

TED HAZELBAKER, CHAIRMAN
BOARD OF PUBLIC EDUCATION

By: Linda Lou Dyer

Certified to the Secretary of State June 3, 1985

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the repeal of rules relating to School Principals 10.58.702 and School Superintendents 10.58.703, and proposed adoption of new Rule I relating to School Principals and Superintendents	))))))	NOTICE OF PUBLIC HEARING FOR PROPOSED REPEAL OF RULES - SCHOOL PRINCIPALS 10.58.702 AND SCHOOL SUPERINTENDENTS 10.58.703, AND PROPOSED ADOPTION OF RULE I - SCHOOL PRINCIPALS AND SUPERINTENDENTS

TO: All Interested Persons.

1. On July 22, 1985 at 10:45 a.m., a public hearing will be held in the Commons Meeting Room, Butte Vocational Technical Center, Basin Creek Road, Butte, Montana 59701 in the matter of the proposed repeal of rules relating to School Principals 10.58.702 and School Superintendents 10.58.703, and the proposed adoption of a new Rule I relating to School Principals and Superintendents.

2. The rules as proposed to be repealed are on pages 10-907 and 10-908 of the Administrative Rules of Montana.

3. The rule as proposed will be adopted as follows:

RULE I SCHOOL PRINCIPALS AND SUPERINTENDENTS For the prospective administrator the program shall assure knowledge and skills of:

(1) Designing, implementing and evaluating a school climate improvement program which includes mutual efforts by staff and students to formulate and attain school goals. This competency shall include:

(a) human relations, organizational development, and leadership skills;

(b) collaborative goal setting and action planning;

(c) organizational and personal planning and time management;

(d) participative management, variations in staffing;

(e) climate assessment methods and skills;

(f) improving the quality of relationships among staff and students to enhance learning;

(g) multi-cultural and ethnic understanding; and

(h) group process, interpersonal communication, and motivational skills.

(2) Political theory and applying political skills in building local, state, and national support for education. This competency shall include:

(a) school/community public relations, coalition building, and related public service activities;

(b) politics of school governance and operations;

(c) political strategies to pass bond, tax, and other referenda;

(d) lobbying, negotiating, collective bargaining power, policy development, and policy maintenance skills to assure successful educational programs;

(e) communicating and projecting an articulate position for education;

(f) role and function of mass media in shaping and forming opinions; and

(g) conflict mediation and the skills to accept and cope with inherent controversies.

(3) Developing a systematic school curriculum that assures both extensive cultural enrichment activities and mastery of fundamental as well as progressively more complex skills required in advanced problem solving, creative, and technological activities. This competency shall include:

(a) planning/future methods to anticipate occupational trends and their educational implications;

(b) taxonomies of instructional objectives and validation procedures for curricular units/sequences;

(c) theories of cognitive development and the sequencing/structuring of curricula;

(d) development/application of valid and reliable performance indicators for instructional outcomes;

(e) use of computers and other technologies as instructional aids; and

(f) development/use of available cultural resources.

(4) Planning and implementing an instructional management system which includes learning objectives, curriculum design, and instructional strategies and techniques that encourage high levels of achievement. This competency shall include:

(a) curriculum design and instructional delivery strategies;

(b) instructional and motivational psychology;

(c) alternative methods of monitoring and evaluating student achievement;

(d) management of change to enhance the mastery of educational goals;

(e) applications of computer management to the instructional program;

(f) use of instructional time and resources; and

(g) cost effectiveness and program budgeting.

(5) Designing staff development and evaluation systems to enhance effectiveness of educational personnel. This competency shall include:

(a) system and staff needs assessment to identify areas for concentrated staff development and resource allocation for new personnel;

(b) use of system and staff evaluation data in personnel policy and decision making;

(c) appraisal of the effectiveness of staff development programming as it affects professional performance;

(d) using clinical supervision as a staff improvement and evaluation strategy; and

(e) assessment of individual and institutional sources of stress and development of methods for reducing that stress.

(6) Allocating human, material, and financial resources to efficiently, and in an accountable manner, assure successful student learning. This competency shall include:

(a) facilities planning, maintenance, and operation;
(b) financial planning and cash flow management;
(c) personnel administration;
(d) pupil personnel services and categorical programs;
(e) legal concepts, regulations, and codes for school operation; and
(f) analytical techniques of management.

(7) Conducting research and using research findings in decision making to improve long-range planning, school operations, and student learning. This competency shall include:
(a) research designs and methods including gathering, analyzing and interpreting data;
(b) descriptive and inferential statistics;
(c) evaluation and planning models and methods; and
(d) selection, administration, and interpretation of evaluation instruments.

AUTH: Sec. 20-2-114, MCA
IMP: Sec. 20-2-121, MCA

3. On page 600 of the 1985 Montana Administrative Register, issue number 10, the Board adopted a rule in order to assure that the preparation of future school administrators will conform to higher standards as recommended by both professional organizations and accrediting bodies. The rule is proposed in order to bring the education program in line with the qualifications adopted under ARM 10.57.403 and 405.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or argument may also be submitted to Ted Hazelbaker, Chairman, Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59620 no later than July 26, 1985.

5. Ted Hazelbaker, Chairman, and Hidde Van Duym, Executive Secretary to the Board of Public Education, 33 South Last Chance Gulch, Helena, Montana have been designated to preside over and conduct the hearing.

Ted Hazelbaker
TED HAZELBAKER, CHAIRMAN
BOARD OF PUBLIC EDUCATION

By: Hidde Van Duym

Certified to the Secretary of State June 3, 1985

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the transfer of existing rules pertaining to motor carrier safety standards.	))))))	NOTICE OF TRANSFER OF EXISTING RULES GOVERNING MOTOR CARRIER SAFETY STANDARDS.

TO: All Interested Persons.

1. On July 1, 1985, the Department of Justice will transfer rules governing motor carrier safety standards from the Public Service Commission. The rules will be numbered 23.5.101 through 23.5.111.

2. Statement of reasons for transfer: On May 9, 1985, the Governor signed SB 182 which transfers authority for setting motor carrier safety standards from the Public Service Commission to the Motor Vehicle Division and gives the Highway Patrol primary authority for enforcement of safety standards. Senate Bill 182, as amended and passed, has an effective date of July 1, 1985. The statement of intent for SB 182 requires that the Motor Vehicle Division adopt motor carrier safety standards substantially similar to those promulgated by the Public Service Commission pursuant to sections 69-12-201 and 69-12-203, MCA. Consequently, the Department transfers these rules on motor carrier safety standards from the Public Service Commission.

3. The existing rules may currently be found on pages 38-195 through 38-198 of the Administrative Rules of Montana. They are currently numbered 38.3.1901 through 38.3.1911.

4. The authority of the agency to make the transfer is based on Section 4, SB 182, Ch. 686, Laws of 1985, and the transfer implements the statement of intent, SB 182, Ch. 686, Laws of 1985.

Mike Greely

MIKE GREELY
Attorney General

Certified to the Secretary of State June 3, 1985.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption of a rule regarding safety equipment requirements for trailers used for hauling and spreading fertilizer.	))))))	NOTICE OF THE PROPOSED ADOPTION OF RULE I ON SAFETY EQUIPMENT FOR FERTILIZER TRAILERS. NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On July 25, 1985, the Department of Justice proposes to adopt a new rule which provides the requirements for safety equipment for trailers used for hauling and dispersing fertilizer.

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

3. The proposed rule provides as follows:

RULE I SAFETY EQUIPMENT FOR FERTILIZER TRAILERS Trailers designed for transporting and dispersing fertilizer shall comply with the following safety requirements:

(1) Unless the trailer is equipped with brakes in compliance with section 61-9-301, MCA, it may not be towed at a speed greater than 35 miles per hour.

(2) If the trailer is towed in a combination of more than two vehicles, the rear units of the combination shall be equipped with breakaway brakes.

(3) The trailer may be operated only in daylight hours unless it is equipped with lights in compliance with section 61-9-207, MCA.

(4) Unless the brake lights and turn signals of the motor vehicle towing the trailer are clearly visible from the rear, the trailer shall be equipped with brake lights and turn signals.

(5) The tow bar of the trailer shall be securely fastened to the towing unit, and an additional safety chain with a minimum diameter of three-eighths inch or cable with a minimum diameter of one-fourth inch shall also be securely fastened to the towing unit.

(6) If the trailer is transporting anhydrous ammonia, it shall display appropriate Department of Transportation placards on all four sides of the tank.

AUTH: 61-2-103, MCA IMP: 61-9-504, MCA

4. The department is proposing this rule because utilization of fertilizer trailers has increased on public highways, and there are currently no laws or regulations which specifically address the need for safety equipment or restrictions which are necessary in lieu of such equipment.

5. Interested persons may submit their data, views, or arguments concerning the proposed rule in writing to Mike Greely, Attorney General, Department of Justice, 215 North Sanders, Helena, Montana 59620, no later than July 11, 1985.

6. If a person who is directly affected by the proposed rule wishes to present data or express his 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 Mike Greely, Attorney General, Department of Justice, 215 North Sanders, Helena, Montana 59620, no later than July 11, 1985.

7. If the agency receives requests for a public hearing on the proposed rule from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed rule; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 100 persons based on the current use of an estimated minimum of 1,000 fertilizer trailers in Montana.

8. The authority of the agency to make the proposed rule is based on section 61-2-103, MCA, and the rule implements section 61-9-504, MCA.

MIKE GREELY
Attorney General

Certified to the Secretary of State June 3, 1985.

BEFORE THE WORKERS' COMPENSATION DIVISION
OF THE DEPARTMENT OF LABOR AND INDUSTRY
OF THE STATE OF MONTANA

In the matter of the adoption of of rules regarding lump sum conversions of benefits under section 39-71-741, MCA.	))))	NOTICE OF PUBLIC HEARING ON THE PROPOSED ADOPTION OF RULES PERTAINING TO LUMP SUM CONVERSIONS OF BENEFITS UNDER SECTION 39-71-741, MCA

TO: All Interested Persons.

1. On July 9, 1985, at 10:00 a.m., a public hearing will be held in Room 302-303 of the Workers' Compensation Building, 5 South Last Chance Gulch, Helena, Montana, to consider the proposed adoption of rules pertaining to lump sum conversions of benefits under section 39-71-741, MCA.

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

RULE I INTRODUCTION (1) The procedure for determining whether lump sum conversion of permanent disability biweekly payments will be approved is generally defined in section 39-71-741, MCA.

(2) The conversion can only be made upon written application of the injured worker or the worker's beneficiary, with the concurrence of the insurer, subject to the discretionary approval of the division as to the amount of the lump sum payment and the advisability of the conversion.

(3) It is presumed that biweekly payments are in the best interests of the worker or his beneficiary. The approval of an application for lump sum conversion by the division must be the exception, not the rule, and may be given only if the worker or his beneficiary demonstrates that his ability to sustain himself financially is more probable with a whole or partial lump sum conversion than with the biweekly payments and his other resources.

(4) Permanent partial conversions must meet the requirements of subsection (3) above. Permanent total conversions must meet the test of subsection (3) above plus all other requirements provided herein.

(5) Controversies between claimants and insurers regarding a conversion to a lump sum or a denial of approval of a conversion to a lump sum by the division, are considered disputes for which the workers' compensation judge has jurisdiction to make a decision.

(6) Lump sum settlement agreements reached prior to April 15, 1985, will be allowed and approved, or denied, under provisions of 39-71-741, MCA, in effect before

enactment of senate bill 281. Section 39-71-741 as amended, will be applied to all lump sum settlements reached on or after April 15, 1985. An injured worker or his beneficiary submitting a lump sum settlement reached before April 15, 1985, must provide to the division a written statement that agreement was reached before April 15, 1985.

AUTH: 39-71-203, MCA; Chapter 471, Laws of 1985
IMP: 39-71-741, MCA

RULE II DOCUMENTATION REQUIREMENTS (1) Requests for lump sum conversions of permanent partial and permanent total and death benefits must include a description of the lump sum proposal, including but not limited to analysis of current financial conditions as described in subsection (3), analysis of financial condition under the proposed lump sum conversion as described in subsection (4), and an affidavit signed by the worker or his beneficiary, attesting to the validity of information provided in the worker's or beneficiary's written documentation. All analyses must be supported by complete documentation.

(2) Requests for lump sum conversions of permanent total and death benefits must include, in addition to the requirements of subsection (1), calculations of the total amount of benefits to be converted and their reduction to present value at a 7% discount, compounded annually, and an analysis of financial condition that would be reasonably expected had the worker not been injured as described in subsection (7).

(3) "Analysis of current financial condition" for purposes of subsection (1) shall include a list of all the worker's or beneficiary's income, assets and liabilities, and other available resources, including but not limited to:

(a) periodic income (specify periods reported):
(i) social security disability income,
(ii) social security retirement income,
(iii) retirement or pension income,
(iv) other disability insurance,
(v) health insurance benefits,
(vi) mortgage insurance benefits,
(vii) spousal or other family income,
(viii) life insurance proceeds,
(ix) credit disability benefits,
(x) interest or dividend income,
(xi) workers' compensation benefits,
(xii) third party recovery (actual or potential):
(b) monetary assets:
(i) cash on hand,
(ii) checking account,
(iii) savings account,
(iv) accounts and notes receivable,
(v) savings bonds,

(vi) stocks and bonds,
(vii) mutual funds,
(viii) cash value of life insurance,
(ix) cash value of annuities,
(x) cash value of retirement fund;
(c) fixed assets:
(i) home and property,
(ii) other real estate,
(iii) retirement fund,
(iv) motor vehicles,
(v) personal property;
(d) liabilities:
(i) all monthly living expenses,
(ii) existing delinquent or outstanding debts,
(iii) periodic payments on debts,
(iv) long-term liabilities,
(v) attorney fees and costs.

(4) "Analysis of financial condition under the proposed lump sum conversion" for the purposes of subsection (1) shall include a description of the use of the lump sum and how this use will contribute to financially sustaining the worker or beneficiary over the same period biweekly payments would have been paid; additional documentation is required if a proposal involves debts or business ventures as indicated in subsections (5) and (6).

(5) If the proposal involves the partial or total elimination of existing delinquent or outstanding debts, a debt management plan must be described and include:

(a) plan of management, through applying the proposed lump sum conversion, of all existing delinquent or outstanding debts, both short- and long-term; and

(b) description of how the worker or his beneficiary will be sustained financially through use of the lump sum conversion and other available resources, including cash available throughout the life of the debt management plan, to manage delinquent or outstanding debts.

(6) If the proposal involves a business venture, a business plan must be described and include:

(a) information indicating the worker's or beneficiary's capability to succeed in proposed business venture, including:
(i) relevant educational and work history,
(ii) knowledge of the proposed business,
(iii) if managerial, managerial capability,
(iv) role to be assumed in the proposed business.

(b) If the venture is a new business, information about the proposed business venture including, but not limited to:
(i) description of the proposed business venture,
(ii) estimate of the purchase price of the business,
(iii) work sheets showing: total source of dollars, start-up costs, projected expenses and net income forecast,

(iv) feasibility study of the market conditions in the intended market area, showing that the business is a feasible venture.

(c) If the venture is an existing business, information about the proposed business including, but not limited to:

(i) description of proposed business venture.

(ii) legal agreement showing intent to sell the existing business, purchase price of the business, and any conditions placed upon such sale,

(iii) income tax statements and balance sheets for the two consecutive years prior to the agreement to sell the business,

(iv) work sheets showing total source of dollars, start-up costs, projected expenses and net income forecast,

(v) market analysis showing market conditions in the intended market area.

(d) A statement of cash that will be available to the worker or his beneficiary as income on a biweekly basis after start-up costs and other business expenses are considered throughout the life of the venture.

(7) "Analysis of financial condition that would be reasonably expected had the worker not been injured" for purposes of subsection (2) must include a description of the income the worker or beneficiary would have received and the basis upon which the estimate is derived. The analysis must include:

(a) evidence of education and work experience, including:

(i) work history, dates and descriptions of employment or unemployment, names and locations of employers;

(ii) highest level of formal education attained, degrees received, dates of attendance, names and locations of schools; and

(iii) special training, professional licenses, registrations, or certifications, certifications received; dates of attendance, names and locations of institutions providing training, licenses, registrations or certifications.

(b) Evidence of probable job promotions and pay increases, including:

(i) supportive documentation from employers, union contracts, or other reasonable substantiation of probable job promotions,

(ii) wage history,

(iii) statement from employer at the date of the accident of last wage rate paid; and

(iv) supportive documentation estimating wage rates from the date of the accident up to age 65.

AUTH: 39-71-203, MCA; IMP: 39-71-741, MCA

RULE III METHODS THE DIVISION WILL APPLY TO EVALUATE

INFORMATION PROVIDED (1) In all lump sum conversion requests, the worker or his beneficiary must demonstrate that he cannot sustain himself financially with biweekly payments and his other resources within 12 months following the application, or the application for a lump sum conversion will be denied.

(2) In permanent total lump sum conversion requests, if the worker or his beneficiary demonstrates in addition that his ability to sustain himself financially is more probable with a whole or partial lump sum conversion than with biweekly payments and his other resources, then:

(a) If the worker or his beneficiary demonstrates that his financial condition under the lump sum proposal will not be greater than could have reasonably been expected had the worker not been injured, the lump sum will be approved only if it is limited to the unpaid biweekly benefits, assuming interest at 7% per year, compounded annually.

(b) If the worker or his beneficiary demonstrates that he will improve his financial condition with the lump sum over what could have been reasonably expected had the worker not been injured, the lump sum will be approved only if it is limited to the purchase price to the insurer of an annuity that would yield an amount equal to the biweekly benefits payable over the estimated duration of the compensation period.

(3) If the estimated duration of the compensation period is the remaining life expectancy of the worker or his beneficiary, the remaining life expectancy will be determined by using the most recent Life Table: Expectation of Life at Single Years of Age, by Race and Sex: United States, all races, both sexes column, in Vital Statistics of the United States, Volume II-Mortality, Part A, U.S. Department of Health and Human Serices, Public Health Service, National Center for Health Statistics.

(4) If the difference between the present discounted value of a permanent total lump sum and the future value of the biweekly payments is the only ground for the lump sum, the lump sum conversion will be denied.

AUTH: 39-71-203, MCA; IMP: 39-71-741, MCA

RULE IV FURTHER STUDIES MAY BE REQUIRED (1) If the division finds that an application for lump sum conversion does not adequately demonstrate the ability of the worker or his beneficiary to sustain himself financially, the division may order, at the insurer's expense, financial, medical, vocational rehabilitation, educational or other evaluative studies to determine whether a lump sum conversion is in the best interest of the worker or his beneficiary.

(2) The division's order will specify the reasons why the application for lump sum conversion is inadequate and

the type of evaluative studies required.

(3) The division must be advised of the results of all evaluative studies and may determine after the studies have been completed whether to act on the pending application or to require a new application for lump sum conversion.

(4) If, after receipt of the order, the worker or his beneficiary and the insurer cannot agree on a provider or providers to perform the evaluative studies, the division shall make such designation.

AUTH: 39-71-203, MCA; IMP: 39-71-741, MCA

3. On April 15, 1985, the Governor signed S.B. 281, amending section 39-71-741, MCA, which became effective immediately. The statute, as amended regarding conversions of biweekly permanent disability workers' compensation benefits to lump sums, imposes substantially new criteria for such conversions and their approval or denial by the division. The statute presumes that biweekly payments are in the best interests of the worker or his beneficiary and that a lump sum conversion must be the exception rather than the rule. The division can only approve lump sum conversions if the worker or his beneficiary demonstrates that his ability to sustain himself financially is more probable with a lump sum conversion than with the biweekly payments and his other resources. Rules concerning proper documentation and careful procedure to evaluate a worker's or beneficiary's demonstration of his ability to sustain himself financially are needed to protect the health and welfare of applicants for lump sum conversions.

4. Interested persons may present their data, views and arguments either orally or in writing at the hearing. Written arguments, views or data may also be submitted to the Workers' Compensation Division, 5 South Last Chance Gulch, Helena, Montana 59601, no later than July 12, 1985.

5. Mr. Harold Wilcox has been designated to preside over and conduct the hearing.

6. The authority of the division to adopt the proposed rules is based on section 39-71-203, MCA, and chapter 471, Laws of 1985, and implements section 39-71-741, MCA.

Gary L. Blewett

GARY L. BLEWETT, Administrator
Workers' Compensation Division

Certified to the Secretary of State June 3, 1985.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE ADOPTION) of Rule I relating to) gasohol blenders.)	NOTICE OF PUBLIC HEARING on the Proposed Adoption of Rule I relating to gasohol blenders.

TO: All Interested Persons:

1. On July 3, 1985, at 10:00 a.m., a public hearing will be held in the Fourth Floor Conference Room of the Mitchell Building, Corner of Fifth & Sanders Streets, at Helena, Montana, to consider the adoption of Rule I relating to gasohol blenders.

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

RULE I GASOHOL BLENDERS (1) Pursuant to 15-70-201(6)(e), MCA, a person who blends alcohol with gasoline to produce gasohol is a "distributor" if no tax has been paid on the alcohol or gasoline which is blended to produce gasohol. As a distributor, the gasohol blender is responsible for paying the tax on all the alcohol and gasoline which has not been taxed and which is used to produce gasohol. If the person qualifies as a distributor solely on the basis of blending alcohol and gasohol, the person is a distributor only with respect to the alcohol and gasoline used to produce gasohol.

(2) The blending of alcohol with gasoline to produce gasohol does not make the gasohol blender a distributor for the purpose of the payment of the tax which is due on gasoline which is not blended with alcohol to produce gasohol. If the gasohol blender receives gasoline upon which no tax has been paid and which is not used to produce gasohol, the blender must qualify as and meet all the requirements to be either a distributor under 15-70-201(6)(a), (b), or (d), MCA, or a "wholesale distributor" under 15-70-201(6)(c), MCA, and pay the tax. Sections 15-70-201(6)(a), (b), (c), and (d) are the requirements for being a distributor or wholesale distributor on a basis other than being a gasohol blender. Only if the gasohol blender qualifies under these other requirements can that blender purchase gasoline without tax for resale as gasoline.

(3) The gasohol blender must comply with all the laws and rules which apply to distributors.

AUTH: 15-70-104, MCA, and Sec. 5, Ch. 697, L. 1985; IMP: Ch. 697, L. 1985.

3. The Department proposes to adopt this rule because Chapter 697, L. 1985, changed the basic gasoline license tax to make a gasohol blender a "distributor" who is liable for the tax on the alcohol which is blended with gasoline to produce gasohol. This rule is necessary to clarify the gasohol blender's liability for the tax on gasoline which is blended with alcohol to produce gasohol and the gasoline which is not blended with alco-

hol to produce gasohol.

4. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to:

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

no later than July 12, 1985.

5. Opal Winebrenner, Agency Legal Services, Department of Justice, has been designated to preside over and conduct the hearing.

6. The authority of the Department to make the proposed amendment is based on § 15-70-104, MCA, and Sec. 5, Ch. 697, L. 1985, and implements Ch. 197, L. 1985.

JOHN D. LaFAVER, Director
Department of Revenue

Certified to Secretary of State 06/03/85

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT of Rules 42.27.603 and 42.27.604 relating to the alcohol tax incentive for exported alcohol.	))))	NOTICE OF PUBLIC HEARING on the Proposed Amendment of Rules 42.27.603 and 42.27.604 relating to the alcohol tax incentive for exported alcohol.

TO: All Interested Persons:

1. On July 3, 1985, at 10:00 a.m., a public hearing will be held in the Fourth Floor Conference Room of the Mitchell Building, Corner of Fifth & Sanders Streets, at Helena, Montana, to consider the amendment of rules 42.27.603 and 42.27.604 relating to the alcohol tax incentive for exported alcohol.

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

42.27.603 PROCESSING OF THE TAX INCENTIVE PAYMENT (1) The alcohol distributor shall make one application, on forms available from the motor fuel tax division, for the payment of the tax incentive to the division not later than the 25th day of the calendar month following the month or months during which the alcohol was sold and delivered to the gasohol ~~distributer~~ dealer or alcohol purchaser. The alcohol distributor may not submit more than one application during a month. If alcohol is omitted from one month's application, it may be applied for in the application for a subsequent month.

(2) The application must be accompanied by the original or a copy of the production records and invoices for all the alcohol for which the alcohol distributor is applying for the tax incentive payment.

(3) The application must contain:

(a) the name of the alcohol distributor;

(b) the license number of the alcohol distributor;

(c) the total number of gallons of alcohol manufactured, exported, or imported by the distributor during the preceding calendar month;

(d) the name of each gasohol dealer to whom the alcohol was sold; ~~and~~

(e) the gasoline distributor license number of the gasohol dealer;

~~(e)~~ (f) the number of gallons of alcohol sold to each dealer or purchaser; and

(g) the date and the place the alcohol was blended with gasoline to produce gasohol.

(4) If the application includes alcohol which was exported from Montana prior to being blended with gasoline to produce gasohol, the application must be accompanied by a certificate of blending from the alcohol purchaser on a form which is furnished by the division. The certificate must be completed and signed

by the out of state alcohol purchaser and must include:

(a) the license number or numbers, if any, of the purchaser in the state or states where the gasohol was distributed;

(b) the address and telephone number of the alcohol purchaser;

(c) the number of gallons of gasohol which were produced by the purchaser from the alcohol which was produced in Montana;

(d) the statement that the alcohol was blended with gasoline at a ratio of at least one gallon of alcohol to nine gallons of gasoline; and

(e) the name, license number, and address of the person who actually blended the alcohol with gasoline and the number of gallons of gasohol which was produced if he is not the alcohol purchaser.

Subsections (4) through (8) remain the same but will be renumbered.

AUTH: 15-70-104, MCA, and Sec. 5, Ch. 697, L. 1985; IMP: Title 15, chapter 70, part 5, MCA.

42.27.604 PAYMENT OF ALCOHOL TAX INCENTIVE (1) ~~Pursuant to 15-70-523(3), MCA, the alcohol tax incentive payment shall be reduced by the amount of tax due on alcohol to be blended for gasohol under 15-70-204, MCA.~~

~~(2)~~ Except as provided for in 15-70-522(3), MCA, the net alcohol tax incentive payment on each gallon of alcohol distilled under 15-70-522(1), MCA, ~~after adjustment for the tax due under 15-70-204(3), MCA,~~ is:

Date	Tax Incentive Payment per Gallon
After July 1, 1983	~~55~~ 70¢
After April 1, 1985	~~35~~ 50¢
After April 1, ~~1986~~ 1987	~~15~~ 30¢
After April 1, 1989	No payment

~~(3)~~ (2) In order to qualify for the above tax incentive payment, the alcohol must be both sold and delivered prior to the date specified in subsection ~~(2)~~ (1).

~~(4)~~ (3) The division shall calculate the share of the total nonaviation gasoline and gasohol market represented by gasohol according to information contained in the gasoline distributor's returns, the applications, and the certificates of blending on the first state business day after April 1, July 1, October 1, January 1 of each year the act is in effect. The tax incentive payment provided for in subsection ~~(2)~~ (1) shall be modified in accordance with the provisions of 15-70-522(3), MCA, effective April 1, July 1, October 1, or January 1.

(4) Alcohol which was exported from Montana and on which the tax incentive was paid shall be calculated as part of the

nonaviation gasoline and gasohol market at the ratio of 1 gallon of alcohol equal to 10 gallons of gasohol.

(5) The modifications in the tax incentive provided for in 15-70-522(3), MCA, shall be calculated using the following formula:

$$\text{Market Share of Gasohol} = \frac{\text{Exported Gasohol + Instate Gasohol}}{\text{Instate Gasoline + Instate Gasohol}}$$

(6) The terms used in subsection (5) are defined as follows:

(a) "Gasoline" is the total nonaviation gasoline sold at retail in Montana during the applicable quarter.

(b) "Instate gasohol" means any gasohol sold at retail in Montana during the applicable quarter.

(c) "Exported gasohol" means gasohol blended in Montana and exported from Montana and alcohol exported from Montana prior to retail sale as calculated under subsection (4) during the applicable quarter.

AUTH: 15-70-104, MCA, and Sec. 5, Ch. 697, L. 1985; IMP: Title 15, chapter 70, part 5, MCA.

3. The Department proposes to amend rules 42.27.603 and 42.27.604 because Chapter 697, enacted by the 1985 Legislature, allows a tax incentive for alcohol which is exported from Montana. This is a change from the current law. Since a subsidy is only allowed if the alcohol is blended with gasoline to produce gasohol, it is necessary to document the final use of the alcohol once it leaves Montana. The law calls for a "certificate of blending issued by the alcohol purchaser". The proposed amendments state what the certificate of blending must contain in order for the alcohol to receive the subsidy.

The amount of money that is paid directly to the alcohol producer has been changed by the amendment to the law. Previously the tax on the alcohol was deducted from the subsidy payment prior to payment of the subsidy. The new act provides for the collection of the tax from the person who blends the alcohol with gasoline in Montana to produce gasohol. Therefore, the subsidy payment schedule was changed in these rules.

Finally, the proposed amendments to ARM 42.27.604(4) specify exactly how the exported alcohol will be factored into the "cap" on the payments.

4. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to:

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

no later than July 12, 1985.

5. Opal Winebrenner, Agency Legal Services, Department of Justice, has been designated to preside over and conduct the hearing.

6. The authority of the Department to make the proposed amendments is based on § 15-70-104, MCA, and Sec. 5, Ch. 697, L. 1985. The rules implement Title 15, chapter 70, part 5, MCA, and Secs. 1 through 6, Ch. 697, L. 1985.

JOHN D. LaFAVER, Director
Department of Revenue

Certified to Secretary of State 06/03/85

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE ADOPTION) of Rule I to require tax-) payers to pay taxes due of) $500,000 or greater by) electronic funds transfer.)	NOTICE OF THE PROPOSED ADOPTION of Rule I to require taxpayers to pay taxes due of $500,000 or greater by electronic funds transfer.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On July 15, 1985, the Department proposes to adopt new rule I requiring taxpayers to pay taxes due of $500,000 or greater by electronic funds transfer.

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

RULE I ELECTRONIC FUNDS TRANSFER (1) Effective July 1, 1985, every taxpayer who has a tax liability of $500,000 or greater must make payment by electronic funds transfer. Also, the department of revenue will accept voluntary payments by electronic funds transfer from any taxpayer that has a tax liability of less than $500,000. The tax return must be filed and the electronic funds transfer made by the tax due date or the appropriate late filing and late payment penalties and interest will be applied.

(2) In order to comply with the appropriate tax filing requirements, the taxpayer should notify his bank by the due date to initiate an electronic funds transfer. The correct format required for an electronic funds transfer message, to properly transfer funds from the taxpayer's account to the Montana state treasurer's account, should be:

(a) name of taxpayer;
(b) type of tax;
(c) amount transferred;
(d) name of correspondent bank;
(e) correspondent bank account number;
(f) name of receiving bank;
(g) city and state of receiving bank;
(h) ABA nine-digit identifier number of receiving bank;
(i) receipient's account number; and
(j) recipient's account name.

(3) If for some reason there is a technical problem in successfully making the electronic funds transfer, the cashier at the receiving bank should be contacted to resolve the problem by the tax filing due date.

(4) The taxpayer shall place on the tax return a notation, stamp, or other indication informing the department that payment was made by electronic funds transfer.

AUTH: Sec. 3, Ch. 96, L. 1985; IMP: Ch. 96, L. 1985.

3. The Department proposes to adopt the Rule I because Chapter 96, Laws of 1985, requires that payment of taxes due the Department of Revenue be made by electronic funds transfer whenever the amount due is $500,000 or greater. Section 3 of Chapter 96 requires the Department adopt rules which:

(a) coordinate the filing of tax returns with the payment of taxes by electronic funds transfer; and

(b) specify the form and content of electronic funds transfer messages in order to ensure the proper receipt and crediting of the tax payment.

It is anticipated that approximately 30-40 taxpayers will be affected by this law and 80-120 tax payments per year will be made by electronic funds transfer.

4. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to:

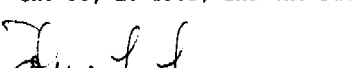
Ann Kenny
Department of Revenue
Legal Division
Mitchell Building
Helena, Montana 59620

no later than July 12, 1985.

5. If a person who is directly affected by the proposed amendments wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Ann Kenny at the above address no later than July 12, 1985.

6. If the agency receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed adoption; from the Administrative Code Committee of the Legislature; from a governmental subdivision, or agency; or from an association have no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 4 based on the estimated 40 taxpayers who will be affected by this rule.

7. The authority of the Department to make the proposed adoption is based on Sec. 3, Ch. 96, L. 1985, and the rule implements Ch. 96, L. 1985.



JOHN D. LaFAVER, Director
Department of Revenue

Certified to Secretary of State 06/03/85

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMEND- MENT of Rule 42.12.111 to add) a processing fee for the beer) importer license.)	NOTICE OF THE PROPOSED AMEND- MENT of Rule 42.12.111 to add a processing fee for the beer importer license.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On July 15, 1985, the Department of Revenue proposes to amend rule 42.12.111 to add a processing fee for the beer importer license.

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

42.12.111 APPLICATION PROCESSING FEES (1) The following are the fees to be charged for processing applications for new licenses:

All-beverages license (including veterans' or fraternal)	$100
Catering endorsement (for use with existing all-beverages license)	$ 50
All-beverages license with catering endorsement (when applied for concurrently)	$100
Retail on-premises beer license (including veterans' or fraternal)	$100
Wine amendment (for use with existing on-premises retail beer license)	$ 50
Retail on-premises beer license and wine amendment (when applied for concurrently)	$100
Retail off-premises beer license	$100
Retail off-premises table wine license	$100
Retail off-premises beer and table wine license (when applied for concurrently)	$100
Wholesale beer license	$100
Wholesale beer sub-warehouse license	$ 50
Wholesale table wine license	$100
Wholesale table wine sub-warehouse	$ 50
Wholesale beer and table wine license	$100
Brewer's license	$100
Beer importer's license	$100
Resort all-beverages license	$100

(2) through (7) remain the same.

AUTH: 16-1-303, MCA, and Sec. 23, Ch. 17, L. 1985; IMP: 16-1-302 and 16-1-303, MCA.

3. The Department proposes to amend rule 42.12.111 because Chapter 17, Laws of 1985, created a beer importer license. Rule 42.12.111 sets forth the license application processing fees.

Rule 42.12.111 is proposed to be amended to include the beer importer license with a processing fee of $100 and to provide public notice of the required fee.

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

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

no later than July 12, 1985.

5. If a person who is directly affected by the proposed amendments wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Ann Kenny at the above address no later than July 12, 1985.

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

7. The authority of the Department to make the proposed amendments is based on § 16-1-303, MCA, and Sec. 23, Ch. 17, L. 1985, and the rule implements §§ 16-1-302 and 16-1-303, MCA.

JOHN D. LaFAVER, Director
Department of Revenue

Certified to Secretary of State 06/03/85

BEFORE THE DEPAPTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE REPEAL of Rule 42.12.123 to remove the requirement that a business operated on the same premises as a licensed alcoholic beverage business be "closed off" from 2 a.m. to 8 a.m.	NOTICE OF THE PROPOSED REPEAL of Rule 42.12.123 to remove the requirement that a business operated on the same premises as a licensed alcoholic beverage business be "closed off" from 2 a.m. to 8 a.m.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On July 15, 1985, the Department of Revenue proposes to repeal rule 42.12.123 to remove the requirement that a business operated on the same premises as a licensed alcoholic beverage business be "closed off" from 2 a.m. to 8 a.m.

2. The rule as proposed to be repealed can be found on pages 42-1221 and 42-1222 of the Administrative Rules of Montana.

3. The Department proposes to repeal rule 42.12.123 because Chapter 347, Laws of 1985, amended §§ 16-3-304 and 16-3-305, MCA, by removing the requirement that a business operated on the same premises as an establishment licensed to sell alcoholic beverages close off from 2 a.m. to 8 a.m. the part where alcoholic beverages are sold. The repeal of rule 42.12.123 is proposed because it requires closing off the area where alcoholic beverages are sold from any other business operated on the premises.

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

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

no later than July 12, 1985.

5. If a person who is directly affected by the proposed amendments wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Ann Kenny at the above address no later than July 12, 1985.

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

ture; from a governmental subdivision, or agency; or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 25.

7. The authority of the Department to repeal the rule is based on § 16-1-303, MCA, and the rule implements §§ 16-3-304 and 16-3-305, MCA.

JOHN D. LaFAVER, Director
Department of Revenue

Certified to Secretary of State 06/03/85

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption of rules pertaining to the conduct of certain specific elections by mail ballot	NOTICE OF PUBLIC HEARING FOR PROPOSED ADOPTION OF RULES - PROCEDURES FOR CONDUCTING CERTAIN SPECIFIC ELECTIONS BY MAIL BALLOT

TO: All Interested Persons:

1. On July 3, 1985, at 10:00 a.m., a public hearing will be held in Room 104, Capitol Building, Helena, Montana, to consider the adoption of rules to establish and maintain uniformity in the conduct of mail ballot elections; establish procedures that prevent fraud, ensure the accurate handling and canvassing of mail ballots and ensure that the secrecy of voted ballots is maintained.

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

3. The proposed rules provide as follows:

RULE I INTRODUCTION, SCOPE AND INTENT (1) The mail ballot election option is established to increase the alternatives available to local election officials and governing bodies of affected jurisdictions as they seek to provide for representative government in the most cost-effective manner.

(2) It is intended that use of the mail ballot procedures is entirely optional and within the discretion of the affected jurisdiction and election administrator. Nothing in these rules should be interpreted as requiring either the election administrator or the applicable jurisdiction to select or use the mail ballot option.

(3) The mail ballot option is authorized only for those elections specifically enumerated in the Act. It is intended that the option be used only for those elections for which special circumstances make it potentially the most desirable of the available options.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 4, Chap. 196, L. 1985 (SB 169)

RULE II ROLE OF THE SECRETARY OF STATE (1) The secretary of state is empowered under the Act to:

(a) prescribe the form of materials to be used in the conduct of mail ballot elections;

(b) review written plans for the conduct of each mail ballot election conducted under the Act; and

(c) adopt rules to establish and maintain uniformity in the conduct of mail ballot elections and establish procedures that:

(i) prevent fraud;

(ii) ensure the accurate handling and canvassing of mail ballots; and

(iii) ensure that the secrecy of the voted ballots is maintained.

(2) These are the rules adopted to establish and maintain uniformity in the conduct of mail ballot elections and to establish procedures that prevent fraud, and insure accuracy and secrecy.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 6, Chap. 196, L. 1985 (SB 169)

RULE III DEFINITIONS (1) In addition to the terms defined in the Act, and unless the context clearly requires otherwise, the following terms shall have the following meanings:

(a) "Transmittal envelope" is the envelope in which the ballot, instructions for voting, ballot secrecy envelope and return/verification envelope are mailed to each individual elector eligible to vote in the election.

(b) "Ballot packet" is the transmittal envelope after it has been assembled to contain all of the materials to be mailed in that envelope and has been addressed to a particular elector.

(c) "Early voting" is voting that takes place after ballots are available and before they are mailed to electors.

(d) "The Act" means Chapter 196 of the Laws of Montana, 1985.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 2, Chap. 196, L. 1985 (SB 169)

RULE IV INITIATION OF USE IN MULTI-COUNTY DISTRICT (1) Some special districts authorized to conduct elections using the mail ballot procedure are not confined within the boundary of a single county. When such a district desires to conduct an election by mail ballot, these are the procedures to be followed in initiating such an election.

(2) If the initiative is taken by the applicable governing body, it shall proceed as provided in section 8 of the Act, except that the requesting resolution shall be addressed to the election administrator in each affected county.

(3) Each election administrator involved may make their own independent judgement as to whether the mail ballot election will be used for that election in the portion of the district which lies within their county.

(4) Unless each affected election administrator agrees, the mail ballot option may not be used to conduct the election in that district or any portion thereof.

(5) The election administrators may cooperate in the initiation and conduct of an election under the mail ballot procedures in a multi-county district. They shall designate one person as the chief election administrator for the conduct of that single election in that district.

(6) If the initiative for the use of the mail ballot option in a multi-county district is taken by the election administrators, then they shall proceed as provided in section 9 of the Act, except that some form of written concurrence to

both the written plan and the designation of a chief election administrator shall be signed by each election administrator involved and accompany the written plan.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 8 AND 9, Chap. 196, L. 1985 (SB 169)

RULE V WRITTEN PLAN SPECIFICATIONS (1) The written plan for the conduct of the election shall at least include:

(a) a statement indicating the type of jurisdiction involved including sufficient information to demonstrate that it is in fact one of the jurisdictions for which the mail ballot option is available;

(b) a description of the type of election to be conducted;

(c) the number of eligible electors in the jurisdiction at the time the plan is written;

(d) if use of the procedure is being initiated by the jurisdiction, then a copy of the resolution by the political jurisdiction requesting the election;

(e) if the jurisdiction is a multi-county district, a listing of the other election administrators involved and a statement designating which one will function as the chief election administrator for that specific election;

(f) a description of the "special circumstances" which make using the mail ballot option potentially the most desirable of the available options;

(g) if proportional voting is required, a reference to the applicable statute and a complete description of the method to be used to satisfy the statutory requirements for proportional voting;

(h) if voting is permitted by electors who are eligible but otherwise not registered, a description of the eligibility requirements;

(i) the total number of "Places of Deposit" contemplated, if any, together with the address of each and a description of its nature;

(j) a written timetable for the conduct of the election prepared in accordance with the specifications set forth in [Rule VI] below;

(k) a description of the addressing method to be used and an estimate of the amount of time it will take to address all of the envelopes. If labels are to be used, this item would include the way labels are prepared, the amount of time estimated for preparing labels, and the amount of time required to apply all of the labels;

(l) best estimates of the time it will take to complete each step in the pre-mailing production process and the projected date on which ballots will be mailed to electors;

(m) an indication of how postage will be handled for:

(i) distribution (e.g. first class or bulk, etc. and permit, stamps or meter, etc.);

(ii) returned as undeliverable (e.g. "return postage guaranteed"); and

(iii) returns (e.g. elector to apply own postage or postage pre-paid, how);

(n) a brief narrative of arrangements reached with local postal officials. Include any special problems identified by postal officials and the proposed solution;

(o) a brief narrative of the procedures to be followed from the time the ballots are received from the electors until they are tabulated;

(p) a description of the procedures to be used to ensure ballot security at all stages of the process;

(q) sketches for each major phase of the process showing simple floor plans of the working area where ballots will be processed, including approximate dimensions, and indicating the functions to be performed at each work space in the room; and

(r) the names of persons responsible for the individual steps in the mail ballot election procedure.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 11, Chap. 196, L. 1985 (SB 169)

RULE VI WRITTEN TIMETABLE SPECIFICATIONS (1) The election administrator shall prepare a written timetable for the conduct of the mail ballot election. The timetable shall be in check-off form. It may contain additional activities and may be arranged in a different chronological order but otherwise shall be in substantially the following form:

# DAYS PRECEDING ELECTION	CALENDAR DATE	ACTIVITY
_____	_____	Initial conversations with parties involved including postal officials, your staff, and officials of the jurisdiction.
_____	_____	Written plan prepared.
_____	_____	Copy of written plan to governing body.
_____	_____	Last day for governing body to opt out.
_____	_____	Submission of written plan to secretary of state's office.
_____	_____	Approval by secretary of state.
_____	_____	Ordering of ballot envelopes.
_____	_____	Layout ballot.
_____	_____	Materials to printer (including instructions to voters).
_____	_____	Publish notice specifying close of registration as provided by 13-2-301(b), MCA.

_____	_____	Close of registration as provided by 13-2-301(a), MCA.
_____	_____	Notification of news media.
_____	_____	Publish notice of election as provided by 13-1-401(3), MCA.
_____	_____	Complete arrangements for addressing envelopes
_____	_____	Labels of eligible electors' names and addresses prepared and proofed.
_____	_____	Work space organized with individual process areas labeled and all supplies such as mail trays in place.
_____	_____	Poll books prepared.
_____	_____	All logs and necessary forms prepared.
_____	_____	Receipt of ballot and other printed material from printer.
_____	_____	Notify post office of projected mailing date.
_____	_____	Preparation of mail ballot packets for mailing.
_____	_____	Ballots mailed.
_____	_____	Extra personnel hired, if any.
_____	_____	Extra personnel trained, if any.
_____	_____	Begin initial verification of signatures.
_____	_____	Last day for a notification of electors by mail.
_____	_____	Election day.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 11, Chap 196, L. 1985 (SB 169)

RULE VII PROPORTIONAL VOTING (1) Some of the special districts authorized to conduct elections using the mail ballot procedure require votes to be cast and/or counted in proportion to property ownership or some factor other than one vote per person. When such is the case, the election administrator shall:

(a) make a determination as to whether the particular

proportional voting requirements can be satisfied using the mail ballot procedures; and

(b) if so, include in the written plan the specific methods and procedures which will be used to implement the statutory requirements for proportional voting in that election.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 12, Chap. 196, L. 1985 (SB 169)

RULE VIII PROCEDURES FOR VOTING IN PERSON (1) In certain instances where the mail ballot election option is being used, some electors will none-the-less vote in person at a designated location. These instances may include:

(a) early voting by an elector who will be absent from his place of residence during the conduct of the election;

(b) voting by nonregistered but otherwise qualified electors; and

(c) electors requesting a replacement ballot.

(2) Any elector voting in person shall proceed as provided in section 16 of the Act.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 6, Chap. 196, L. 1985 (SB 169)

RULE IX DISPOSITION OF BALLOTS VOTED IN PERSON (1) A ballot voted in person shall be processed in the following manner:

(a) If the affidavit on the return/verification envelope is signed in the presence of an election official after proof of identification or upon the oath of the elector duly administered, then the witnessing official shall so note on the envelope near the signature and process the vote without further signature verification.

(b) Election officials shall assure that the full name and address of the elector is printed on the return/verification envelope in the space provided.

(2) A log, in a form prescribed by the secretary of state, shall be kept and every instance of voting in person shall be recorded.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 20, Chap. 19, L. 1985 (SB 169)

RULE X VOTING BY NONREGISTERED ELIGIBLE ELECTORS (1) Some elections authorized to use the mail ballot procedure do not require an otherwise qualified elector to be registered. Certain provisions must therefore be made to allow any such qualified electors to participate in that election.

(2) When such an individual appears in person and demonstrates an eligibility to vote as provided in 7-13-2212(2), 7-33-2106(2), 85-7-1710(1)(2), 85-8-305(1), MCA, or a similar section, he must be allowed to vote, by either:

(a) voting in person at that time, provided the ballots are available, and in the manner provided in [Rules VIII & IX] above; or

(b) completing and signing, for subsequent signature verification purposes, a mailing address designation card as provided in [Rule XI] below.

(3) In each case of voting by a nonregistered but otherwise eligible elector, officials shall:

(a) duly note the elector's nonregistered status on the return/verification envelope, either at the time of voting if in person, or prior to mailing; and

(b) enter the elector's name in the poll book, on an addendum page provided for that purpose, and include all names so entered in their poll book reconciliation.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 23, Chap. 196, L. 1985 (SB 169)

RULE XI DESIGNATION OF MAILING ADDRESS OR ALTERNATIVE ADDRESS (1) In certain instances electors may designate the address to which their ballot is to be mailed. These instances include:

(a) electors who will be absent from their place of residence during the conduct of the election; and

(b) if applicable, electors who are not registered but are otherwise entitled to vote in that election and who do not wish to appear and vote in person.

(2) In these cases, and after complying with the requirements of law, the elector may designate the address to which his ballot is to be mailed by completing an Address Designation Card, in a form prescribed by the secretary of state and provided for that purpose, until noon the day before ballots are scheduled to be mailed.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 6, Chap. 196, L. 1985 (SB 169)

RULE XII REPLACEMENT BALLOTS (1) Replacement ballots are provided in order to afford to the elector a maximum opportunity to participate, recognizing that the mail ballot procedure subjects a ballot to unusual circumstances and potential destruction. While control of replacement ballots is strictly defined, every attempt should be made to facilitate and provide for the unique needs of an elector.

(2) Replacement ballots must be requested in writing as provided in section 17 of the Act. However, a Replacement Ballot Request, in a form prescribed by the secretary of state, may be delivered to an elector in response to any type of request.

(3) In each case where an appropriate request for a replacement ballot has been received, the election administrator shall:

(a) prior to mailing the replacement ballot, check the poll book to verify that the elector is entitled to vote and has not at that point done so;

(b) note in the pollbook that a replacement ballot has been mailed and the date;

(c) stamp on the return/verification envelope the words "REPLACEMENT BALLOT"; and

(d) enter in the log he maintains for that purpose, the record of a replacement ballot having been issued.

(4) Replacement ballots subsequently voted and returned by an elector shall be processed according to the established procedures. Particular care shall be taken to insure that no more than one ballot is validated from any elector and any attempt to vote more than once shall be reported as required by the Act.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 17, Chap. 196, L. 1985 (SB 169)

RULE XIII DISPOSITION OF BALLOTS RETURNED AS UNDELIVERABLE (1) Ballots returned by the post office as undeliverable should be filed in alphabetical order and shall be securely retained.

(2) Whenever election officials are notified by an elector that the elector has not received a ballot, they may:

(a) check the ballots which have been returned as undeliverable;

(b) if the elector's ballot is found there, then deliver it to the elector either in person or, after address verification, by mail;

(c) provide a Change of Address card if appropriate; and

(d) make the appropriate notation in the daily Ballot Return Log.

(3) Redelivery of a ballot which had been returned as undeliverable is not synonymous to providing a replacement ballot.

(4) The retention and disposition of undeliverable ballots shall be as provided by law for all election materials.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 6, Chap. 196, L. 1985 (SB 169)

RULE XIV PLACES OF DEPOSIT (1) The Act provides that the election administrator may designate one or more places within the political subdivision in which the election is conducted as places of deposit where ballots may be returned by the elector.

(2) Whenever a place of deposit is designated, the election administrator shall also designate a person to be responsible for all mail ballot election procedures at that place of deposit. Such designated person shall:

(a) be duly appointed and deputized as provided by law;

(b) take and subscribe to the appropriate oath of office;

(c) serve for the duration of the conduct of that specific election;

(d) be duly trained by the election administrator;

(e) be personally available at such place of deposit during a substantial portion of the hours that it is open for business;

(f) personally insure that all required procedures are adhered to; and

(g) personally ensure that all ballots and other official materials in his possession are and remain secure at all times.

(3) The election administrator shall provide a transport box, secured as required, for the deposit of ballots returned to each place of deposit.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 19, Chap. 196, L. 1985 (SB 169)

RULE XV PROCEDURES WHEN BALLOTS RETURNED TO PLACES OF DEPOSIT (1) Officials at designated places of deposit, other than the election administrator's office, have the duty to:

(a) receive ballots being returned by electors;

(b) keep records of the ballots returned to their location including the names of the persons delivering them; and

(c) keep all returned ballots secure until they are transported to the processing center.

(2) Whenever a ballot is returned to a place of deposit, the officials present shall:

(a) initially examine the return/verification envelope to determine if any procedural mistakes on the part of the elector are readily apparent;

(b) advise the elector of any such mistakes and of what the elector must do to render his ballot valid;

(c) record in a log maintained for that purpose the name of the person returning the ballot and, if different, the name of the elector whose ballot is being returned;

(d) have the person sign the log next to where his name is entered, and

(e) deposit the return/verification envelope in the transport box provided.

(3) The procedures outlined in paragraph (2) above are in addition to, and not a substitute for, the signature verification and ballot validation procedures required by the Act.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 20, Chap. 196, L. 1985 (SB 169)

RULE XVI PROCEDURES FOR TRANSPORTING BALLOTS (1) Whenever the mail ballot option is used, ballots may need to be transported from places of deposit or to and from the post office.

(2) The procedures for transporting ballots shall be substantially similar to procedures used to transport ballots in a regular election, including the requirement that at least two officials shall be present at all stages whenever ballots are transported.

(3) In addition, the election administrator shall keep a record of each instance when ballots are transported and shall include in that record the number of ballots, the locations, the date and time of day, and the officials transporting.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 6, Chap. 196, L. 1985 (SB 169)

RULE XVII PROCEDURES TO SECURE BALLOTS (1) Ballots and related materials must be secure at all times.

(2) The procedures to secure ballots and materials shall be substantially similar to procedures used to secure ballots in a regular election, including:

(a) placing seals on all ballot boxes and transport boxes;

(b) maintaining records of all seal numbers;

(c) verifying the accuracy of seal numbers at appropriate steps in the process;

(d) maintaining records of each case when a seal is attached or broken and removed;

(e) maintaining records, which may be subsequently reconciled, of each major processing step; and

(f) having officials, who are acting under oath, sign or initial when they have taken or witnessed a significant action.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 6, Chap. 196, L. 1985 (SB 169)

RULE XVIII RECORDS OF BALLOTS RECEIVED (1) The election administrator shall record in a log he maintains for that purpose the number and source of all ballots received at the processing center including:

(a) the number of ballots received daily from the post office;

(b) the number of ballot packets returned as undeliverable each day;

(c) the number of ballots returned or voted in person each day; and

(d) the number of ballots received from any place of deposit on the day they are transported to the processing center.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 6, Chap. 196, L. 1985 (SB 169)

RULE XIX SIGNATURE VERIFICATION PROCEDURES (1) The ultimate test in signature verification is whether or not officials are convinced that the individual signing the affidavit is the same as the one whose name appears on the registration card. In making their determination, officials may include consideration of factors like:

(a) whether the capital letters match;

(b) whether letters tail off similarly;

(c) whether letter spacing is similar;

(d) whether the overall appearance is substantially similar; and

(e) whether the relationship of the signature to the signature line is similar.

(2) Whenever a particular signature is in doubt, the more instances of similarity in factors like those listed in (1) above, then the greater the presumption of validity should be. Conversely, the more the instances of dissimilarity, then the greater the presumption of invalidity should be.

(3) Signatures are not required to be identical in either form or content. It is sufficient if a substantial similarity exists, so long as officials can determine that the signitors

are the same individual. So, the use of a common name abbreviation, or substituting an initial in place of a first or middle name, will not necessarily invalidate the signature.

(4) The election administrator may accept assistance from law enforcement personnel for training in signature verification procedures.

(5) The official shall check and initial each envelope as the signature is verified.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 22, Chap. 196, L. 1985 (SB 169)

RULE XX RECORD OF QUESTIONED BALLOTS (1) In each case where a returned ballot (other than those returned by the post office as undeliverable) is not validated for counting, whether because the signature cannot be verified, a procedural mistake has been made by the elector, or some other reason, the election administrator shall enter in a log he maintains for that purpose, the following information:

(a) the name of the elector involved;

(b) the nature of the item in question;

(c) the date, time, and manner by which notice to the elector was given or attempted; and

(d) the final resolution of the question and the manner in which it was resolved.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 6, Chap. 196, L. 1985 (SB 169)

RULE XXI TRANSMITTAL ENVELOPE (1) The transmittal envelope shall be in substantially the same form as prescribed by the secretary of state.

(2) The words "OFFICIAL BALLOT - DO NOT DELAY", "DO NOT FORWARD - RETURN TO SENDER" and the full official return address of the election administrator conducting the election shall appear on the face of the envelope. The flap side of the envelope may have "VOTE AND RETURN PROMPTLY" printed in large type.

(3) The transmittal envelope may be a window envelope so that the name and address on the enclosed return/verification envelope is visible.

(4) Addressing the transmittal envelope to the proper elector is not a substitute for also affixing the elector's name and address to the return verification envelope.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 6, Chap. 196, L. 1985 (SB 169)

RULE XXII RETURN/VERIFICATION ENVELOPE (1) The return/verification envelope is used by the elector to mail or return the voted ballot to the proper election administrator and it shall be in substantially the same form as prescribed by the secretary of state.

(2) The face of the envelope should have the address of the election administrator both as return address and, in larger type, as mailing address. The words "POSTMASTER:

OFFICIAL BALLOT - DO NOT DELAY" should also appear.

(3) In the upper-right hand corner should be the words "Place Sufficient Postage Here (1st Class)" enclosed in a box to indicate stamp placement.

(4) The flap side of the envelope should show by corner brackets where the elector's name and address is to be placed with the following words printed immediately below: "POSTMAN: DO NOT DELIVER TO THIS ADDRESS--(SEE OTHER SIDE)."

(5) Beside this space an affidavit shall be printed in substantially the following form:

Voter's Affidavit

I, the undersigned, hereby swear/affirm that I am registered to vote in Montana or that I am entitled to vote in this election because of special provisions; that I have not voted another ballot; and that I have completed this ballot in secret. I understand that attempting to vote more than once is a violation of Montana election laws. I further understand that failure to complete the information below will invalidate my ballot."

_____ _____

(Signature of Elector) (Today's Date)

Printed on the flap shall be the words "I VOTED HERE!"

(6) The return/verification envelope should have a 1/4" diameter hole center-punched so that the ballot secrecy envelope is visible.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 6, Chap. 196, L. 1985 (SB 169)

RULE XXIII SECRECY ENVELOPE (1) The ballot secrecy envelope shall be of a size to fit within the return/verification envelope and shall be in substantially the same form as prescribed by the secretary of state. It should also feature a 1/4" diameter hole, center-punched, for ballot visibility. The words "BALLOT SECRECY ENVELOPE" should be printed on the face.

(2) The envelope used as the secrecy envelope should be of sufficient paper weight to conceal the contents.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 6, Chap. 196, L. 1985 (SB 169)

RULE XXIV INSTRUCTIONS TO VOTERS (1) Instructions shall be included with the ballot, the secrecy envelope and the return verification envelope as part of the packet mailed to the voter. The instructions shall detail the mechanical process which must be followed in order to properly cast the ballot. The instructions shall also:

(a) advise the voter that the election is to be by mail ballot only, that he must provide his own postage, if such is the case, and that regular polling places will not open;

(b) list the location where the voter may obtain a replacement ballot if his ballot is destroyed, spoiled, or lost;

(c) list the location(s) where the voter may deposit his ballot if he chooses not to mail it; and

(d) advise the voter that in order for his ballot to be counted, it must be received in the election administrator's office no later than 8:00 p.m. on the day of the election.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 6, Chap. 196, L. 1985 (SB 169)

RULE XXV POLL BOOK (1) The poll book for a mail ballot election shall be similar to the poll book for a regular election except that:

(a) it need not have a place for the elector's signature since the elector is required to sign the affidavit on the return/verification envelope instead;

(b) it should have sufficient space to record such information as the return of each validated ballot and the issuance of any replacement ballots; and

(c) it may, where voting is allowed for qualified electors who are not registered, include addendum pages on which to record the names of any such electors who are not known to officials at the time the poll book is prepared.

AUTH: Sec. 6, Chap. 196, L. 1985 (SB 169)
IMP: Sec. 6, Chap. 196, L. 1985 (SB 169)

4. The rules are being proposed to establish and maintain uniformity in regards to the procedures, forms and materials to be used in the conduct of mail elections, and to ensure the secrecy and sanctity of the electoral process as required by Title 13, MCA and Chapter 196, Laws of Montana (SB 169).

5. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Jean D. Johnson, Room 225, Capitol Building, Helena, Montana 59620, no later than July 11, 1985.

6. Jean D. Johnson, Room 225, Capitol Building, Helena, Montana, has been designated to preside over and conduct the hearing.

7. The authority and implementing sections are listed at the end of each proposed rule.

Dated this 3rd day of June, 1985

JIM WALTERMIRE
Secretary of State

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

In the matter of the amendment of Rule 46.12.3803 pertaining to medically needy income standards.	))))	NOTICE OF PUBLIC HEARING ON THE PROPOSED AMENDMENT OF RULE 46.12.3803 PERTAINING TO MEDICALLY NEEDY INCOME STANDARDS

TO: All Interested Persons

1. On July 3, 1985, at 9:30 a.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana, to consider the proposed amendment of Rule 46.12.3803 pertaining to medically needy income standards.

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

46.12.3803 MEDICALLY NEEDY INCOME STANDARDS (1) Notwithstanding the provisions found in subchapter 2, the following table contains the amount of net income protected for maintenance by family size. The table applies to SSI and AFDC-related individuals and families.

MEDICALLY NEEDY INCOME LEVELS
FOR SSI and AFDC-RELATED INDIVIDUALS
AND FAMILIES

Family Size	Monthly Income Level		Quarterly Income Level
1	$325.00		$ 975.00
2	~~375.00~~	383.00	1,125.00
3	~~400.00~~	404.00	1,200.00
4	~~425.00~~	426.00	1,275.00
5	501.00		1,503.00
6	~~564.00~~	570.00	1,692.00
7	~~624.00~~	642.00	1,872.00
8	~~685.00~~	713.00	2,055.00
9	~~744.00~~	785.00	2,232.00
10	~~804.00~~	857.00	2,412.00
11	~~864.00~~	929.00	2,592.00
12	~~923.00~~	1,001.00	2,796.00
13	~~983.00~~	1,073.00	2,949.00
14	~~1,042.00~~	1,145.00	3,126.00
15	~~1,102.00~~	1,217.00	3,306.00
16	~~1,162.00~~	1,289.00	3,486.00

(a) All families are assumed to have a shelter obligation, and no urban or rural differentials are recognized in establishing those amounts of net income protected for maintenance.

AUTH: Sec. 53-6-113 MCA
IMP: Sec. 53-6-101, 53-6-131 and 53-6-141 MCA

3. Federal regulations at 42 CFR 435.1007(a)(1) require that the income level for the Medically Needy Medicaid program be reasonably related to the benefit levels of the Aid to Families with Dependent Children program (AFDC). Since the AFDC levels have been increased by the 49th Montana Legislature, these income levels must also be raised.

4. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, Montana, 59604, no later than July 11, 1985.

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

Dave Lewis
Director, Social and Rehabilitation Services

Certified to the Secretary of State June 3, 1985.

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

In the matter of the adoption of rules pertaining to foster care support services.	))))	NOTICE OF PUBLIC HEARING ON THE PROPOSED ADOPTION OF RULES PERTAINING TO FOSTER CARE SUPPORT SERVICES

TO: All Interested Persons

1. On July 3, 1985, at 1:30 p.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana, to consider the proposed adoption of rules pertaining to foster care support services.

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

RULE I FOSTER CARE SUPPORT SERVICES, PURPOSE The purpose of this rule is to establish eligibility criteria for foster care support services. Payment for foster care support services may be made on behalf of foster children who require clothing, respite care, dietary aids, transportation, and other specific special services which are not available from other sources.

AUTH: Sec. 41-3-1103, 53-2-201, 53-4-111 MCA
IMP: Sec. 41-3-1103, 53-4-111 MCA

RULE II FOSTER CARE SUPPORT SERVICES, DEFINITIONS For the purposes of this rule, the following definitions apply:

(1) "Foster child" means any person under the age of 18 years, without regard to sex or emancipation, who has been placed in a licensed youth foster home.

(2) "Foster care support services" means a clothing allowance, respite care allowance, diet support allowance or other special need allowance paid on behalf of a foster child who has a documented need for such foster care support services.

(3) "Clothing allowance" means payments made on behalf of a foster child for clothing subject to the conditions and limitations set forth in Rule III.

(4) "Special needs allowance" means payments made on behalf of a foster child who requires medically or educationally related services or equipment which is not available from any other source. Special needs include transportation, orthopedic services and devices, eye glasses, and any other documented special requirements necessary for the foster child, subject to the conditions and limitations set forth in Rule IV.

(5) "Respite care allowance" means payments made on behalf of a foster child for assistance necessary to provide

foster parents with relief from the daily care requirements of foster children whose mental or physical condition requires special or more intense care. Respite care allowances are subject to the conditions and limitations set forth in Rule V.

(6) "Diet support allowance" means payments made on behalf of a foster child who requires special dietary supplements, aids or formulas to maintain the health of the child. Diet support allowances are subject to the conditions and limitations set forth in Rule VI.

AUTH: Sec. 41-3-1103, 53-2-201, 53-4-111 MCA
IMP: Sec. 41-3-1103, 53-4-111 MCA

RULE III FOSTER CARE SUPPORT SERVICES, CLOTHING ALLOWANCE (1) Any child placed in a licensed youth foster home is eligible for a clothing allowance if:

(a) the child is expected to be in foster care for more than 30 days;

(b) the department is making the foster care payments for the child;

(c) there is a need for a basic wardrobe which has been documented by the placing worker; and

(d) the child has not previously received a clothing allowance.

(2) The amount of the clothing allowance is determined by the child's wardrobe and the extent to which clothing is needed, but in no case may the amount exceed $100 per child.

(3) The clothing allowance must be used to purchase necessary clothing for the child.

AUTH: Sec. 41-3-1103, 53-2-201, 53-4-111 MCA
IMP: Sec. 41-3-1103, 53-4-111 MCA

RULE IV FOSTER CARE SUPPORT SERVICES, SPECIAL NEEDS ALLOWANCE (1) Any child placed in a licensed youth foster home is eligible for a special needs allowance if:

(a) the child is expected to be in foster care for more than 30 days;

(b) the department is making the foster care payments for the child;

(c) the need for a special needs allowance has been documented by the placing social worker; and

(d) all other possible resources have been exhausted.

(2) A special needs allowance is available for any documented special need of a foster child necessary to the child's health and welfare, subject to the limitations set forth in this rule.

(3) A special needs allowance for transportation costs will be authorized only for foster children who must travel to secure necessary medical services or special educational or training services.

(a) To be eligible for reimbursement for transportation costs, the following requirements must be met:

(i) travel one-way must be ten or more miles; and

(ii) transportation is necessary to obtain services not reasonably available in closer proximity to foster parents' residence; and

(iii) transportation is approved in advance by the department.

(b) Transportation shall be by the least expensive available means suitable to the foster child's medical needs.

(4) All special needs allowances shall be limited for the time the child requires support services to the lesser of:

(a) actual costs; or

(b) $50 per month per child; or

(c) $600 per year per child.

AUTH: Sec. 41-3-1103, 53-2-201, 53-4-111 MCA
IMP: Sec. 41-3-1103, 53-4-111 MCA

RULE V FOSTER CARE SUPPORT SERVICES, RESPITE CARE ALLOWANCE (1) Any child placed in a licensed youth foster home is eligible for respite care allowance for his or her foster parents(s) if:

(a) the child is expected to be in placement for more than 30 days;

(b) the department is making foster care payments for the child; and

(c) the child is:

(i) developmentally disabled and is either on a respite care waiting list or is otherwise not eligible for the respite care program of the developmental disabilities division; or

(ii) "medically demanding", e.g. non-ambulatory; or

(iii) suffering from severe emotional problems which are manifested in serious behavior problems.

(d) the foster parent(s) need a respite from daily care of the child as verified by placing worker.

(2) The amount of the respite care payment(s) shall not exceed:

(a) $2 per hour for one child or $3 per hour for two children for up to eight continuous hours;

(b) $20 for one child or $25 for two children for more than 8 hours and up to 24 hours;

(c) $30 for one child or $40 for two children for more than 24 hours and up to 48 hours.

(3) The amount of respite care payment(s) per child per year shall not exceed 96 hours. However, foster parents may be authorized to receive up to 15 additional hours if the respite care is necessary to allow the foster parents to attend training sponsored or authorized by the department.

(4) Respite care allowance payments shall not be made for temporary care of the child for the convenience of the

foster parent(s), e.g. babysitting, day care. Respite care allowance payments are available only to provide needed relief from care of a child whose mental or physical condition requires special or more intense care while in foster care.

AUTH: Sec. 41-3-1103, 53-2-201, 53-4-111 MCA
IMP: Sec. 41-3-1103, 53-4-111 MCA

RULE VI FOSTER CARE SUPPORT SERVICES, DIET SUPPORT ALLOWANCE (1) Any child placed in a licensed youth foster home is eligible for a diet support allowance if:

(a) the child is expected to be in placement for more than 30 days;

(b) the department is making foster care payments for the child;

(c) the dietary aids or formula is required for five weeks or more;

(d) the dietary aids or formula is either the complete diet for the child or provides a critical life sustaining supplement to the child's diet; and

(e) the dietary aids or formula is prescribed by the child's physician.

(2) The amount of the allowance shall not exceed the actual cost of the dietary aids or formula, not to exceed $250 per month.

(3) All other possible sources of funding or supply must be investigated and used prior to seeking the diet support allowance. Other sources of funding include medicaid, WIC, and other publicly funded assistance programs which may be available.

(4) In addition to the purchase of dietary aids or formula, funds may be used to purchase up to 5 hours of service per child per year from a registered dietician.

AUTH: Sec. 41-3-1103, 53-2-201, 53-4-111 MCA
IMP: Sec. 41-3-1103, 53-4-111 MCA

RULE VII FOSTER CARE SUPPORT SERVICES, APPLICATION PROCESS (1) Any foster parent may apply for foster care support services on forms provided by the department.

(2) All requests for foster care support services must be based upon need for the service as documented by the placing social worker.

(3) All applications for foster care support services must be approved by the department prior to obtaining or purchasing the support services.

AUTH: Sec. 41-3-1103, 53-2-201, 53-4-111 MCA
IMP: Sec. 41-3-1103, 53-4-111 MCA

RULE VIII FOSTER CARE SUPPORT SERVICES, AVAILABILITY OF FUNDS (1) All of the foster care support services payments are contingent upon the availability of state funds appropriated for such services.

(2) The allowances may be reduced, denied or discontinued regardless of eligibility if there are insufficient available funds to pay for the foster care support services requested.

(3) When the entire amount of the annual appropriation for foster care support services has been exhausted, no more applications for foster care support services will be accepted.

AUTH: Sec. 41-3-1103, 53-2-201, 53-4-111 MCA
IMP: Sec. 41-3-1103, 53-4-111 MCA

RULE IX FOSTER CARE SUPPORT SERVICES, HEARING (1) Any person dissatisfied because of actions by the department or its representatives regarding foster care support services may request a hearing as provided in ARM 46.2.202 within 90 days of the notice of adverse action.

AUTH: Sec. 41-3-1103, 53-2-201, 53-4-111 MCA
IMP: Sec. 53-4-111, 53-2-201, 53-2-606 MCA

3. These rules as proposed will provide eligibility requirements and payment procedures for foster care support services consistent with the testimony and legislative history contained in HB 500. The rules will ensure a significant reduction in the use of the foster parents' own financial resources to provide essential services to the department's foster care children by making state funds available to foster parents for these support services.

4. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, Montana 59604, no later than July 11, 1985.

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

Director, Social and Rehabilitation Services

Certified to the Secretary of State June 3, 1985.

MAR Notice No. 46-2-442 11-6/13/85

STATE OF MONTANA
BEFORE THE DEPARTMENT OF COMMERCE

EMERGENCY ADOPTION OF NEW RULES I THROUGH V

These emergency rules are declared pursuant to section 2-4-303, MCA, and Title 67. They shall be in effect for no longer than 120 days from the date of filing. These rules are founded upon the following findings of fact:

FINDINGS OF FACT

1. Seeley Lake is a public body of water located in Missoula County, Montana. Approximately 80% of Seeley Lake is located within U.S. Forest Service lands upon which are several large public campgrounds. The southern 20% of the lake, known as the "South Bay" is surrounded by privately owned property containing summer and year-round dwellings.

2. Commercial and recreational use of the lake by the public has increased during the past decade, particularly in the South Bay area which experiences "heavy" or "congested" use by boats and seaplanes on certain days during the months of May, June, July, August and September.

3. A seaplane base has been established in the extreme southeast corner of the South Bay comprised of a dock and fuel facilities known as "Lindey's Landing West". Because of this facility, seaplane landings, take-offs and taxiing in the South Bay have increased. Serious and dangerous incidents and confrontations have occurred between power boats and seaplanes in the South Bay area of Seeley Lake.

4. There is no indication that the heavy use of the South Bay will decrease during the summer of 1985. Lindey's Landing West offers seaplane "rides-for-hire" which originate and terminate at the seaplane base in the South Bay. Approximately 25-35 such rides were provided in 1984. Seaplane traffic in the South Bay has increased due to the purchase of seaplane rides.

5. The users of the South Bay area, both boaters and seaplane pilots, have expressed anxiety and fear about possible future incidents or confrontations between them. Sworn testimony received by the department indicates that bodily harm may result from such confrontations.

THEREFORE, the Department of Commerce specifically finds that an imminent peril to the public health, safety and welfare exists with the uncontrolled use of the South Bay area of Seeley Lake by seaplanes, and, pursuant to the general powers vested by Title 67 and by section 2-4-303, MCA, imposes the following emergency rules. Because of increased public use of Seeley Lake beginning on Memorial Day Weekend, the department has determined that these temporary emergency rules shall become effective immediately upon filing them with Secretary of State.

"EMERGENCY RULE #1 No seaplane, except when necessary, shall land, take-off or 'step taxi' on, from, or through the South Bay, residential area of Seeley Lake, which comprises

approximately the southern one-tenth (1/10) of the lake. This rule does not restrict or prohibit seaplane landings, take-offs or "step-taxiing" on Seeley Lake other than in the South Bay."

Auth: 2-4-303, 67-2-102, MCA Imp: 67-2-102

"EMERGENCY RULE #2 In the South Bay area, seaplanes shall taxi in the center most portion of the lake along an imaginary line equidistant from the shorelines and shall obey rules concerning vessel rights-of-way while taxiing."

Auth: 2-4-303, 67-2-102, MCA Imp: 67-2-102, MCA

"EMERGENCY RULE #3 (1) Until further notice, 'rides-for-hire' which originate and terminate in the South Bay of Seeley Lake are restricted as follows:

(a) No 'rides-for-hire' shall be provided on May 24, 25, 26, and 27, 1985; July 3, 4, 5, 6, and 7, 1985; and August 30 and 31, and September 1 and 2, 1985.

(b) No 'rides-for-hire' shall be provided on Saturdays or Sundays on July 20, 21, 27, and 28, 1985, or August 3, 4, 10, and 11, 1985."

Auth: 2-4-303, 67-2-102, MCA Imp: 67-2-102, MCA

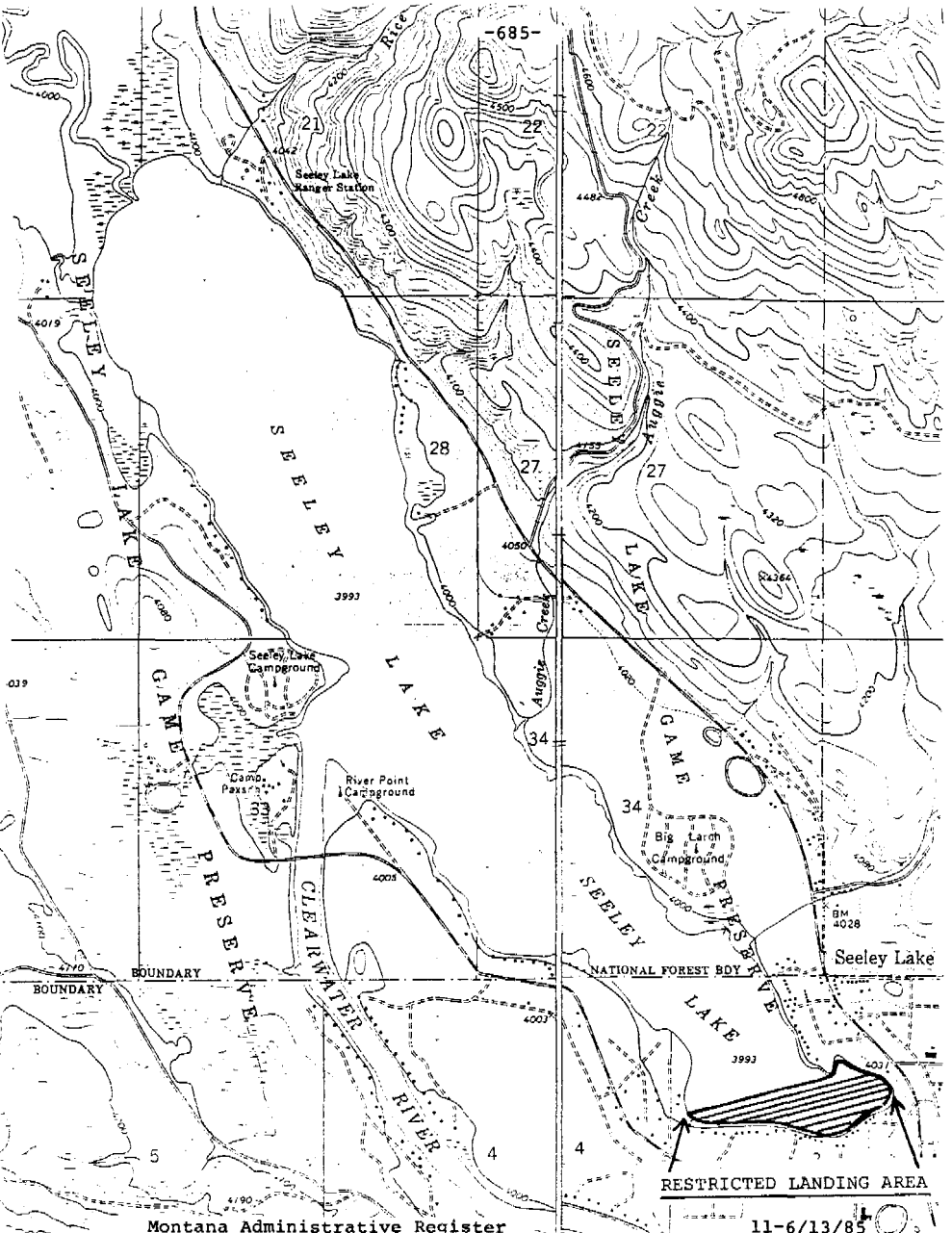
"EMERGENCY RULE #4 (1) The manager/owner/operator of Lindey's Landing West shall maintain comprehensive records and logs relating to the daily use of Lindey's Landing West by seaplanes, including but not limited to, the date and time of arrival at and departure from Lindey's Landing West; the amount of fuel dispensed to seaplanes; a description of each flight -- i.e., transient, private, rides-for-hire, etc; landing conditions at times of arrival and departure; incidents or interferences between seaplanes and other lake users or any other emergency or unusual event from whatever cause which affects seaplane use of Seeley Lake.

(2) The manager/owner of Lindey's Landing West shall make a special effort to inform seaplane pilots who intend to land on Seeley Lake and who have contacted Lindey's Landing West by radio or otherwise of these emergency rules and restrictions.

Auth: 2-4-303, 67-2-102, MCA Imp: 67-2-102, MCA

"EMERGENCY RULE #5 The department of commerce will investigate complaints relating to abuse of these emergency rules. Complaints must be submitted by sworn affidavit of two or more individuals who witnessed the incident. Affidavits of complaint may be mailed to: Keith L. Colbo, Director, Department of Commerce, 1424 9th Avenue, Helena, Montana 59620.

Auth: 2-4-303, 67-2-102, MCA Imp: 67-2-102, 501, 502, MCA


Rice
Seeley Lake Ranger Station
Creek
SEELEY LAKE
Augusta
Creek
SEELEY LAKE
GAME PRESERVE
Seeley Lake Campground
Camp Paxar
River Point Campground
Big Larch Campground
CLEARWATER RIVER
BOUNDARY
BOUNDARY
NATIONAL FOREST BDY
Seeley Lake
RESTRICTED LANDING AREA

Dated this 24th day of May, 1985.

Keith L. Colbo

KEITH L. COLBO, DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, May 24, 1985.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF MEDICAL EXAMINERS

In the matter of the amendments of 8.28.406 concerning E.C.F.M.G. requirements, 8.28.408 concerning reciprocity, 8.28.416 concerning examinations, 8.28.418 concerning annual registration and fees, 8.28.420 concerning the fee schedule, and adoption of a new rule concerning graduate training for foreign medical graduates	NOTICE OF AMENDMENTS OF 8.28.406 E.C.F.M.G. REQUIREMENTS, 8.28.408 RECIPROCITY, 8.28.416 EXAMINATIONS, 8.28.418 ANNUAL REGISTRATION AND FEES, 8.28.420 FEE SCHEDULE, AND ADOPTION OF A NEW RULE 8.28.403A GRADUATE TRAINING REQUIREMENTS FOR FOREIGN MEDICAL GRADUATES

TO: All Interested Persons:

1. On April 25, 1985, the Board of Medical Examiners published a notice of amendments and adoption of the above-stated rules at pages 366 through 369, 1985 Montana Administrative Register, issue number 8.

2. The board has amended and adopted the rules exactly as proposed.

3. No comments or testimony were received.

DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF PHYSICAL THERAPY EXAMINERS

In the matter of the adoption of a new rule concerning the list of licensed physical therapists	NOTICE OF ADOPTION OF A NEW RULE, 8.42.411 LIST OF LICENSED PHYSICAL THERAPISTS

TO: All Interested Persons:

1. On April 25, 1985, the Board of Physical Therapy Examiners published a notice of adoption of the above-stated rule at pages 370 and 371, 1985 Montana Administrative Register, issue number 8.

2. One comment was received from Thomas K. Meagher, P.T. in favor of the rule. The Board also received a phone call from the Legislative Council suggesting the board drop the apostrophe from the word "licensee's" as it was not possessive. This will be done when replacement pages are typed. No other comments or testimony were received.

3. The board has adopted the rule exactly as proposed, with the exception of the apostrophe.

DEPARTMENT OF COMMERCE

BY: Keith L. Colbo
KEITH L. COLBO, DIRECTOR

Certified to the Secretary of State, June 3, 1985.

STATE OF MONTANA
BEFORE THE DEPARTMENT OF COMMERCE

In the matter of the adoption by reference of new rules for the administration of the federal community development block grant program	))))	NOTICE OF ADOPTION OF 8.94.3701 INCORPORATION BY REFERENCE OF RULES FOR ADMINISTERING THE CDBG PROGRAM

TO: All Interested Persons:

1. On April 11, 1985, the Department of Commerce published a notice of public hearing on the adoption of the above-stated rule at pages 305 and 306, 1985 Montana Administrative Register, issue number 7.

2. The hearing was held on May 3, 1985 in Room C209 of the Cogswell Building, Helena, Montana. No persons appeared at the hearing to offer testimony or comments. Five written comments were received as follows:

Mike Barton, Assistant Director of Missoula's Community Development Office, questioned the use of the HUD schedule for fair market rents to determine the maximum rents that could be charged for rental housing units rehabilitated with CDBG funds. The guidelines were changed to make the HUD schedule a maximum and will allow local governments to establish alternate schedules if they choose.

Mark Bordsen, Dawson County Planning Director, commented on the pros and cons of using a pre-application process without a specific recommendation. He also commented on the problems regarding the federal definition of low and moderate income. Mr. Keith Colbo, Director of the Department of Commerce contacted Montana's congressional delegation regarding the problem subsequent to Mr. Bordsen's letter.

Merton "Pete" Purvis of the Roosevelt County Water District commented on the due date for applications saying it was too early for rural agricultural areas. As a result, the deadline for application for the fall competition was moved from September 15 to September 30. This date is also consistent with a study the Department of Commerce helped fund two years ago in cooperation with the Water and Sewer Agencies Coordinating Team which recommended October 1st as an ideal due date for local governments.

Larry Joachim, President of the Flathead Bank of Big Fork, objected to a requirement which prohibits current grantees from reapplying for any type of project until at least 75 percent of grant funds are expended. Flathead County is a current grantee for the Martin City water project and would be ineligible to apply for an economic development project on behalf of Big Fork this fall if the requirement were retained. Joachim argued that each economic development project ought to be considered on its own merits and that communities should not have to choose between serious public facilities and housing needs and the opportunity to create or retain jobs. He felt that in making this choice, economic

development would always come last. It was decided that current grantees who are performing satisfactorily on an existing project would be able to reapply for economic development applications.

Henry Oldenburg, Flathead County Commissioner, endorsed Larry Joachim's letter.

No other comments or testimony were received.

3. The department has incorporated the above changes into the material to be adopted by reference and is adopting the rule as proposed with the following change: (new matter underlined)

"8.94.3701 INCORPORATION BY REFERENCE OF RULES FOR ADMINISTERING THE CDBG PROGRAM (1) The department of commerce herein adopts and incorporates by this reference the Montana Community Development Block Grant Program 1985 Application Guidelines and the Montana Community Development Block Grant Program -- 1984 Grant Administration Manual published by it as rules for the administration of the CDBG program.

(2) ...

DEPARTMENT OF COMMERCE

BY: Keith L. Colbo
KEITH L. COLBO, DIRECTOR

Certified to the Secretary of State, June 3, 1985.

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

In the matter of the amendment of 8.97.505 concerning eligibility requirements	)))	NOTICE OF AMENDMENT OF 8.97.505 ELIGIBILITY REQUIREMENTS

TO: All Interested Persons:

1. On April 11, 1985, the Montana Economic Development Board published a notice of public hearing on the amendment of the above-stated rule at pages 307 and 308, 1985 Montana Administrative Register, issue number 7.

2. The hearing was held on May 31, 1985 in the downstairs conference room of the Department of Commerce. One individual, Alan D. Nicholson of Helena appeared to offer testimony in behalf of the rule. No other comments or testimony were received.

3. The board has amended the rule exactly as proposed.

MONTANA ECONOMIC DEVELOPMENT BOARD
D. PATRICK McKITTRICK, CHAIRMAN

BY: _____
ROBERT WOOD, ATTORNEY
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, June 3, 1985.

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

In the matter of the amendment of rules 16.44.202, 16.44.405, 16.44.406, 16.44.425, 16.44.811, 16.44.817, 16.44.818 and 16.44.819, relating to hazardous waste generators and treatment, storage and disposal facilities	)	NOTICE OF AMENDMENT OF RULES 16.44.202, 16.44.405, 16.44.406, 16.44.425, 16.44.811, 16.44.817, 16.44.818 and 16.44.819 (Hazardous Waste Management)

TO: All Interested Persons

1. On March 14, 1985, the department published notice of proposed amendment of rules 16.44.202, 16.44.405, 16.44.406, 16.44.425, 16.44.811, 16.44.817, 16.44.818 and 16.44.819, relating to hazardous waste generators and treatment, storage and disposal facilities at page 231 of the 1985 Montana Administrative Register, issue number 5.

2. The department has amended the rules as proposed.

3. No comments or testimony were received.

JOHN J. DRYNAN, M.D., Director

Certified to the Secretary of State June 3, 1985

VOLUME NO. 41 OPINION NO. 14

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES - Exemptions of individuals from the Solid Waste Management Act;
LAND USE - Exemptions of individuals from the Solid Waste Management Act;
SOLID WASTE - Solid Waste Management Act, exemptions from;
MONTANA CODE ANNOTATED - Sections 75-10-203(4), 75-10-206, 75-10-214, 75-10-221;
MONTANA CONSTITUTION - Article V, section 11(3);
SESSION LAWS OF 1965 - Chapter 35, sections 3, 8;
SESSION LAWS OF 1969 - Chapter 349, section 4;
SESSION LAWS OF 1977 - Chapter 542, section 3.

HELD: The exception in section 75-10-214, MCA, to the Solid Waste Management Act does not apply to waste generated by members of the general public but applies only to waste generated by the owner or lessee of the disposal site for such waste, or to waste generated by persons in the family or to business-related waste generated by persons in the employ of such owner or lessee.

30 May 1985

John J. Drynan, M.D., Director
Department of Health and
Environmental Sciences
Room C108, Cogswell Building
Helena MT 59620

Dear Dr. Drynan:

You have requested my opinion on the following question:

> Whether the exemption in section 75-10-214, MCA, for a person disposing of his own solid waste upon land owned or leased by that person is properly limited to (1) an individual disposing of solid waste from his own family household and (2) business-related waste not

> generated by persons outside of the employ of the business.

One of the purposes of the Solid Waste Management Act is to provide licensed facilities for the disposal of solid waste. Every individual, firm, partnership, company, association, corporation, city, town, local government, or other governmental or private entity must comply with the act unless they are granted a variance, or fall under the exclusion outlined in section 75-10-214, MCA. See §§ 75-10-221, 75-10-203(4), 75-10-206, MCA. The exclusion in section 75-10-214(1), MCA, provides:

> This [act] may not be construed to prohibit a person from disposing of his own solid waste upon land owned or leased by that person or covered by easement or permit as long as it does not create a nuisance or public health hazard.

As I understand the facts in your question, small businesses, such as guest ranches, are claiming an exemption from the Solid Waste Management Act. They claim they are disposing of guest ranch waste on guest ranch property, and therefore need not comply with the statute, even though they offer goods and services to the general public. In contrast, the Department of Health and Environmental Sciences, which has been charged with administering the Solid Waste Management Act since 1967, has consistently interpreted this exclusion to apply only to waste generated by a person or by that person's family or employees, and disposed of on land owned or leased by that person.

The Solid Waste Management Act was originally enacted in 1965. 1965 Mont. Laws, ch. 35. "Person" was not defined at that time, but three provisions of the original act clearly indicate that the exclusion was intended to apply only to family or household waste. First, the title of the act stated it was "Excluding Refuse Disposal by an Individual of His Own Refuse on His Own Property from this Act." (Emphasis added.)

Second, the original legislation distinguished between persons and cities, towns, and counties in the exclusion:

> This act shall not be construed to prohibit any person from disposing of garbage, rubbish or refuse upon his own land as long as such disposal does not create a nuisance. Any incorporated city, town, rural improvement district or county may establish a disposal area and operate same without paying the annual license fee, but must meet all other requirements of this act.

1965 Mont. Laws, ch. 35, § 8.

Third, the original legislation lists persons separately from partnerships, companies, and corporations:

> No person, partnership, company or corporation shall hereafter dispose of any garbage, rubbish or refuse in any place except as permitted under this act.

1965 Mont. Laws, ch. 35, § 3.

Clearly, the Legislature did not consider partnerships, companies, or corporations to be "persons," or only one term would have been used to describe all of these entities.

The title of the act indicates that individuals alone were to be excluded from the act, and the language within the act distinguishes between persons and other entities. Therefore, it is clear that the original legislation was intended to exclude only individuals disposing of waste on their own land.

The exclusion was clarified and narrowed by the following 1969 amendment:

> This act shall not be construed to prohibit any person from disposing of his own garbage, rubbish or refuse upon his own land as long as such disposal does not create a nuisance. [Amendments underlined.]

1969 Mont. Laws, ch. 349, § 4.

As the Legislature inserted "his own" into the exclusionary language, it is clear that the exclusion was intended to apply only to waste generated by the

owner of the land, and not to waste generated by the general public who may be on the land.

In 1977 the current definition of "person" was added to the Solid Waste Management Act:

> "Person" means an individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or any other governmental or private entity whether organized for profit or not.

1977 Mont. Laws, ch. 542, § 3, codified as § 75-10-203(4), MCA.

Initially, it appears that the statutory definition of "person" dramatically expands the exclusion within the act. However, the same section indicates that the definition should not be used if the context requires otherwise. 1977 Mont. Laws, ch. 542, § 3, codified as § 75-10-203, MCA; see also § 1-2-107, MCA. The substance of the exclusionary clause was not altered by the 1977 amendments. Nor does the title of the 1977 act indicate an intent to expand the exclusion. See Mont. Const. art. V, § 11(3) (the title of each act must clearly express the subject of the act). This, combined with the clear historical intent of limiting the exclusion to waste generated by a landowner and his family or employees, indicates that "person" should be narrowly defined in the exclusionary clause.

This is also consistent with the administration of the act by the Department of Health and Environmental Sciences since 1967. The Department has interpreted the exclusion to apply both to individuals and to self-contained business operations (such as farms and ranches), but it has never allowed landowners to dispose of the general public's waste. Such a long-standing agency policy is entitled to deference. State Department of Highways v. Midland Materials, 40 St. Rptr. 666, 662 P.2d 1322 (1983).

It has been suggested by some businesses that "person," as used in the exclusionary clause, includes all governmental and private entities, pursuant to the definition of person in section 75-10-203(4), MCA. However, such an interpretation would exempt virtually every person, institution, and entity in Montana. Few

cities, counties, businesses, restaurants, or guest ranches would utilize a licensed solid waste management system if they could claim an exemption by simply dumping waste onto a piece of land they owned or leased. Such a broad interpretation of the exclusion would be absurd, and would therefore not be favored by the courts. Dover Ranch v. County of Yellowstone, 187 Mont. 276, 609 P.2d 711 (1980). Nor is there a scintilla of evidence that the Legislature ever intended the exclusion to be so broad. The exemption clearly applies only to the solid waste of individual households, or to businesses that are self-contained (i.e., they are not offering goods or services to the public at their business location). Therefore, businesses such as restaurants, guest ranches, resorts, etc., which offer goods and services to the general public do not qualify for the exemption.

This opinion does not address whether a small business otherwise covered by the Solid Waste Management Act might qualify for a variance under section 75-10-206, MCA. Nor does this opinion address whether an individual whose disposal of his own waste on his own land constitutes a nuisance should comply with the Solid Waste Management Act.

THEREFORE, IT IS MY OPINION:

> The exception in section 75-10-214, MCA, to the Solid Waste Management Act does not apply to waste generated by members of the general public but applies only to waste generated by the owner or lessee of the disposal site for such waste, or to waste generated by persons in the family or to business-related waste generated by persons in the employ of such owner or lessee.

Very truly yours,

MIKE GREELY
Attorney General

VOLUME NO. 41 OPINION NO. 15

RURAL SPECIAL IMPROVEMENT DISTRICTS - Whether a swimming pool constitutes a special improvement;
SPECIAL IMPROVEMENT DISTRICTS - Whether a swimming pool constitutes a special improvement;
MONTANA CODE ANNOTATED - Sections 7-12-2101, 7-12-2102(1), 7-12-4102(2)(b);
OPINIONS OF THE ATTORNEY GENERAL - 36 Op. Att'y Gen. No. 109 (1976).

HELD: The creation of a rural improvement district for the purpose of constructing and maintaining a public swimming pool is proper if the facility will specially benefit the property subject to the assessments associated with the district.

31 May 1985

Robert G. Dwyer
City Attorney
125 North Idaho Street
Dillon MT 59725

Dear Mr. Dwyer:

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

> Whether section 7-12-2102(1), MCA, permits the creation of a swimming pool rural improvement district.

I conclude that a rural improvement district may be established under section 7-12-2102(1), MCA, for the purpose of constructing and operating a public swimming pool. I do not, however, express any opinion as to whether the rural improvement district created in this matter is appropriate.

Section 7-12-2102(1), MCA, states:

> Whenever the public interest or convenience may require and upon the petition of 60% of the freeholders affected thereby, the board of county commissioners is hereby authorized and empowered to order and create special improvement districts in thickly populated localities outside of the limits of incorporated towns and cities for the purpose of building, constructing, or acquiring by purchase devices intended to protect the safety of the public from open ditches carrying irrigation or other water and maintaining sanitary and storm sewers, light systems, waterworks plants, water systems, sidewalks, and such other special improvements as may be petitioned for.

While the term "special improvements" is not defined in section 7-12-2101, MCA, a substantial body of decisional law has developed in Montana and other jurisdictions which identifies the essential characteristics of a special improvement:

> A local improvement has been defined to be a public improvement which, by reason of its being confined to a locality, enhances the value of adjacent property as distinguished from benefits diffused throughout the municipality. ... The primary purpose of the improvement is largely determinative and classification depends "upon the nature of the improvement and whether the substantial benefits to be derived are local or general in their nature." ...

Ruel v. Rapid City, 167 N.W.2d 541, 544 (S.D. 1969) (citation omitted); see Smith v. City of Bozeman, 144 Mont. 528, 536, 398 P.2d 462, 466 (1965) ("[t]he theory upon which a municipality may levy assessments for special improvements is that the property will be benefited by the improvements to the extent of the burden imposed"); State ex rel. City of Great Falls v. Jeffries, 83 Mont. 111, 115-16, 270 P. 638, 639 (1928) ("[t]he theory upon which a municipality may levy assessments for special improvements is that the property charged receives a corresponding physical, material, and substantial benefit from the improvement ... [and] that the property assessed will be

enhanced to the extent of the burden imposed") (citations omitted).

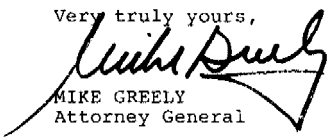
Whether a particular improvement is "appurtenant to specific land and bring[s] a benefit substantially more intense than is yielded to the rest of the municipality" must be determined, in the instance of a rural improvement district, by the board of county commissioners. Heavens v. King County Rural Library District, 404 P.2d 453, 457 (Wash. 1965) (en banc). The board's decision will not be set aside by a court except for fraud or manifest abuse of discretion. Stettheimer v. City of Butte, 62 Mont. 297, 300-01, 204 P. 1039, 1040 (1922); see also 36 Op. Att'y Gen. No. 109 (1976) at 563 (county commissioners' determination of whether locality "thickly populated" is binding absent fraud or abuse of discretion); see generally C. Rhyne, The Law of Local Government Operations 1001 (1980) ("[i]t has been held that the establishment and creation of [special improvement] districts is entirely a legislative matter with which the courts will not interfere, in the absence of fraud or arbitrary action"). I note that section 7-12-4102(2)(b), MCA, authorizes municipalities to establish special improvement districts for constructing swimming pools, and there appears no reason why such activity should, as a matter of law, be inappropriate for a rural improvement district.

While it is clear that a rural improvement district may be established for the purpose of constructing and operating a public swimming pool and that the board of county commissioners' determination that such a district is warranted will be subject to limited judicial review, this opinion should not be construed as concluding that the swimming pool here is a special improvement. That determination must be made after a careful factual analysis which, as a general matter, is not a proper function of my opinions. Your letter further suggests that there may have been several irregularities in connection with the creation of the rural improvement district. Again, this opinion should not be interpreted as commenting on the validity of any objection which might be premised on such alleged irregularities or as indicating that the district was otherwise properly established.

THEREFORE, IT IS MY OPINION:

The creation of a rural improvement district for the purpose of constructing and maintaining a public swimming pool is proper if the facility will specially benefit the property subject to the assessments associated with the district.

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 Subject Matter	1. Consult ARM topical index, volume 16. Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued.
Statute Number and Department	2. Go to cross reference table at end of each title which lists MCA section numbers and corresponding ARM rule numbers.

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies which have been designated by the Montana Procedure Act for inclusion in the ARM. The ARM is updated through March 31, 1985. This table includes those rules adopted during the period January 1, 1985 through June 30, 1985, 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 March 31, 1985, this table and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule and the page number at which the action is published in the 1984 and 1985 Montana Administrative Registers.

ADMINISTRATION, Department of, Title 2

I-IV	Equal Employment Opportunity and Affirmative Action Program, p. 1533, 1798
2.5.201	and other rules - Definitions - Department of Administration - Delegation of Purchasing Authority - Requisitions from Agencies to the Department - Bidders List - Specifications Public Notice - Competitive Sealed Proposals - Exigency Procurements, p. 1818, 244
2.21.216	and other rules - Administration of Annual Vacation Leave, p. 1656, 100
(Workers' Compensation Judge)	
2.52.344	and other rule - Petition for New Trial or Reconsideration of Attorney Fee Award - Attorney Fees, p. 1598, 107

AGRICULTURE, Department of, Title 4

I-IV	Establishment of a Rural Assistance Loan Program, p. 527
4.12.1012	Increasing Fees Charged for Sampling, Inspection and Testing of Grains at the State Grain Laboratories, p. 261, 597
4.12.1208	Laboratory Fees for Samples of Bees Submitted for Certification, p. 1823, 202

JUSTICE, Department of, Title 23

23.7.111 and other rules - Sale, Installation and Service of Fire Protection Equipment, p. 564

LABOR AND INDUSTRY, Department of, Title 24

(Human Rights Commission)
Zero Public Hearing and Notice of Petition for Declaratory Ruling - Refusal to Contract with Any Persons Other Than Married Couples as Aftercare Group Home Houseparents, p. 239
I Age Discrimination in Housing Accommodations and Improved or Unimproved Property, p. 339
I-VII Maternity Leave, p. 482, 949, 1369
(Workers' Compensation Division)
I-IV Emergency Rules - Conversions of Biweekly Permanent Disability Workers' Compensation Benefits to Lump Sums, p. 494, 605
24.29.3801 Attorney Fee Regulation, p. 1795, 201, 606

LIVESTOCK, Department of, Title 32

I Brucellosis Vaccination of Imported Cattle Under 4 Months of Age, p. 57, 276
32.2.401 Raising the Costs of Livestock Brand Inspection and Transportation Permits and Fees, p. 573
32.3.406 Brucellosis Test Performed on Cattle Before Change of Ownership or Movement Within the State, p. 1807
32.3.407A Change of Ownership Test - Waiving in 6 Additional Counties the Brucellosis Test, p. 55, 277
32.22.103 Issuance of Self-renewing Permits Dependent Upon Compliance with Aerial Hunting Regulations, p. 576

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

(Board of Natural Resources and Conservation)
36.7.101 and other rules - Administration of the Montana Major Facility Siting Act - Long-Range Plans - Waivers - Notice of Intent to File an Application - Application Requirements - Decision Standards, Centerlines - Monitoring, p. 1216, 1844
36.12.103 Application Fee for Water Right Transfer Certificates, p. 578

PUBLIC SERVICE REGULATION, Department of, Title 38

I-II Termination of Residential Natural Gas and Electrical Service, p. 356

REVENUE, Department of, Title 42

SECRETARY OF STATE, Title 44

SOCIAL AND REHABILITATION SERVICES, Department of, Title 46