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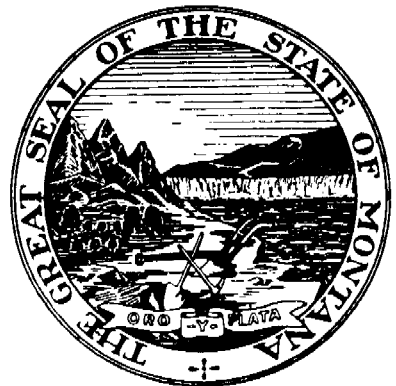
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MONTANA ADMINISTRATIVE REGISTER

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1985 ISSUE NO. 7
APRIL 11, 1985
PAGES 305-365



MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 7

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 The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing, and where written comments may be submitted.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

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STATE OF MONTANA
BEFORE THE DEPARTMENT OF COMMERCE

In the matter of the proposed)	NOTICE OF PUBLIC HEARING
adoption by reference of new	)	ON PROPOSED RULES PERTAIN-
rules for the administration	)	ING TO THE ADMINISTRATION
of the federal community	)	OF THE FEDERAL COMMUNITY
development block grant	)	DEVELOPMENT BLOCK GRANT
program	)	(CDBG) PROGRAM

TO: All Interested Persons.

1. On May 3, 1985, at 10:00 a.m., a public hearing will be held in Room C209 of the Cogswell Building, Helena, Montana to consider the adoption by reference of rules for the administration of the federal community development block grant program.

2. The proposed adoption will provide as follows:

"1. 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 Application Guidelines and the Montana Community Development Block Grant Program -- Grant Administration Manual published by it as rules for the administration of the CDBG program.

(2) The rules incorporated by reference in (1) above, relate to the following:

- (a) the policies governing the program,
- (b) threshold requirements for applicants,
- (c) the procedure for evaluating applications,
- (d) administrative procedures for local project start up,
- (e) environmental review of project activities,
- (f) procurement of goods and services,
- (g) financial management,
- (h) protection of civil rights,
- (i) fair wages for labor,
- (j) acquisition of property and relocation of persons displaced thereby, and
- (k) special administrative considerations peculiar to public facilities, housing rehabilitation, and economic development projects.

(3) Copies of the regulations adopted by reference in subsection (1) of this rule may be obtained from the Department of Commerce, Community Development Division, Capitol Station, Helena, Montana 59620."

Auth: 90-1-103, MCA Imp: 90-1-103, MCA

3. This rule, proposed pursuant to HB 345 (adopted by the 1985 legislature) and the recommendation of the Legislative Interim Code Committee, will establish, within the context of the administrative procedure act, guidelines, ranking criteria, and requirements governing the CDBG program.

The federal guidelines which govern the CDBG program require the adoption of such policies, etc. by the state agency which administers the program.

4. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to the Community Development Division, Department of Commerce, Capitol Station, Helena, Montana 59620, no later than May 9, 1985.

5. Richard M. Weddle, Attorney, Helena, Montana, will preside over and conduct the hearing.

DEPARTMENT OF COMMERCE

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

Certified to the Secretary of State, April 1, 1985.

7-4/11/85

MAR Notice No. 8-94-1

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

In the matter of the proposed	)	NOTICE OF PUBLIC HEARING ON
amendment of 8.97.505 con-	)	THE PROPOSED AMENDMENT OF
cerning eligibility require-	)	8.97.505 ELIGIBILITY REQUIRE-
ments	)	MENTS

TO: All Interested Persons.

1. On May 31, 1985, at 1:30 p.m., a public hearing will be held in the downstairs Conference Room, Department of Commerce, 1424 9th Avenue, Helena, Montana to consider the amendment of 8.97.505.

2. The proposed amendment will add new subsections (4) and (5) and will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at pages 8-3499 and 8-3500, Administrative Rules of Montana)

"8.97.505 ELIGIBILITY REQUIREMENTS (1) ...

(4) The board will finance projects for which the sole purpose is to provide residential housing (ie., multifamily housing projects) through the Pooled IDB Program only upon the following terms and conditions:

(a) only new construction projects will be considered. This does not include remodeling or rehabilitation of existing facilities.

(b) projects must consist of at least eight units.

(c) a complete narrative appraisal acceptable to the administrator and in a format approved by the board indicating cost, market, and income values must be submitted with the application.

(d) the borrower and the project must comply with requirements contained in Section 103 b(4)(a) of the Internal Revenue Code, including the requirement that at least 20% of the units will be reserved for persons of low or moderate income as defined therein.

(e) such other terms and conditions as may be required by the board.

(5) The board will finance projects for which the sole purpose is to provide residential housing (ie., multifamily housing projects) through the Stand Alone Program upon terms and conditions to be determined by the board."

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

3. The board is proposing this amendment to establish the additional criteria that must be met to be considered for financing of multifamily housing projects, as such projects differ in nature than other commercial projects.

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

Montana Economic Development Board, 1424 9th Avenue, Helena, Montana 59620, no later than May 9, 1985.

5. D. Patrick McKittrick, chairman of the board will preside over and conduct the hearing.

MONTANA ECONOMIC DEVELOPMENT
BOARD
D. PATRICK MCKITTRICK,
CHAIRMAN

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

Certified to the Secretary of State, April 1, 1985.

7-4/11/85

MAR Notice No. 8-97-11

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

In the matter of the amendment) NOTICE OF PROPOSED AMENDMENT
of ARM 12.6.502 and 12.6.512) OF ARM 12.6.502 AND 12.6.512
and the adoption of a new rule) AND ADOPTION OF A NEW RULE -
relating to outfitters and) CONDUCT OF OUTFITTER
professional guides) EXAMINATION, LICENSING AND
) ENDORSEMENT OF GUIDES, AND
) DEFINITION OF HUNTING
) SUCCESS FOR ADVERTISING
)
) NO PUBLIC HEARING
) CONTEMPLATED

1. On May 31, 1985, the Department of Fish, Wildlife and Parks (Department) proposes: to amend ARM 12.6.502 to require that applications to take the written outfitter examination be filed 7 days prior to the examination, to provide that no examinations will be conducted in Helena during the months of September, October and November, to provide the examination will be given in the regions in January only, to assess an administrative fee of \$25; to amend ARM 12.6.512 to specify procedures for the licensing of guides and the endorsement of guide licenses; and to adopt a new rule defining how hunting success may be expressed in advertising.

2. The rules as proposed to be amended and the proposed new rule provide as follows:

12.6.502 OUTFITTER STANDARDS - WRITTEN EXAMINATION AND ADMINISTRATIVE FEE (1) No outfitter may be issued a license unless:

(a) The applicant has passed the written outfitter examination with a minimum score of 75% in the category of license requested;

(b) When deemed necessary by the department, a field examination to demonstrate the applicant's ability to use all equipment or stock listed on the application is required;

(c) The applicant has provided proof of ownership or control of the equipment listed in his application;

(d) The applicant has furnished proof of liability insurance for the outfitting services he provides. Minimum insurance will be \$10,000 for property damage, \$100,000 for personal injury to one person, and a total of \$300,000 for personal injury to more than one person. The verification of insurance certificate shall be submitted to the department by renewal application. (Effective January 1, 1983.)

(2) Applicants taking the written outfitter examination must file a completed application with fee a minimum of 7 days prior to the examination. Applications with fee must be filed

in the administrative regions where the written outfitter examination will be taken or in the Helena office, Enforcement Division when the examination is taken there.

(2) (3) The written outfitter examination shall be given at each region (Kalispell, Missoula, Bozeman, Great Falls, Billings, Glasgow, Miles City) twice once a year as announced in January, and-July. The examination will be offered once a month at the Helena office on the second Tuesday of each month, except no examinations will be conducted in Helena during the months of September, October and November. The written test shall be administered by the Supervisor of Outfitting or by enforcement personnel designated by the director. Applicants will be advised by mail of success or failure.

(4) An administrative fee of \$25 will be charged each person applying to take the written outfitter examination.

(5) The field examination, when required, shall be given at times and places as designated by the director.

AUTH: 37-4-106 IMP: 37-4-107, 87-4-122, and 87-4-125, MCA

12.6.512 LICENSING OF GUIDES AND ENDORSEMENT OF GUIDE LICENSE (1) The employing outfitter shall endorse and date the guide's license or applicant must submit the completed professional guide license application with fee to the department regional office administering the outfitter and professional guide license.

(2) The application will be considered submitted on the date postmarked or, if hand delivered, on the date received at the regional office for the purposes of Section 84-4-130(1), MCA.

(3) The director will as soon as reasonably possible after the submittal of an application for a professional guide license either issue or deny the license and advise the applicant and endorsing outfitter.

(4) The employing outfitter shall endorse and date the guide's license upon receipt.

(5) A guide shall have a valid professional guide license in his physical possession while providing guiding service to clients. The guide must exhibit the professional guide license to a warden or other peace officer upon request.

AUTH: 37-4-106

IMP: 87-4-104, 87-4-140, MCA

RULE I - DEFINITION OF HUNTING SUCCESS FOR ADVERTISING

(1) An outfitter who advertises his hunting success shall do so only in the following terms:

(a) Hunting success may only be expressed in terms of a kill percentage as reflected by the outfitter reports required under ARM 12.6.508.

(b) Hunting success shall be expressed specifically in terms of species, sex and year.

(2) Advertisement of hunting success by any outfitter contrary to this rule shall constitute fraudulent, untruthful or misleading advertising within the meaning of Section

87-4-141(3), MCA, and false or misleading advertising within the meaning of Section 87-4-122(6).

AUTH: 87-4-106

IMP: 87-4-122, 87-4-141, MCA

3. Applicants will be required under the proposed amendment to ARM 12.6.502 to file applications at least 7 days prior to the written outfitter examination. Agency experience has shown that such a requirement will improve the conduct and administration of the examinations. Also examinations will not be conducted in Helena during September, October and November because there is insufficient time for field personnel to process the application (testing and inspection). Examinations will be conducted in each region only in January because of expense of travel to the department. Also an administrative fee of \$25 will be charged for applicants that apply to take the written examination. Since conception of the revised comprehensive outfitter examination approximately 55% of the applicants successfully pass. Conservatively \$8,234.90 was the estimated cost for administering the examination in 1983. This includes wages (supervisor of outfitting) mileage and per diem. Cost of preparing packets, mailings and printing of test were included in this estimate. On an average 143 applicants took the outfitter examinations each year for the years 1982 through 1984. The proposed administrative fee cover less than half of actual costs.

The proposed amendment of ARM 12.6.512 provides procedures for the licensing of guides and the endorsement of guide licenses. The amendment clarifies when an application for a guide license will be considered submitted for the purposes of Section 84-4-130(1), MCA, which provides that: "...a person may serve as a professional guide under his employer's license, after submitting his application with the proper license fee, until the license is issued or denied." The amendment also requires that a guide retain his license in his physical possession while guiding for the protection of clients and to aid in enforcement.

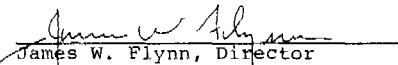
The new proposed rule, Rule I, defines how hunting success must be expressed in advertising. The rule makes specific requirements to ensure that hunting success is expressed in terms that are consistent with the consuming public's generally held understanding or expected meaning of expressions of hunter success. The new rule is in response to some advertising that has in the past exceeded or exaggerated what the Department considers to be within the range of the general understanding of hunter success.

4. Interested parties may submit their data, views or arguments concerning the proposed amendments and proposed new rule in writing to Bill Maloit, Supervisor of Outfitting, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, Helena, MT 59620 no later than May 9, 1985.

5. If a person who is directly affected by the proposed amendment and proposed new rule 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 Bill Maloit at the above address no later than May 9, 1985.

6. If the department receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 160 based on 574 licensed outfitters and 1022 licensed professional guides in 1984 in Montana.

7. The authority of the department to amend ARM 12.6.502 is based on Section 87-4-106 and the rule implements Section 87-4-107, 87-4-122, and 87-4-125, MCA. The authority of the department to amend ARM 12.6.512 is based on Section 87-4-106 and the rule implements Sections 87-4-104 and 87-4-140, MCA. The authority of the department to adopt proposed Rule I is based on Section 87-4-106, MCA, and the rule implements Sections 87-4-122 and 87-4-141, MCA.


James W. Flynn, Director
Montana Department of Fish,
Wildlife and Parks

Certified to the Secretary of State March 27, 1985.

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

In the matter of the amendment) NOTICE OF PUBLIC HEARING
of rule 16.38.302, laboratory) ON PROPOSED AMENDMENT OF
fees for water analyses) ARM 16.38.302
(Laboratory Fees--Water)

TO: All Interested Persons

1. On May 17, 1985, at 9:00 a.m., a public hearing will be held in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the amendment of rule 16.38.302.

2. The proposed amendment replaces present rule 16.38.302 found in the Administrative Rules of Montana. The proposed amendment would revise the fees for various types of public water supply analyses performed by the laboratory of the department of health and environmental sciences.

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

16.38.302 LABORATORY FEES -- WATER Effective July 1, 1985, Fees fees for analysis of water by the department of health and environmental sciences are as follows:

(1) The fee for a standard microbiological (total coliform) analysis is ~~\$6-~~ \$6.50.

(2) The fee for a fecal coliform analysis is \$10.

(3) The fee for a plate count is ~~\$20-25-~~ \$12.50.

~~(4) The fee for a complete inorganic chemical analysis, consisting of an analysis for arsenic, barium, cadmium, chromium, lead, mercury, nitrate, selenium, silver, fluoride, calcium, sodium, pH, and total alkalinity, is \$95-20-~~

~~(5) (4)~~ The fee for a nitrate analysis is ~~\$8-50-~~ \$11.10.

~~(6) (5)~~ The fee for a pesticide-herbicide analysis, consisting of an analysis for endrin, lindane, methoxychlor, toxaphene, 2,4-D, and 2,4,5-TP Silvex, is ~~\$204-90-~~ \$247.90.

~~(7) (6)~~ The fee for a total trihalomethane analysis is as follows:

(a) one analysis, 4 sites: ~~\$256-40~~ \$310.20

(b) one analysis, 1 site: ~~\$85-10~~ \$103.00

~~(8) (7)~~ The fees per analysis to determine the concentration of individual constituents are as follows:

Analysis	Cost per Analysis
Acidity	\$ 23-70 <u>27.50</u>
Alkalinity	12-60 <u>14.60</u>
Aluminum	4-10 <u>4.70</u>
Ammonia	8-50 <u>11.10</u>
Antimony	4-10 <u>4.70</u>
Arsenic	10-90 <u>12.40</u>
Barium	4-10 <u>4.70</u>
Beryllium	4-10 <u>4.70</u>
Biochemical Oxygen Demand (BOD)	56-20 <u>68.70</u>
Boron	4-10 <u>4.70</u>

Cadmium	4-10	4.70
Calcium	4-10	4.70
Chloride	13-70	15.90
Chromium	4-10	4.70
Chromium Hexavalent	75-70	92.50
Cobalt	4-10	4.70
Chemical Oxygen Demand (COD)	46-20	56.40
Color (2 tests - pH adjusted)	47-00	57.40
Copper	4-10	4.70
Cyanide	60-40	73.80
Fluoride	13-90	17.00
Iron	4-10	4.70
Lead	4-10	4.70
Lithium	4-10	4.70
Magnesium	4-10	4.70
Manganese	4-10	4.70
Mercury	8-30	9.50
Mercury Digestion	56-80	64.80
Metals Concentration (per sample)	2-40	2.70
Metals Digestion (except Mercury)	9-20	12.70
Metals scan	3-00	3.40
Molybdenum	4-10	4.70
Nickel	4-10	4.70
Nitrate	8-50	11.10
Nitrogen Kjeldahl	19-70	25.70
Oil and Grease	32-10	39.20
Ortho-Phosphorus	6-00	7.80
PCB	70-50	85.30
PCP	102-50	124.00
Petroleum	70-50	85.30
pH	1-40	1.90
Phenols	82-30	100.60
Total-Phosphorus	10-10	13.20
Potassium	4-10	4.70
Presumptive cyanide	7-00	8.50
Purgable organic	85-10	103.00
Selenium	10-90	12.40
Silica	4-10	4.70
Silver	4-10	4.70
Sodium	4-10	4.70
Specific Conductance	2-00	2.70
Strontium	4-10	4.70
Sulfate	9-30	12.20
Sulfide	85-90	105.00
Tin	4-10	4.70
Total Suspended Solids	14-30	19.50
Turbidity	4-50	6.10
Vanadium	4-10	4.70
Zinc	4-10	4.70
Pesticides (Lindane, Endrin, Toxaphene, Methoxychlor) - first analysis per sample	70-50	85.30
each additional analysis per sample	6-40	7.70

Herbicides (2,4-D, Silvex) - first analysis

per sample ~~102-50~~ 124.00

each additional analysis per sample ~~12-70~~ 15.40

Total organic carbons (TOC) ~~15-80~~ 18.40

Total organic halogens (TOX) ~~12-00~~ 16.70

~~(9)~~ (8) The fees specified in subsections (1) through ~~(8)~~ (7) of this rule may be lowered by the department of health and environmental sciences when larger batches of samples warrant lower fees.

AUTHORITY: Sec. 75-6-103 MCA

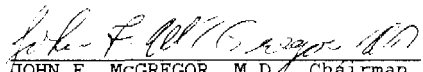
IMPLEMENTING: Sec. 75-6-103 MCA

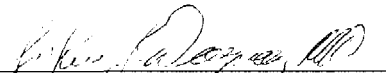
4. The Board is proposing this amendment to the rule because the costs associated with performing the tests covered by the rule have changed since the fees were last set, necessitating a change in the fees to cover those costs, as required by Section 75-6-104, MCA.

5. Interested persons may present their data, views or arguments, either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Robert L. Solomon, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana, 59620, no later than May 16, 1985.

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

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


JOHN F. MCGREGOR, M.D., Chairman

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

Certified to the Secretary of State April 1, 1985

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

In the matter of the amendment) NOTICE OF PUBLIC HEARING
of rules 16.38.301, 16.38.303,) ON PROPOSED AMENDMENT
16.38.304, and 16.38.305,) OF ARM 16.38.301, 16.38.303,
setting laboratory fees for) 16.38.304, AND 16.38.305
air, microbiological, solid)
and hazardous waste, and)
occupational health analyses) (Fees for Laboratory Analyses)

TO: All Interested Persons

1. On May 10, 1985, at 9:00 a.m., a public hearing will be held in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the amendment of rules 16.38.301, 16.38.303, 16.38.304, and 16.38.305.

2. The proposed amendments replace present rules 16.38.301 and 16.38.303 through 16.38.305 found in the Administrative Rules of Montana. The proposed amendments would increase the fees currently set in these rules for tests performed by the department's laboratory, and would add a fee for performing a screening test to determine if a baby is a victim of inborn metabolic errors.

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

16.38.301 LABORATORY FEES -- AIR (1) Effective July 1, 1985, Fees fees for air quality analyses are as follows:

<u>Type of analysis</u>	<u>Cost</u>
Total suspended particulate (TSP),	\$ 3.50 <u>4.80</u> per filter
hi-vol sampler	
TSP, dichotomous sampler	3-40 <u>4.60</u> per filter
Sulfate in hi-vol filter	11-30 <u>14.80</u> per filter
Nitrate in hi-vol filter	11-30 <u>14.80</u> per filter
Trace metals-one metal	10-10 <u>11.50</u> per filter
Trace metals-each additional metal	4-10 <u>4.70</u> per filter
Fluoride: Paper	30-20 <u>36.90</u>
Fluoride: Plate	15-20 <u>18.60</u> per plate
Fluoride: Vegetation	52-20 <u>63.80</u>
Sulfur and BTU in coal	167-90 <u>191.70</u>
Sulphation rate	11-50 <u>15.70</u> per plate

AUTHORITY: Sec. 50-1-202 MCA

IMPLEMENTING: Sec. 50-1-202 MCA

16.38.303 LABORATORY FEES -- MICROBIOLOGICAL (1) As of July 1, 1985, The the handling fee is ~~\$1.50~~ \$1.75 per specimen for performance of any microbiological test other than a test of drinking water which is covered by ARM 16.38.302 or the screening tests referred to in subsection (2) of this rule. Microbiological tests include, but are not limited to, diagnostic bacteriology, mycology, parasitology, virology, and immunology analyses.

(2) Effective July 1, 1985, the fee for screening for inborn errors of metabolism is \$5.50. Such screening may include but is not limited to tests for phenylketonuria, congenital hypothyroidism, or galactosemia.

(2) (3) No handling fee will be charged for a microbiological test on any specimen whose submission to the laboratory was requested by the department.

AUTHORITY: Sec. 50-1-202 MCA; Ch. 41, Sec. 2, 1985 Session Laws;
IMPLEMENTING: Sec. 50-1-202 MCA

16.38.304 LABORATORY FEES -- SOLID WASTE AND HAZARDOUS WASTE Effective July 1, 1985, Fees fees for solid and hazardous waste analyses are as follows:

Type of analysis	Cost
EP Toxicity, metals only	\$63.10 73.30
Ignitability	25.20 29.30
Vegetable Digestion	6.00

AUTHORITY: Sec. 50-1-202 MCA
IMPLEMENTING: Sec. 50-1-202 MCA

16.38.305 LABORATORY FEES -- OCCUPATIONAL HEALTH Effective July 1, 1985, Fees fees for occupational health analyses are as follows:

Type of analysis	Cost
Blood	\$22.00 25.10
Cholinesterase	1.50 1.75
Formaldehyde	11.60 14.20

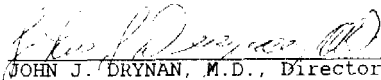
AUTHORITY: Sec. 50-1-202 MCA
IMPLEMENTING: Sec. 50-1-202 MCA

4. The Department is proposing this amendment to the rules because it is needed to cover increased laboratory personnel, equipment, and other costs, and the handling cost of new tests to be done by the laboratory which will determine whether inborn metabolic errors exist.

5. Interested persons may present their data, views or arguments, either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Robert L. Solomon, Cogswell Building, Capitol Complex, Helena, Montana, no later than May 10, 1985.

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

7. The authority of the Department to make the proposed amendment is based on section 50-1-202, MCA, and Chapter 41, Sec. 2, of the 1985 Session Laws, and the rules implement section 50-1-202, MCA.


JOHN J. DRYNAN, M.D., Director

Certified to the Secretary of State April 1, 1985

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

In the matter of the adoption	)	NOTICE OF PUBLIC HEARING
of RULE I; the amendment of	)	FOR PROPOSED ADOPTION,
rules 16.32.103, 16.32.106,	)	AMENDMENT, AND REPEAL
16.32.107, 16.32.110, 16.32.111,	)	OF RULES
16.32.112, 16.32.114, 16.32.118;)	
and the repeal of rules)	
16.32.108, 16.32.125, 16.32.126,)	
16.32.127, and emergency rules I)	
and II, all concerning criteria)	
and procedures for review of)	
certificates of need for health)	
care facilities	)	(Certificate of Need)

To: All Interested Persons

1. On May 10, 1985, at 9:00 a.m., a public hearing will be held in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the adoption of RULE I which establishes procedures for conducting hearings for certificates of need for health care facilities, and the amendment and repeal of the above-captioned rules.

2. The proposed new RULE I replaces rule 16.32.108, which can be found at page 16-1404 of the Administrative Rules of Montana, and which is proposed to be repealed.

3. The proposed amendments replace the present rules of the same numbers found in the Administrative Rules of Montana. The proposed amendments would establish new review procedures as required by Chapter 26, Laws of 1985, and would clarify certain other aspects of certificate of need review.

4. Rules 16.32.108, 16.32.125, 16.32.126 and 16.32.127 which may be found on pages 16-1404 and 16-1437 - 16-1439, Administrative Rules of Montana, are proposed to be repealed. Emergency Rules I and II, which may be found on pages 203 and 210 of the February 28, 1985, Montana Administrative Register, issue no. 4, are proposed to be repealed. The authority of the department to repeal the rules is based on Sec. 50-5-302, MCA, and on Sec. 3, Chapter 26, Laws of 1985.

5. The proposed new RULE I and amendments to the above-captioned rules provide as follows (matter to be stricken is interlined; new material is underlined):

16.32.103 SUBMISSION OF LETTER OF INTENT (1) At least 10 days before any person acquires or enters into a contract to acquire an existing health care facility, the person shall notify the department and the agency qualified as a health systems agency pursuant to 42 USC 300 1 of the intent to acquire the facility and of the services to be offered in the facility and its bed capacity. The notice must be in writing and must contain the following:

(a) The services currently provided by the health care facility and the present bed capacity of the facility.

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(b) Any additions, deletions or changes in such services which will result from the acquisition.

(c) Any changes in bed capacity, redistribution of beds among service categories or relocation of beds from one site to another which will result from the acquisition.

(2) Except as provided in subsection (1) of this rule, any person proposing an activity subject to review under section 50-5-301, MCA, and not exempt under 50-5-309, MCA, shall submit to the department a letter of intent, ~~as a pre-requisite to filing an application for a certificate of need,~~ except a health maintenance organization is excluded from submitting a letter of intent or application for a certificate of need for feasibility surveys or planning funded under 42 U.S.C. Sec. 246.

(3) The letter of intent must contain the following information:

- (a) Name of applicant
- (b) Proposal title
- ~~(c)~~ (e) Estimated capital expenditure
- ~~(d)~~ (c) Estimated annual operating and amortization expenditure ~~(for new services)~~
- ~~(e)~~ (c) A statement whether the proposal involves:
 - (i) a substantial change in existing services
 - (ii) acquisition of equipment (major medical equipment and/or other)
 - (iii) replacement of existing equipment
 - (iv) renovation of existing structure
 - (v) addition to existing structure
 - (vi) other (explain)
- ~~(f)~~ (d) A narrative summary of the proposal, including statements on whether the proposal will affect bed capacity of the facility, or changes in services;
- ~~(g)~~ (e) An itemized estimate of proposed capital expenditures including a proposed equipment list with a description of each item which will be purchased to implement the proposal;
- ~~(h)~~ (f) Anticipated methods and terms of financing the proposal;
- ~~(i)~~ (g) Effects of the proposal on the cost of patient care in the service area affected;
- ~~(j)~~ (h) Projected dates for commencement and completion of the proposal; and
- ~~(k)~~ (i) The proposed geographic area to be served.
- ~~(l)~~ (j) An itemized estimate of increases in annual operating and/or amortization expenses resulting from new health services.
- ~~(m)~~ (k) The location of the proposed project.
- ~~(n)~~ (l) A brief description of other facilities in the services area which provide similar services.

(4) The letter of intent must be dated and signed by an authorized representative of the applicant.

(5) ~~Within 10 calendar days after the receipt of a letter of intent pursuant to subsection (1) and within 30 calendar days after receipt of a letter of intent pursuant to subsection (2),~~ the Department shall notify the applicant in writing whether or not the activity proposed in the its letter of intent is subject to review under section 50-5-301, MCA.

(a) For letters of intent submitted under subsection (1) of this rule, this decision will be based on a determination whether acquisition of the facility will result in changes in the services or bed capacity of the facility, as described in subsections (1)(a), (b), and (c) of this rule. Acquisition of a health care facility from a health maintenance organization will be considered a change in service.

(b) For letters of intent submitted under subsection (2) of this rule, in determining whether or not a capital expenditure for equipment is over \$500,000, the department will review the list submitted by the applicant pursuant to subsection (3)(g) (e) of this rule and will aggregate the total cost for each item of equipment obligated for or purchased within a health care facility's fiscal year for a program, service, department or plan.

(6), (7) Same as existing rule.

(8) If an existing health care facility proposes to establish a home health agency, kidney treatment center, or long-term care facility, ~~or hospice,~~ such proposal will be reviewed pursuant to 50-5-301(1)(f), MCA.

(9) Same as existing rule.
AUTHORITY: Sec. 50-5-103, 50-5-302 MCA; Sec. 3, Chapter 26, Laws of 1985

IMPLEMENTING: Sec. 50-5-301, 50-5-302 MCA

16.32.106 BATCHING PERIODS, SUBMISSION OF APPLICATIONS

(1) The following batching periods are established for all categories of service and for all regions of the state:

- (a) January 1 through January 20
- (b) March 1 through March 20
- (c) May 1 through May 20
- (d) July 1 through July 20
- (e) September 1 through September 20
- (f) November 1 through November 20

Except as provided in subsections (3) and (5) below and in section ~~16-32-103(4)~~ 16.32.103(6), letters of intent will be accepted only during these periods. Letters of intent received at other times will be assigned to the next batching period.

(2) The following challenge periods are established:
For the batching period ending: The challenge period is:

January 20	February 1 through February 28
March 20	April 1 through April 30
May 20	June 1 through June 30
July 20	August 1 through August 31
September 20	October 1 through October 31
November 20	December 1 through Dec. 31

(3) The following categories of health services will be batched: general medical-surgical, psychiatry, obstetrics, pediatrics, skilled nursing, personal and intermediate care, ether. Only proposals in these categories involving new services, new or increased bed capacity, or construction or replacement of health care facilities will be batched.

(4) Except as provided in subsection (10) below, upon determination by the department that an activity described in a letter of intent is subject to certificate of need review, the letter of intent will be placed in the appropriate batch, according to its category and region of the state. At the conclusion of the batch period, the department will notify each applicant in the batch that its application may be submitted, and must be received by the department on a date specified by the department, which, in the case of non-comparative review, may be no earlier than 30 days after the end of the challenge period immediately following the batch just concluded, and in the case of comparative review, no later than that date, unless a later date is agreed upon by all affected applicants. On the first day of the month following the conclusion of each batching period, the department will publish notices in a newspaper of general circulation in the affected areas listing the letters of intent which have been received in the batch just concluded.

(5) - (6) Same as existing rule.

(7) Concurrently with the notices of comparative review, the department will send application forms to all applicants in the batch, and will notify all applicants of the time period, which may not be less than 30 nor more than 90 days, within which an application must be received by the department. Failure to return the application within the time specified will require the process to begin anew with another letter of intent.

(8) (7)(a) No An application will be accepted only except after submission of a letter of intent, and no earlier than the conclusion of the batch period in which the letter of intent was accepted. and the issuance of the comparative review notices and application forms pursuant to subsection (7) of this rule.

(b) If a challenging letter of intent has been submitted during the challenge period and is accepted for comparative review, the challenger will have an additional thirty days following the conclusion of the challenge period in which to submit an application.

(9) (c) The application must contain, at a minimum, the information as specified by the department pursuant to ARM 16.32.136 and 16.32.137.

(10) (d) The original and ~~one copy~~ four copies of the application must be submitted to the department. An additional copy must be submitted to the agency qualified as a health systems agency pursuant to 42 U.S.C. Sec. 300 l.

(11) (8) Within 15 calendar days from the date that the department receives the application, the department shall determine whether or not the application is complete.

(a) If the application is determined to be incomplete, the department shall, within 5 working days after that determination, notify the applicant in writing by mail of the incompleteness and of the specific information that is necessary to complete the application. The department shall also indicate a time, which may be no less than 15 days, within which the department must receive the additional information requested. Within 15 days after receipt of the additional information, the department shall determine whether the application is complete. If the information submitted is still not sufficient, the department may require additional information.

(b) If adequate information is not received within the time specified, the department may determine that the applicant has forfeited its right to comparative review for the current batching period. In such a case, the department may either process the application without comparative review according to ARM 16.32.107 or assign the application to the next appropriate batching period.

(c) An application may be changed any time prior to the department's declaration that the application is complete. Change in intent of the application or impact on the financial feasibility of the proposed project after the department's declaration ~~requires~~ may require the process to begin again with the filing of another letter of intent.

(12) (9) Only those applications which are received and declared complete within the time periods specified in this rule are entitled to participate in comparative review procedures with other applications within the current batch. However, the department may, in its discretion, conduct a comparative review of competing applications from different batches if such applications are being reviewed concurrently and if such comparative review can be conducted consistently with all other time constraints imposed by Title 50, Chapter 5, Part 3, MCA, and this sub-chapter.

(13) (10) Applications which qualify for abbreviated review under ARM 16.32.114, except for those described in ARM 16.32.114(2)(f), need not be placed in a batch and may be processed immediately in accordance with ARM 16.32.114 without batching or comparative review.

AUTHORITY: Sec. 50-5-103, 50-5-302, 2-4-201 MCA; Sec. 3, Chapter 26, Laws of 1985

IMPLEMENTING: Sec. 50-5-302, MCA

16.32.107 ACCEPTANCE OF APPLICATIONS; REVIEW PROCEDURES

(1) When an application that has not been assigned for comparative review is determined to be complete, the department shall issue a notice of acceptance in accordance with subsection (4) (3) below.

(2) When all applications within a batch that have been assigned to a particular comparative review are determined to be complete, the department shall issue notices of acceptance concurrently to all such applicants in accordance with subsection (4) below.

(3) The department shall approve, approve with conditions, or deny the application, unless the applicant agrees in writing to a longer period, within 90 calendar days after a notice of acceptance of the completed application has been published in a newspaper of general circulation within the service area affected by the application. In the case of a review of a new institutional health service proposed by a health maintenance organization, the review cycle shall begin on the date the application is deemed complete by the department and shall not extend beyond 90 calendar days.

(2) Within thirty days after a notice of acceptance of a complete application has been issued, the department shall, after consultation with the agency qualified as a health systems agency pursuant to 42 U.S.C. Sec. 3001, issue a preliminary decision on the application, accompanied by a staff report and findings in support of the decision. Notice of the preliminary decision shall be published as provided in subsection (3).

(4) (3) A notice of acceptance of a complete application must be mailed to the applicant, an agency qualified as a health systems agency pursuant to 42 U.S.C. Sec. 3001 Health Service Act, health care facilities and health maintenance organizations located in the service area and rate review agencies in the state. Contiguous health systems agencies qualified pursuant to 42 U.S.C. Sec. 3001 will be notified if the service area borders one of the surrounding states. A The notice of acceptance preliminary decision must be circulated as provided for notices of acceptance, and published in a newspaper of general circulation in the service area affected.

(5) (4) A notice of preliminary decision acceptance of an application must include:

(a) the review period schedule;

(b) the date by which a written request for a public an informational hearing must be received by the department;

(c) the manner in which notification will be provided of the time and place of a public an informational hearing so requested; and

(d) the manner in which the public informational hearing will be conducted.

(6)(a) An agency qualified as a health systems agency pursuant to 42 U.S.C. Sec. 3001 must be given the opportunity

to provide the department with recommendations on the application within 60 calendar days after the notice of acceptance of the completed application has been published as required by ARM 16.32.107(4) unless another period of time has been agreed to, in writing, by the health systems agency and the department. Health systems agency reviews of an application by a health maintenance organization may not extend beyond 60 days.

AUTHORITY: Sec. 50-5-103, 50-5-302, MCA; Sec. 3, Chapter 26, Laws of 1985

IMPLEMENTING: Sec. 50-5-302 MCA

RULE 1 HEARING PROCEDURES [to be codified as 16.32.109]

(1) If the preliminary decision issued pursuant to ARM 16.32.107(2) is for denial of the application, or in the case of comparative review of competing applications, a public hearing must be held no later than 60 days following the issuance of the preliminary decision. Public notice of the hearing must be published with the preliminary decision as provided in ARM 16.32.107(3) and (4).

(2)(a) If the preliminary decision is for approval of the application and no comparative review is required, the notice of preliminary decision shall include a statement that any affected person may request a public hearing on the application. Such a request must be received by the department in writing within 15 days after publication of the notice.

(b) The department shall hold a hearing if requested by the agency qualified as a health systems agency pursuant to 42 U.S.C. Sec. 3001 or there is substantial public interest or significant opposition to the application by affected persons, as reflected in requests for a hearing.

(c) If the department determines that a hearing is warranted, it must be held within forty-five days after receipt of the request.

(3) All parties, including the department and the qualified health systems agency, who wish to participate formally in the hearing shall submit a pre-hearing memorandum to the department no later than fifteen days prior to the hearing, which shall set out with as much specificity as possible the party's statement of issues, contested facts, points of law, anticipated witnesses and the nature of their testimony, and copies of anticipated exhibits.

(4) The hearing will be before the department and will be conducted pursuant to the informal rules of procedure, 2-4-604, MCA. Informal public testimony may be permitted at the discretion of the hearings officer.

(5) The record of decision will close at the conclusion of the hearing. Parties will be entitled to submit proposed findings of fact, conclusions of law and a proposed order.

(6) The qualified health systems agency must be given the opportunity to provide the department with recommendations on the application within fifteen days after the conclusion of the hearing, unless another period of time has been agreed to, in writing, by the health systems agency and the department.

(7) The department is not a party to the hearing for the purposes of 2-4-613, MCA.

AUTHORITY: Sec. 50-5-103, MCA; Sec. 3, Chapter 26, Laws of 1985

IMPLEMENTING: Sec. 50-5-302, MCA

16.32.110 CRITERIA AND FINDINGS

(1) A certificate of need will not be issued unless the department determines there is a need for the proposed new health service, and that the proposal is consistent with the state health plan. Consistency with the state health plan may be waived in emergency circumstances that pose an imminent threat to public health. Criteria listed in section 50-5-304, MCA, 42 CFR 123.412, and the following will be considered by the department in making its decision:

(a) - (c) Same as existing rule.

(2) - (6) Same as existing rule.

(7) The department hereby adopts and incorporates herein by reference the 1985 Montana State Health Plan, adopted by the Statewide Health Coordinating Council. The Montana State Health Plan sets forth the state's policies, standards and criteria for review of certificate of need applications. A copy of the 1985 Montana State Health Plan may be obtained from the Health Planning and Resource Development Bureau, Cogswell Building, Capitol Station, Helena, Montana, 59620.

AUTHORITY: Sec. 50-5-103, 50-5-304, MCA

IMPLEMENTING: Sec. 50-5-304, MCA

16.32.111 DEPARTMENT DECISION (1)(a) If no request for a hearing is received within the 15-day comment period provided in RULE 1(2), [to be codified as 16.32.109(2),] the department must issue its final decision within 15 days after the end of that comment period.

(b) If a hearing is held pursuant to RULE 1, [to be codified as ARM 16.32.109,] the final decision of the department must be issued within 30 days after the conclusion of the hearing.

(c) These deadlines may be extended with the concurrence of the affected applicants.

(1) (2) If the department fails to reach a decision within the required deadlines the 90 calendar days, or the longer period of time agreed upon by the applicant, or to issue a decision within 5 working days thereafter, a certificate of need will not automatically issue.

42 (3) If the certificate of need is issued with conditions, the conditions must be directly related to the project under review, and to the criteria listed in Section 50-5-304, MCA, and ARM 16.32.110, and cannot increase the scope of the project.

43 (4) The decision of the department must be based on the record and contained in written findings of fact and conclusions of law, and must be mailed to the applicant, all other applicants assigned for comparative review with the applicant, and any agency qualified as a health systems agency pursuant to 42 U.S.C. Sec. 3001 and must be made available, upon request, to others for cost. Whenever the department's decision involves new health services proposed by a health maintenance organization, or the department's decision to deny a certificate of need is based on its findings with respect to provision of health services to minorities and medically underserved populations, the department shall send copies of the department's written findings and decision to Region VIII office of the Department of Health and Human Services at the time the applicant is notified of the department's decision.

44 (5) If the department's decision is not consistent with the Montana Health Systems Plan, the Montana Annual Implementation Plan, or the Montana State Health Plan, or does not concur with the recommendations of an agency qualified as a health systems agency pursuant to 42 U.S.C. Sec. 3001 the department shall submit a written detailed statement of the reasons for the inconsistency to the agency qualifying as a health systems agency pursuant to 42 U.S.C. Sec. 3001.

AUTHORITY: Sec. 50-5-103 MCA; Sec. 3, Chapter 26, Laws of 1985

IMPLEMENTING: Sec. 50-5-302, 50-5-304 MCA

16.32.112 APPEAL PROCEDURES (1) Any affected person party to the public hearing held pursuant to RULE 1 [to be codified as ARM 16.32.109] may request a reconsideration hearing before the department for "good cause".

(a) For the purpose of this rule "good cause" exists if the requestor:

(i) presents significant relevant information not previously considered by the department;

(ii) demonstrates that there have been significant changes in factors or circumstances relied upon by the department in reaching its decision; or

(iii) demonstrates the department has failed to follow procedural requirements in reaching its decision.

(b) - (g) Same as existing rule.

(2) An affected person A party may appeal the department's initial decision directly to district court the board without first requesting a reconsideration hearing, if the issues on appeal do not satisfy the criteria set forth in subsection (1)(a).

{3} A decision of the board on appeal shall be made in writing within 45 calendar days after the conclusion of the board hearing, and shall be sent to the applicant, the department and the agency qualified as the health systems agency pursuant to 42 U.S.C. Sec. 3001. Any other affected person upon request may receive a copy of this decision for cost. The board, in accordance with the reasons found in section 2-4-704, MCA, may affirm the department's decision, remand the application to the department for further proceedings, reverse the department's decision or modify the department's decision. The decision of the board shall be considered final.

AUTHORITY: Sec. 50-5-103, 50-5-306, MCA; Sec. 3, Chapter 26, Laws of 1985

IMPLEMENTING: Sec. 50-5-306, MCA

16.32.114 ABBREVIATED REVIEW

(1) - (5) Same as existing rule.

(6) Upon acceptance of an application for abbreviated review, the department shall issue a notice of acceptance in accordance with ARM ~~16-32-107(4)~~ and {5} 16.32.107(3) and (4). If a request for an informational hearing is received within the time specified in the notice, the abbreviated review schedule will be terminated and the review of the application will continue in accordance with the normal review procedures.

(7) - (9) Same as existing rule.

AUTHORITY: Sec. 50-5-103, 50-5-302, MCA; Sec. 3, Chapter 26, Laws of 1985

IMPLEMENTING: Sec. 50-5-302, MCA

16.32.118 DURATION OF CERTIFICATE

(1) Same as existing rule.

(2)(a) Same as existing rule.

(b) Within 20 days after receipt of the request, the department must issue its written decision granting or denying the extension. The decision must be sent to the applicant by certified mail, and distributed to others as provided in ~~16-32-111(3)~~ 16.32.111(4).

(c), (d) Same as existing rule.

AUTHORITY: Sec. 50-5-103, 50-5-305, MCA; Sec. 3, Chapter 26, Laws of 1985

IMPLEMENTING: Sec. 50-5-305, MCA

6. The Department is proposing this rulemaking to implement changes in the certificate of need law enacted by the legislature in S.B. 71 (Ch. 26, Laws of 1985), as well as to clarify certain aspects of the certificate of need process.

S.B. 71 removed the Board of Health from the certificate of need review process, and also shortened the review period

for non-contested applications for which no hearing is required. In order to implement these changes, the proposed rules do the following:

- (1) The batching and challenge periods remain unchanged.
- (2) A preliminary decision will be issued within 30 days after an application is declared complete (16.32.107(2)).
- (3) A 15-day period for public comments and requests for a hearing will be provided (NEW RULE 1(2)).
- (4) If no hearing is required, the final decision will be issued within 15 days after the end of the comment period (16.32.111(1)(a)).
- (5) If the preliminary decision was to deny the application, or if a comparative review is required, or if a hearing is requested and good cause appears therefor, a public hearing will be held. (NEW RULE 1 (1), (2)) Parties to the hearing must submit pre-hearing memoranda (NEW RULE 1(3); 16.32.108 is repealed and is replaced by NEW RULE 1)
- (6) The final decision will be issued within 30 days after the hearing (16.32.111(1)(b)).
- (7) The department may hold an informal reconsideration hearing for good cause as defined in the rules. (16.32.112(1)) Appeals of the final decision are to district court. (16.32.112(2))

Other changes not directly related to S.B. 71 are as follows:

16.32.103(3). The deletions are to eliminate redundant requirements for letters of intent.

16.32.103(8). The deletion of "hospice" from this paragraph will allow new hospice services provided by an existing health care facility to be reviewed as a new service rather than as a new facility.

16.32.106(9). The new language allows for comparative review of applications from different batches. This is to clarify the department's interpretation of its authority, as ratified by the Board of Health.

16.32.110(1). Reference to the federal rules is to clarify the Department's current interpretation of its review authority.

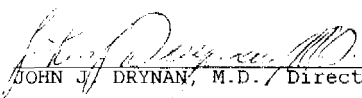
16.32.110(7). The department proposes to incorporate by reference the standards and criteria set forth in the State Health Plan. The certificate of need law and the current rules of the department require that our decisions be consistent with the State Health Plan, which is adopted by the Statewide Health Coordinating Council after public hearings around the state, and signed by the Governor.

16.32.125-127. These sections contain specific criteria for CON review which would be redundant (and in some cases contradictory) if the State Health Plan is incorporated into the rules. Therefore, these sections are proposed to be repealed.

Finally, the department proposes the repeal of emergency rules I and II, and of emergency amendments to rules 16.32.103, 16.32.105, 16.32.107, 16.32.111, and 16.32.112 (MAR pages 203 - 213, issue no. 4, February 28, 1985). These emergency rules were adopted to serve during the interim between the enactment of S.B. 71 -- which became effective immediately -- and the adoption of permanent rules. The emergency rules would terminate by law on June 15, but the department proposes immediate repeal at the time the permanent rules take effect so that there will be no confusion as to which rules are applicable.

7. Interested persons may present their data, views or arguments, either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Robert L. Solomon, Cogswell Building, Capitol Complex, Helena, MT., no later than May 10, 1985.

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


JOHN J. DRYNAN, M.D. / Director

Certified to the Secretary of State April 1, 1985

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

In the matter of the amendment	)	NOTICE OF PUBLIC HEARING
of rules 16.8.701 (definitions);	)	ON PROPOSED AMENDMENT
16.8.707 (circumvention);	)	AND ADOPTION OF RULES
16.8.921 (definitions; PSD);)	
16.8.1101, 16.8.1102, 16.8.1107,)	
and 16.8.1109 (permits);)	
16.8.1423 (NSPS); 16.8.1424)	
(hazardous air pollutants);)	
and the adoption of new RULES I)	
through VIII (visibility pro-)	
tection)	)	(Air Quality)

TO: All Interested Persons

1. On May 17, 1985, at 9:00 a.m., a public hearing will be held in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the amendment and adoption of the above-captioned rules.

2. The proposed amendments replace the present rules of the same numbers found in the Administrative Rules of Montana. The proposed new rules I through VIII on visibility protection would not replace or modify any section currently found in the Administrative Rules of Montana but would add a new sub-chapter to the department's air quality rules.

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

16.8.701 DEFINITIONS As used in this and subsequent sub-chapters, unless indicated otherwise, the following definitions apply:

(1) - (17) Same as existing rule.

(18) "Public nuisance" means any condition of the atmosphere beyond the property line of the offending person which

(a) affects, at the same time, an entire community or neighborhood, or any considerable number of persons (although the extent of the annoyance or damage inflicted upon individuals may be unequal), and

(b) is injurious to health, or offensive to the senses, or which causes or constitutes an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

(19) - (26) Same as existing rule.

AUTHORITY: Sec. 75-2-111 MCA

IMPLEMENTING: Title 75, Chapter 2, MCA

16.8.707 CIRCUMVENTION (1) No person shall cause or permit the installation or use of any device ~~of~~ or any means which, without resulting in reduction in the total amount of air contaminant emitted, conceals or dilutes an emission of air contaminant which would otherwise violate an air pollution

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control regulation.

(2) Same as existing rule.

AUTHORITY: Sec. 75-2-111, 75-2-203 MCA

IMPLEMENTING: Sec. 75-2-203 MCA

16.8.921 DEFINITIONS For the purpose of this subchapter, the following definitions apply:

(1) Same as existing rule.

(2) "Actual emissions" means the actual rate of emission of a pollutant ~~as of the baseline date~~ from an emission unit determined as follows:

(a) Actual emissions as of a particular date equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during the previous two-year period and which represents normal operation. A different time period may be used if the department determines it to be more representative. Actual emissions are calculated using actual operating hours, production rates, and types of materials processed, stored or combusted during the selected time period.

(b) The department may presume that source specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(c) For emissions units which have not begun normal operations on the particular date, actual emissions equal the potential to emit of the emissions units on that date.

(3) - (31) Same as existing rule.

AUTHORITY: Sec. 75-2-111, 75-2-203 MCA

IMPLEMENTING: Sec. 75-2-202, 75-2-203 MCA

16.8.1101 DEFINITIONS For the purpose of this subchapter:

(1) - (6) Same as existing rule.

(7) "Potential to emit" means the capability of a source at maximum design capacity to emit any air pollutant after application of air pollution control equipment. Any enforceable permit condition or regulations which limit hours of operation, the type or amount of material combusted, stored, or processed, or other emissions limiting factors, is treated as part of its design. Secondary emissions are not included in determining the potential to emit of a stationary source.

(8) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a stationary source, but do not come from the stationary source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(a) Emissions from trains coming to or from the stationary source;

(b) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the stationary source.

AUTHORITY: Sec. 75-2-111, 75-2-204 MCA

IMPLEMENTING: Sec. 75-2-204, 75-2-211 MCA

16.8.1102 WHEN PERMIT REQUIRED -- EXCLUSIONS

(1)(a) - (k) Same as existing rule.

(1) All other sources and stacks not specifically excluded which do not have the potential to emit less more than 25 5 tons per year of any pollutant, other than lead, for which a rule has been adopted in this chapter;

(m) and (n) Same as existing rule.

AUTHORITY: Sec. 75-2-111, 75-2-204 MCA

IMPLEMENTING: Sec. 75-2-204, 75-2-211 MCA

16.8.1107 PUBLIC REVIEW OF PERMIT APPLICATIONS

(1) and (2) Same as existing rule.

(3) If a prevention of significant deterioration (PSD) rule has been adopted by the Board the following additional review requirements shall apply to any source or stack which is subject to the PSD rule: Where a permit application has been filed for a source defined as a major stationary source under 16.8.921(22) or as a major modification under 16.8.921(21), the following additional requirements shall be met:

(a) The Department department shall advertise in a newspaper of general circulation in the air quality control region affected by the proposed source or stack that an application has been received, the preliminary determination made by the Department department, the degree of increment consumption that is expected from the source or stack, how written comments may be submitted, and how the final determination of the Department department may be appealed to the Board board; and

(b) The Department department shall send a copy of the notice of public comment to the applicant, the Region VIII Administrator of the Environmental Protection Agency and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: any other state or local air pollution control agencies, the governing body of the city and county where the source or stack would be located; any comprehensive regional land use planning agency, and any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the source or stack.

(c) When the department receives advance notification of a permit application of a major stationary source or major modification, it shall notify all affected federal land managers within 30 days of such advance notification.

(4) If an application for an air quality permit is also an application for certification under the terms of the Major Facility Siting Act, public review is governed by the terms of ARM 16.2.501, 16.2.502, and 16.2.503.

AUTHORITY: Sec. 75-2-111, 75-2-204, 75-20-216(3) MCA

IMPLEMENTING: Sec. 75-2-204, 75-2-211, 75-20-216(3) MCA

16.8.1109 CONDITIONS FOR ISSUANCE OF PERMIT

(1) - (5) Same as existing rule.

(6) Any owner or operator of a new or altered source or stack proposing construction or alteration within any area designated as non-attainment in 40 CFR 81.327 for any air contaminant must demonstrate that all major stationary sources, as defined in ARM ~~16-8-901(14)~~, ARM 16.8.921(22), owned or operated by such persons, or by an entity controlling, controlled by, or under common control with such ~~person~~, persons, are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable air quality emission limitations and standards contained in this chapter.

(7) Same as existing rule.

(8) The ~~Board~~ board hereby adopts and incorporates by reference 40 CFR Part 52, Subpart BB, which describes Montana's state implementation plan for control of air pollution in Montana; 40 CFR 81.327, which sets forth air quality attainment status designations for the state of Montana; and ARM ~~16-8-901(14)~~ ARM 16.8.921(22), which defines "major stationary source". Copies of 40 CFR Part 52, Subpart BB, 40 CFR 81.327, and ARM ~~16-8-901(14)~~ ARM 16.8.921(22) may be obtained from the Air Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Helena, Montana 59620.

AUTHORITY: Sec. 75-2-111, 75-2-204 MCA

IMPLEMENTING: Sec. 75-2-204, 75-2-211 MCA

16.8.1423 STANDARD OF PERFORMANCE FOR NEW STATIONARY SOURCES (1) This rule applies to the owner or operator of any new stationary source for which a standard of performance is prescribed by subsection (2) of this rule.

(2) All new stationary sources shall comply with the provisions of Title 40, Part 60, Code of Federal Regulations, (CFR) July 1, 1984. ~~1981, with the following exceptions: 40 CFR 60-10 and 40 CFR 60-20-60-29 are deleted.~~

(3) For the purpose of this rule, the board hereby adopts and incorporates by reference Title 40, Part 60, (CFR) which sets forth standards of performance for new stationary sources. A copy of Title 40, Part 60, CFR, may be obtained from the air quality bureau of the department, Cogswell Building, Helena, Montana.

AUTHORITY: Sec. 75-2-111, 75-2-203 MCA

IMPLEMENTING: Sec. 75-2-203 MCA

16.8.1424 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

(1) This rule applies to the owner or operator of any stationary source for which an emission standard for hazardous air pollutants is prescribed by subsection (2) of this rule.

(2) The owner or operator of any stationary source shall comply with provisions of Title 40, Part 61, Code of Federal Regulations (CFR), July 1, ~~1981~~ 1984, with the following exception: ~~40-CFR-61-16 is deleted.~~

(3) For the purpose of this rule, the board hereby adopts and incorporates by reference Title 40, Part 61, CFR, which sets forth emission standards for hazardous air pollutants. A copy of Title 40, Part 61, CFR, may be obtained from the Air Quality Bureau ~~of the Department~~, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620.

AUTHORITY: Sec. 75-2-111, 75-2-203 MCA

IMPLEMENTING: Sec. 75-2-203 MCA

5. The new rules are proposed to be codified in a new sub-chapter 10, entitled "Visibility Impact Assessment". The proposed new rules provide as follows:

RULE I (to be codified 16.8.1001) APPLICABILITY -- VISIBILITY REQUIREMENTS APPLICABILITY (1) This sub-chapter is applicable to the owner or operator of a proposed major stationary source as defined by ARM 16.8.921(22) or of a source proposed for a major modification as defined by ARM 16.8.921(21) proposing to construct such a source or modification after July 1, 1985, in any area within the state of Montana designated as attainment, unclassified, or nonattainment in accordance with 40 CFR 81.327. The requirements of this sub-chapter shall be integrated with the requirements of Administrative Rules of Montana, Title 16, Chapter 8, Sub-chapters 9 (PSD) and 11 (Permits).

(2) The board hereby adopts and incorporates by reference section 40 CFR 81.327 which is a federal agency rule setting forth attainment status designation for Montana pursuant to section 107 of the Federal Clean Air Act. A copy of 40 CFR 81.327 may be obtained from the Air Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620.

AUTHORITY: Sec. 75-2-111, 75-2-203 MCA

IMPLEMENTING: Sec. 75-2-203, 75-2-204, and 75-2-211 MCA

RULE II (to be codified 16.8.1002) DEFINITIONS For the purposes of this sub-chapter:

(1) "Mandatory Class I area" means those areas listed in ARM 16.8.923(2).

(2) "Significant impairment" means visibility impairment which the department determines does or is likely to interfere with the management, protection, preservation, or enjoyment of

the visual experience of visitors within a mandatory Class I area. The determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with times of visitor use of the mandatory Class I area, and the frequency and occurrence of natural conditions that reduce visibility.

(3) "Visibility impairment" means any humanly perceptible change in visual range, contrast or coloration from that which would have existed under natural conditions. Natural conditions include fog, clouds, windblown dust from natural sources, rain, naturally ignited wildfires, and natural aerosols.

AUTHORITY: Sec. 75-2-111, 75-2-203 MCA

IMPLEMENTING: Sec. 75-2-203, 75-2-204, 75-2-211 MCA

RULE III (to be codified 16.8.1003) VISIBILITY IMPACT ANALYSIS

(1) The owner or operator of a major stationary source or modification as described in RULE I (16.8.1001) shall demonstrate that the actual emissions [as defined by ARM 16.8.921(2)] from the major source or modification (including fugitive emissions) shall not cause or contribute to significant impairment of visibility within any mandatory Class I area.

(2) The owner or operator of a proposed major stationary source or major modification shall submit all information necessary to support any analysis or demonstration required by these rules pursuant to ARM 16.8.1105.

AUTHORITY: Sec. 75-2-111, 75-2-203 MCA

IMPLEMENTING: Sec. 75-2-203, 75-2-204, 75-2-211 MCA

RULE IV (to be codified 16.8.1004) VISIBILITY MODELS

(1) All estimates of visibility impact required under this sub-chapter shall be based on those models contained in "Workbook for Estimating Visibility Impairment" (EPA-450/4-80-031, November, 1980). Equivalent models may be substituted if approved by the department.

(2) The board hereby adopts and incorporates by reference "Workbook for Estimating Visibility Impairment" (EPA-450/4-80-031, November, 1980) which is a federal agency publication setting forth methods by which estimates of visibility impairment may be made. A copy of "Workbook for Estimating Visibility Impairment" (EPA-450/4-80-031, November, 1980) may be obtained from the Air Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620.

AUTHORITY: Sec. 75-2-111, 75-2-203 MCA

IMPLEMENTING: Sec. 75-2-203, 75-2-204, 75-2-211 MCA

RULE V (to be codified 16.8.1005) NOTIFICATION OF PERMIT APPLICATION

(1) Where a proposed major stationary source or major modification will impact or may impact visibility within a mandatory Class I area, the department shall provide written

notice to the Environmental Protection Agency and to the appropriate federal land managers. Notification shall be in writing and be within 30 days of the receipt of the application.

(2) Where the department receives advance notification of a permit application of a source that may affect mandatory Class I area visibility, the department will notify all affected federal land managers within 30 days of such advance notice.

AUTHORITY: Sec. 75-2-111, 75-2-203 MCA

IMPLEMENTING: Sec. 75-2-203, 75-2-204, 75-2-211 MCA

RULE VI (to be codified 16.8.1006) SIGNIFICANT IMPAIRMENT
Federal land managers may present to the department, after the preliminary determination required under ARM 16.8.1107(2), a demonstration that the emissions from the proposed source or modification may cause or contribute to significant impairment in any mandatory Class I area, notwithstanding that the air quality change resulting from the emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increment defined in ARM 16.8.925 (PSD) for a mandatory Class I area. The department will consider the comments of the federal land manager in its determination of whether significant impairment may result. Should the department determine that such impairment may result, a permit for the proposed source will not be granted.

AUTHORITY: Sec. 75-2-111, 75-2-203 MCA

IMPLEMENTING: Sec. 75-2-203, 75-2-204, 75-2-211 MCA

RULE VII (to be codified 16.8.1007) VISIBILITY MONITORING
(1) The owner or operator of a proposed major stationary source or major modification whose actual emissions exceed 250 tons per year of TSP, SO₂, volatile organic compounds, or NO_x shall submit with the application an analysis of visibility in or immediately adjacent to the mandatory Class I area potentially impacted by the proposed project. The validity of the analysis shall be determined by the department.

(2) As necessary to establish visibility conditions within the mandatory Class I area prior to construction and operation of the source or modification, the analysis shall include a collection of continuous visibility monitoring data for all pollutants to be emitted by the source that could potentially impact mandatory Class I area visibility. Such data shall relate to and shall have been gathered over the year preceding receipt of the complete application, except that if the department determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year, the data that is required must have been gathered over at least that shorter period. Where applicable, the owner or operator may demonstrate that existing visibility monitoring data may be sufficient.

(3) Pursuant to the requirements of this sub-chapter, the owner or operator of the source shall submit a preconstruction visibility monitoring plan prior to the filing of a permit application. Within 30 days, the department must review and either approve the monitoring program or specify the changes necessary for approval. If the department fails to act within the 30 days, the monitoring program shall be deemed approved.

(4) The owner or operator of a proposed major stationary source or major modification, after construction has been completed, shall conduct such visibility monitoring as the department may require as a permit condition to establish the effect the source has on visibility conditions within the mandatory Class I area being impacted.

(5) The department may waive the requirements of ARM 16.8.1007(1) if the value of "V" in the equation below is less than 0.50 or, if for any other reason which can be demonstrated to the satisfaction of the department, an analysis of visibility is not necessary.

$$V = (\text{Emissions})^{\frac{1}{2}} / \text{Distance}$$

Where: Emissions = emissions from the major stationary source or modification of nitrogen oxides, particulates, or sulfur dioxide, whichever is highest, in tons per year.

Distance = distance, in kilometers, from the proposed major stationary source or major modification to each mandatory Class I area.

AUTHORITY: Sec. 75-2-111, 75-2-203 MCA

IMPLEMENTING: Sec. 75-2-203, 75-2-204, 75-2-211 MCA

RULE VIII (to be codified 16.8.1008) ADDITIONAL IMPACT ANALYSIS The owner or operator of a proposed major stationary source or major modification subject to the requirements of ARM 16.8.935 (PSD) shall provide a visibility impact analysis of the visibility impact likely to occur as a result of the major source or major modification and as a result of general commercial, residential, industrial, and other growth associated with the source or major modification.

AUTHORITY: Sec. 75-2-111, 75-2-203 MCA

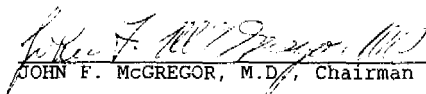
IMPLEMENTING: 75-2-203, 75-2-204, 75-2-211 MCA


4. The amendments to the various rules are being proposed (1) to include changes deemed necessary by the U.S. EPA for the State of Montana to maintain approval of the State Implementation Plan (SIP) and (2) to make the air quality rules easier to understand and internally consistent. The new

rules on visibility protection are being proposed to conform the State's air quality program to current federal regulations on visibility protection under the Federal Clean Air Act. If the State fails to adopt visibility requirements consistent with the federal regulations, then the U.S. EPA will administer the visibility protection program in Montana.

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

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


JOHN F. MCGREGOR, M.D., Chairman

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

Certified to the Secretary of State April 1, 1985

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

In the matter of the adoption of a)
Rule interpreting the provisions)
of the Montana Human Rights Act)
governing age discrimination in)
housing accommodations and improved)
or unimproved property.)

NOTICE OF
PUBLIC HEARING

To: All Interested Persons:

1. On May 10, 1985, at 3:00 p.m. the Human Rights Commission will hold a public hearing in Room C-209 Cogswell Building, 1401 Lockey, Helena, Montana, to consider the adoption of a proposed rule governing age discrimination in housing accommodations and improved or unimproved property.

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

3. The proposed rule provides as follows:

RULE 1. REAL PROPERTY TRANSACTIONS; AGE DISCRIMINATION.
Section 49-2-305(1), MCA, which prohibits discrimination in housing on the basis of age shall cover refusal to sell, rent or lease a housing accommodation or improved or unimproved property because of the age of a person residing with the buyer, lessee or renter. Auth: 49-2-204, MCA; IMP: 49-2-305(1), MCA.

4. The Commission proposes this rule to establish a guideline to govern its enforcement of the prohibition of discrimination in housing on the basis of age. The Montana Low-Income Coalition requested that the Commission adopt a rule clearly interpreting Montana's law prohibiting discrimination in housing on the basis of age to include refusal to rent to a person because of the age of a person residing with the renter. The Coalition contends that many Montana families with children have experienced age discrimination in their efforts to find decent and affordable housing.

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 Anne L. MacIntyre, Human Rights Division, Capitol Station, Helena, Montana, 59620, no later than May 10, 1985.

6. Margery H. Brown, Chair of the Commission, will preside over and conduct the hearing.

7. The authority of the Commission to make the proposed rule is based on Section 49-2-204, MCA and the rule implements 49-2-305, MCA.

HUMAN RIGHTS COMMISSION
MARGERY H. BROWN, CHAIR

By:

Anne L. MacIntyre
Anne L. MacIntyre
Administrator
Human Rights Division

Certified to the Secretary of State April 1, 1985

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

In the matter of the adoption	)	NOTICE OF PUBLIC HEARING ON
of rules pertaining to	)	THE PROPOSED ADOPTION OF
medicaid reimbursement for	)	RULES PERTAINING TO REIM-
inpatient psychiatric services	)	BURSEMENT FOR INPATIENT
for persons under 21	)	PSYCHIATRIC SERVICES

TO: All Interested Persons

1. On May 2, 1985, at 10:30 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 adoption of rules relating to the reimbursement of inpatient psychiatric services for persons under 21.

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

RULE I PURPOSE AND DEFINITIONS (1) The purpose of the following rules is to define the basis and procedure the department will use to pay for inpatient psychiatric services for individuals under age 21. Facilities in which these services are available are hereinafter referred to as providers.

(a) These rules implement Title XIX of the Social Security Act including applicable sections of Title 42 CFR, part 447 and allow the department to pay for inpatient psychiatric services for persons under the age of 21 through the use of rates that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities to provide services in conformity with applicable Montana and federal laws, regulations, and quality and safety standards.

(2) As used in this subchapter, the following definitions apply:

(a) "Inpatient psychiatric services" means services that are provided in accordance with Title 42 CFR, part 447, subpart A and sections 447.300 through 447.304 and section 447.325 which provide definitions and service requirements and which are federal regulations which the department hereby adopts and incorporates by reference. A copy of the cited regulations may be obtained through the Department of Social and Rehabilitation Services, P.O. Box 4210, 111 Sanders, Helena, MT 59604. Inpatient psychiatric services are services that meet those provisions and are provided in a facility that is devoted to the provision of psychiatric services for persons under the age of 21.

(b) "Devoted to the provision of psychiatric services for persons under the age of 21" means a facility whose goals, purpose and care are designed for and devoted exclusively to persons under the age of 21.

(c) "Efficient and economic provision of services" means providers that refuse to pay more than market price for required services or items and also that seek to minimize costs to the extent possible. Providers will be considered to be operating efficiently if they can operate within the maximum rate allowed under Rule III.

(d) "Owner" means any person, agency, corporation, partnership or other entity which has an ownership interest, including a leasehold or rental interest, in assets used to provide services pursuant to an agreement with the department.

(e) "Administrator" means the person, including an owner, salaried employee, or other provider, with day-to-day responsibility for the operation of the facility. In the case of a facility with a central management group, the administrator, for the purpose of this subchapter, may be some person (other than the titled administrator of the facility), with day-to-day responsibility for the facility.

(f) "Related parties" shall include the following:

(i) A person or entity shall be deemed a related party to his spouse, ancestors, descendants, brothers and sisters, or the spouses of any of the above, and also to any corporation, partnership, estate, trust, or other entity in which he or a related party has a substantial interest or in which there is common ownership.

(ii) A substantial interest shall be deemed an interest directly or indirectly, in excess of five percent (5%) of the control, voting power, equity, or other beneficial interest of the entity concerned.

(iii) Interests owned by a corporation, partnership, estate, trust, or other entity shall be deemed as owned by the stockholders, partners, or beneficiaries.

(iv) Control exists when a person or entity has the power, directly or indirectly, whether legally enforceable or not, to significantly influence or direct the actions or policies of another person or entity, whether or not such power is exercised.

(v) Common ownership exists when a person has substantial interests in two or more providers or entities serving providers.

(g) "Fiscal year" and "fiscal reporting period" both mean the provider's federal internal revenue tax year.

(h) "Department audit staff" and "audit staff" mean personnel directly employed by the department or any of the department's contracted audit personnel or organizations.

(i) "Estimated economic life" means the estimated remaining period during which the property is expected to be economically usable by one or more users, with normal repairs and maintenance, for the purpose for which it was intended when built.

(j) "Rate year" means a 12-month period beginning July 1.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-141 MCA

RULE II PARTICIPATION REQUIREMENTS Providers of inpatient psychiatric services are eligible for reimbursement under the Montana medicaid program if they meet the following requirements:

(1) maintain a current license under the rules of the department of health and environmental sciences to provide inpatient psychiatric services;

(2) maintain a current certification for Montana medicaid under the rules of the department to provide inpatient psychiatric services;

(3) maintain a current agreement with the department to provide inpatient psychiatric services;

(4) license and/or register facility personnel in accordance with applicable state and federal laws;

(5) accept, as payment in full for all operating and property costs, the amounts calculated and paid in accordance with the reimbursement method set forth in these rules;

(6) for providers maintaining patient trust accounts, insure that any funds maintained in those accounts are used only for those purposes for which the patient, legal guardian, or personal representative of the patient has given written delegation. A provider may not borrow funds from these accounts for any purpose;

(7) be in compliance with Title 42 CFR sections 405.1020 through 405.1035, 405.1037 and 405.1038 and meet the requirements of section 1861(f) of the Social Security Act. These are federal regulations defining requirements for psychiatric facilities which the department hereby adopts and incorporates herein by reference. A copy of the above cited regulations may be obtained through the Department of Social and Rehabilitation Services, P.O. Box 4210, 111 Sanders, Helena, MT 59604;

(8) be fully certified and participating in the Title XVIII medicare program; and

(9) provide inpatient psychiatric services according to service requirement specified in Title 42 CFR, part 441, subpart D, which is a federal regulation which is incorporated herein by reference at Rule I.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-141 MCA

RULE III REIMBURSEMENT (1) Reimbursement for services will be on a retrospective basis. The reimbursement period will be the provider's fiscal year.

(2) Allowable cost will be determined in accordance with generally accepted accounting principles as defined by the American institute of certified public accountants, subject to the provisions of the health insurance manual-15 (HIM-15) except where further restricted in this administrative rule. The department hereby adopts and incorporates herein by reference the HIM-15, which is a manual published by the United States department of health and human services, social security administration, which provides guidelines and policy to implement medicare regulations which set forth principles for determining the reasonable cost of provider services furnished under the Health Insurance for Aged Act of 1965, as amended. A copy of the HIM-15 may be obtained through the Department of Social and Rehabilitation Services, P.O. Box 4210, 111 Sanders, Helena, Montana 59604.

(a) Return on equity capital shall not be an allowable cost.

(3) Providers located within the state will be reimbursed on an interim basis during the provider's fiscal year. The interim rate will be a percentage of customary charges as determined by the provider's medicare intermediary.

(a) Reimbursement will be made to a provider for reserving a bed while the recipient is temporarily absent if the recipient's plan of care provides for therapeutic home visits. A total of 24 days annually will be allowed for therapeutic home visits. The provider is responsible for notifying the department on a form provided by the department when a resident leaves the facility for a therapeutic home visit. Reimbursement for therapeutic home visits will not be allowed unless the form is filed with the department. Absences are restricted to no more than 72 consecutive hours per absence. Longer hours per absence may be allowed if determined medically appropriate and prior authorized by the director of the department or his designee.

(4) Reimbursement for services provided to medicaid patients by providers outside of the state will be limited to the lower of:

(a) the medicare percentage of customary charges; or

(b) the medicaid percentage of customary charges established under the respective state's medicaid regulations.

(5) Reimbursement to providers will be subject to a ceiling on the rate of increase of operating costs per day for services that will be recognized as reasonable for purposes of determining medicaid reimbursement.

(a) The base period will be the first 12-month cost reporting period ending after June 30, 1985.

(b) Ceilings established under this section will be applied to all full 12-month cost reporting periods that follow a base period as described in subsection (a) of this section.

(c) Ceilings established under this section will not apply to cost reporting periods of fewer than 12 months that occur along with a change in operations of the providers as a result of changes in ownership, merger, or consolidation. However, ceilings will apply to cost reporting periods of fewer than 12 months which result solely from the approval of a provider's request for a change in accounting cycle. In the case of such periods, the applicable percentage rate of increase will be adjusted downward by a monthly factor corresponding to the annual percentage rate to reflect fewer months. Ceilings established under this section will apply to cost reporting periods of greater than 12 months with the percentage rate of increase adjusted upward by a monthly factor corresponding to the annual percentage rate to reflect the additional months.

(d) The cost per day ceiling established under this section applies to operating costs incurred by a provider in furnishing inpatient services. These operating costs exclude the costs of malpractice insurance and capital-related costs described in 42 CFR 405.414, which is a federal regulation which the department hereby adopts and incorporates by reference. A copy of the cited regulations may be obtained through the Department of Social and Rehabilitation Services, P.O. Box 4210, 111 Sanders, Helena, MT 59604.

(e) Costs subject to the ceiling as described in subsection (5)(d) of this section will be determined on a per day basis.

(f) The target rate percentage for each calendar year will equal the prospectively estimated increase in the market basket index for that calendar year. The market basket index is a hospital wage and price index that incorporates appropriately weighted indicators of changes included in the most common categories of inpatient operating cost subject to the ceiling as described in subsection (5)(d) of this section.

(6) For each provider a ceiling will be established on the reimbursable costs per day of that provider. The ceiling for each 12-month cost reporting period will be set at a target amount determined as follows:

(a) For the first 12-month cost reporting period to which this ceiling applies, the target amount will equal the provider's allowable operating cost per day for the provider's base period increased by the target rate percentage for the subject period.

(b) In calculating the base period operating cost per day the number of days shall be the greater of:

- (i) actual days of service; or
- (ii) days of service representing 80% utilization.

(c) For subsequent 12-month cost reporting periods, the target amount will equal the provider's target amount for the previous 12-month cost reporting period increased by the target rate percentage for the subject cost reporting period.

(7) The target rate percentage increase applicable to each 12-month cost reporting period will be used to determine the ceiling on the allowable rate of cost increase under this section.

(a) When a cost reporting period spans portions of two calendar years, an appropriate prorated percentage rate will be calculated based on the published calendar year percentage rates.

(b) The applicable target rate percentage will be the prospectively determined percentage published by the federal health care financing administration (HCFA). HCFA will publish quarterly "Federal Register" notices, beginning in 1983, including the applicable estimate of the market basket rate of increase and the resulting target rate percentage for the next two calendar years. The target rate percentage for each provider for the beginning of the provider's cost reporting period, will be applied prospectively, and will be prorated, in accordance with subsection (7) (a) of this section, but will not be retroactively adjusted if the actual market basket rate of increase differs from the estimate. Copies of the federal register notices may be obtained through the Department of Social and Rehabilitation Services, P.O. Box 4210, 111 Sanders, Helena, Montana 59604.

(8) At the end of each 12-month cost reporting period subject to this section, the provider's allowable cost per day is compared with that provider's target amount for that period.

(a) The provider will receive the allowable cost per day or the provider's target amount for that period, whichever is less.

(b) Exceptions to the ceiling on the rate of cost increases may be allowed as described in 42 CFR 405.463 (g) which is a federal regulation which the department hereby adopts and incorporates by reference. A copy of the cited regulations may be obtained through the Department of Social and Rehabilitation Services, P.O. Box 4210, 111 Sanders, Helena, MT 59604.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-141 MCA

RULE IV COST REPORTING AND AUDITS (1) The procedures and forms for maintaining cost information and reporting shall be as provided in ARM 46.12.1208, subsections (1) through (5).

(2) The department or its designee may perform a desk review of cost reports and may conduct on-site audits of provider records. On-site audits may be made to assure validity of reports, cost and statistical information. Audits will meet generally accepted auditing standards. Audits of providers' cost reports, financial records and other pertinent data will be adequate to verify that the provider has included

only those expense items that are includable services, and that the provider's includable costs are reasonable.

(3) A provider may object to audit findings through the administrative review process as provided in ARM 46.12.1210.

(4) The department, or its designee, will determine whether overpayment or underpayment has resulted. The provider will be notified of the department's findings.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-141 MCA

RULE V OVERPAYMENT AND UNDERPAYMENT (1) Overpayments and underpayments shall be treated in accordance with the provisions of ARM 46.12.1209.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-141 MCA

RULE VI ADMINISTRATIVE REVIEW AND FAIR HEARING PROCEDURES (1) The right to administrative review and fair hearing shall be in accordance with the provisions of ARM 46.12.1210.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-141 MCA

RULE VII UTILIZATION REVIEW AND CONTROL (1) Prior to admission and as frequently as the department may deem necessary, the department will evaluate the necessity and quality of services for each medicaid patient, in accordance with Title 42 CFR, sections 441.152, 441.153, 456.22 and 456.600 through 456.614, which are federal regulations which set forth utilization review and control criteria and which the department hereby adopts and incorporates by reference. A copy of the cited regulations may be obtained through the Department of Social and Rehabilitation Services, P.O. Box 4210, 111 Sanders, Helena, MT 59604.

(a) The provider shall make available to the department upon request any records related to recipients admission and/or services provided.

AUTH: Sec. 53-6-113 MCA


IMP: Sec. 53-6-141 MCA

3. These rules establish policies and procedures for reimbursing providers of inpatient psychiatric services for persons under 21. Such services are allowable under the Montana medicaid state plan. Rules have not previously been necessary because no certified provider existed. These rules will provide a vehicle for reimbursement and allow the state to capture the appropriate federal revenue match. The depart-

ment estimates that payments under these rules will result in additional medicaid expenditures of approximately two million dollars per fiscal year. Copies of the proposed rules may be obtained at the local county welfare offices throughout the state.

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 May 10, 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 March 29, 1985.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF OPTOMETRISTS

In the matter of the amendment) NOTICE OF AMENDMENT OF
of 8.36.409 concerning the) 8.36.409 FEE SCHEDULE
fee schedule)

TO: All Interested Persons:

1. On January 31, 1985 and February 28, 1985, the Board of Optometrists published notices of amendment of the above-stated rule at pages 35, 197 and 198, 1985 Montana Administrative Register, issue numbers 2 and 4, respectively.

2. Comments were received from Michael R. Vandever, O.D. and Steven Koch, O.D., Washington state, John and Terri Stibel, O.D.'s from California and Clay Benkelman, O.D. and George Johnson, O.D., from Bigfork, Montana. The individuals from out-of-state and Dr. Johnson expressed concern that the renewal fee was the same for inactive or out-of-state individuals as it was for in-state active optometrists. The board office sent a response to each individual explaining that there is no statutory provision providing for an inactive or out-of-state license renewal fee. Dr. Benkelman expressed a desire to see the fee increases spread out over a period of time, rather than all at once.

The board has reviewed the comments and determined that it is necessary to increase the fees to the amounts proposed to cover the program area costs. The board has, therefore, amended the rule exactly as proposed.

3. No other comments or testimony were received.

DEPARTMENT OF COMMERCE
BEFORE THE MONTANA ECONOMIC DEVELOPMENT BOARD

In the matter of the amendments) NOTICE OF AMENDMENTS OF
of 8.97.305 concerning appli-) 8.97.305 APPLICATION PRO-
cation procedures and 8.97.402) CEDURES and 8.97.402
(3) concerning the criteria) CRITERIA FOR DETERMINING
for determining eligibility) ELIGIBILITY

TO: All Interested Persons:

1. On February 14, 1985, the Montana Economic Development Board published a notice of amendments of the above-stated rules at pages 147 and 148, 1985 Montana Administrative Register, issue number 3.

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

3. No comments or testimony were received.

DEPARTMENT OF COMMERCE
BEFORE THE MONTANA ECONOMIC DEVELOPMENT BOARD

In the matter of the amendment	)	NOTICE OF AMENDMENT OF
of 8.97.509 (2)(c)(i), (ii),	)	8.97.509 (2)(c)(i),(ii), and
and (iii) concerning financ-	)	(iii) APPLICATION AND FINANC-
ing fees, costs and other	)	ING FEES, COSTS AND OTHER
charges	)	CHARGES

TO: All Interested Persons:

1. On February 28, 1985, the Montana Economic Development Board published a notice of amendment of the above-stated rule at pages 199 and 200, 1985 Montana Administrative Register, issue number 4.
2. The board has amended the rule exactly as proposed.
3. No comments or testimony were received.

DEPARTMENT OF COMMERCE

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


Certified to the Secretary of State, April 1, 1985.

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

IN THE MATTER of the Amendment	)	NOTICE OF AMENDMENT OF
of special education rule concern-	)	RULE 10.16.1202 CHILD
ing the child study team process	)	STUDY TEAM PROCESS

To: All Interested Persons

PLEASE NOTE: The Superintendent of Public Instruction's amendment notice published at page 110, 1985 Administrative Register, issue number 2, amended several rules. The rule entitled Child Study Team Process was numbered 10.16.1201; it should have been numbered 10.16.1202.



Ed Argenbright
Superintendent of Public Instruction

Certified to the Secretary of State April 1, 1985.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption) NOTICE OF ADOPTION OF RULE
of Rule 10.55.109 Opportunity) 10.55.109 OPPORTUNITY AND
and Educational Equity) EDUCATIONAL EQUITY

TO: All Interested Persons.

1. On January 31, 1985 the Board of Public Education published notice of a proposed adoption of a rule concerning opportunity and educational equity on page 54 of the 1985 Montana Administrative Register, issue number 2.

2. The board has adopted the rule with the following change:

10.55.109 OPPORTUNITY AND EDUCATIONAL EQUITY A school district will not discriminate against any student on the basis of sex, race, marital status, national origin or handicapping condition in any area of accreditation. This is inclusive of programs, facilities, textbooks, curriculum, counseling, library services and extra-curricular activities. It is the purpose of the accreditation standards to guarantee ~~the full educational potential of~~ equality of educational opportunity to each person regardless of sex, race, marital status, national origin or handicapping condition.

AUTH: Sec. 20-2-121(7), MCA
IMP: Sec. 20-7-101, MCA

3. At the public hearing which was held February 21, 1985 three persons submitted comment on the proposed rule. Two persons testified at the public hearing and one person sent written comment to the board prior to February 28, 1985, the date on which the board closed the hearing record. There were no opponents; one person testified that the word "guarantee" should be amended to read "provide full opportunity for" because there is an "inherent error in assuming the board can guarantee; all it can do is provide an opportunity toward a desired outcome." The board acknowledges this concern but notes that the Montana Constitution, Article X, Section 1(1) states: "It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person in the state." It has addressed this concern by inserting the wording of the Constitution.

Ted Hazelbaker

TED HAZELBAKER, CHAIRMAN
BOARD OF PUBLIC EDUCATION

By: *Wolfe*

Certified to the Secretary of State April 1, 1985

7-4/11/85

Montana Administrative Register

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the proposed)	NOTICE OF AMENDMENT OF RULE
amendment of rule 10.55.205)	10.55.205 SUPERVISORY AND
Supervisory and Administrative)	ADMINISTRATIVE TIME AND RULE
Time and rule 10.65.101 Policy)	10.65.101 POLICY GOVERNING
Governing Pupil Instruction-)	PUPIL INSTRUCTION-RELATED DAYS
related Days Approved for)	APPROVED FOR FOUNDATION PRO-
Foundation Program Calculations)	GRAM CALCULATIONS

TO: All Interested Persons.

1. On October 11, 1984, the Board of Public Education published notice of a proposed amendment to rule 10.55.205 concerning Supervisory and Administrative Time and rule 10.65.101 concerning Policy Governing Pupil Instruction-Related Days Approved for Foundation Program Calculations on page 1441 of the 1984 Montana Administrative Register, issue number 19. The effective date of these rules will be September 1, 1985.

2. The Board has adopted the rules with the following changes:

10.55.205 PROFESSIONAL DEVELOPMENT (1) The school district shall provide as part of a continuous program for the improvement of instruction a minimum of three days of professional development annually for each certified employee in the district. A day of professional development is defined as six hours of actual contact time.

(2) By May-1 June 1 of each year, the school district shall formulate a plan for professional development which includes:

(a) Goals and objectives stating the needs appropriate to the professional development of teachers, administrators and other professional personnel.

(b) Acceptable activities.

(c) Methods of evaluation required for each activity contained in the plan.

(3) For purposes of development and evaluation of the plan, the board of trustees shall establish an advisory committee including but not limited to ~~composed of~~ teachers, administrative personnel and a trustee. A majority of the committee shall be teachers.

(4) The plan shall be on file in the school's administrative office or with the county superintendent and shall be available to employees and patrons of the district.

AUTH: Sec. 20-2-121(6) MCA

IMP: Sec. 20-1-304 MCA

10.65.101 POLICY GOVERNING PUPIL INSTRUCTION-RELATED DAYS APPROVED FOR FOUNDATION PROGRAM CALCULATIONS (1) A school which in any year was in session for at least 180 pupil instruction days may count for the following year's foundation program a total of not more than seven days in addition to the required 180 pupil instruction days, provided

that such additional days were used for one or more of the following purposes in accordance with the regulations hereby established:

(a) Pre-school staff orientation held prior to the beginning of pupil instruction for the purpose of organization of the school year ~~{not-to-exceed-one-day}~~.

(b) ~~A-minimum-of-three-days-of~~ Staff professional development programs scheduled during the year for the purpose of improving instruction which may include professional organizations' instructional and professional development programs (the latter not to exceed two days). If the district includes statewide professional organizations' programs as part of its staff development, it must concurrently provide alternative staff development for those not attending. These days may be divided into half-days two hour increments to facilitate delivery of staff development programs.

(c) Parent-teacher conferences for the purpose of acquainting parents with the school and the progress of their children ~~{not-to-exceed-two-days}~~.

(d) Post-school record and report completion ~~{not-to-exceed-one-day}~~ at the end of the public instruction year. This day may be divided so as to provide one-half day at the end of each semester.

(e) A school district may count for the following year's foundation program a total of not more than three and one-half days in addition to the required 90 pupil instruction days for kindergarten purposes, provided that such additional days were used for one or more of the above-named purposes and upon proper submission of the application to the state superintendent.

AUTH: Sec. 20-2-121(6) MCA
IMP: Sec. 20-1-304 MCA

3. At the public hearing which was held November 9, 1984, twenty-seven persons submitted comment on the proposed rule. Fifteen persons testified at the public hearing and twelve persons sent written comment to the Board prior to November 9, 1984, the date on which the Board closed the hearing record. The testimony falls into five categories, each of which the Board specifically addresses as follows:

(a) Four persons stated that the Board has in effect established a formula for the use of PIR days which takes away all flexibility at the local level. They were especially concerned about time available for parent-teacher conferences. Districts conduct these in the fall and spring of each school year in segments of 1.5 days each. They argued that 1.5 days were necessary because no quality conferencing can be done by a teacher who must conduct twenty-five to thirty sessions in a single day. The Board acknowledges this concern and has amended the rule by deleting the two day restriction.

(b) Fourteen persons specifically addressed the inclusion of professional organizations instructional and professional development programs. Eleven favored the inclusion; three requested that in-service training for staff not attending professional conventions be dropped. In response to

this concern, the Board observes that districts should account for the professional conventions in their plan and that it is the duty of the administrator to account for that time. In addition, the Board calls attention to MCA 20-4-304 which states that "when the trustees of a school district close the schools of the district for the annual session of the state teachers' association, a teacher may attend the annual session without loss of salary or work at his school and perform duties related to his position of employment, as may be prescribed by the trustees, without loss of salary. If a teacher does neither, he shall not be paid."

(c) Two persons urged the Board to change the deadline for formulation of a district plan from May 1 to June 1. The Board agrees and has amended the rule accordingly.

(d) Two persons considered it advisable that in districts without administrative offices the plan be filed with the county superintendent. The Board amended the rule accordingly.

(e) Two persons expressed concern about the relationship between the professional development advisory committee and the board of trustees. The Board responds by providing the revised text.

Ted Hazelbaker

TED HAZELBAKER, CHAIRMAN
BOARD OF PUBLIC EDUCATION

By: _____

Whitely Lou Dym

Certified to the Secretary of State _____ April 1, 1985

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

IN THE MATTER of Adepton of)	NOTICE OF THE ADOPTION OF
emergency rules pertaining to)	EMERGENCY RULES PERTAINING
Termination of Residential)	TO TERMINATION OF RESIDEN-
Natural Gas and Electric)	TIAL NATUPAL GAS AND ELEC-
Service.)	TRIC SERVICE.

TO: All Interested Persons

1. In a Petition for Rulemaking, the Montana Low Income Coalition requested promulgation of a rule extending the moratorium on termination of residential electric and natural gas service. Following discussions with the Commission and its staff, the Coalition asked for a rule with the conditions contained in Rule I.

The Coalition pointed out to the PSC that weather conditions are often severe in the months of April and May, and that the winter of 1985 has been substantially colder than normal. Since the termination rules presently in effect are designed to protect health, safety and welfare by assuring heat during cold weather, it is necessary that the protection be extended to the often cold months of April and May.

The emergency addressed by this rule first came to the PSC's attention when the Coalition submitted its Petition on March 19, 1985.

2. The text of the rules are as follows:

Rule I. TERMINATION OF RESIDENTIAL NATURAL GAS AND ELECTRIC SERVICE. No utility may terminate residential natural gas or electric service during the months of April and May if the customer declares that he is unable to pay amounts owing and if he pays 10 percent of his gross monthly income toward the overdue balance and his current bill during each of these months. A utility may require a lower payment depending on individual circumstances. If there is no overdue balance utilities may not terminate residential natural gas or electric service if a customer who has no overdue balance declares that he is unable to pay the current balance and pays 5 percent of his gross monthly income for bills rendered in April and May.

Rule II. EXPIRATION DATE. This rule expires on May 31, 1985.

3. The rationale for the the rules is set forth in the statement of reasons for the emergency.

4. The authority of the Commission to adopt these rules is 2-4-303 and 69-3-103, MCA, IMP. 69-3-102, MCA.


CLYDE JARVIS, Chairman

CERTIFIED TO THE SECRETARY OF STATE APRIL 1, 1985.
Montana Administrative Register

7-4/11/85

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 December 31, 1984. This table includes those rules adopted during the period January 1, 1985 through March 31, 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 December 31, 1984, this table and the table of contents of this issue of the MAR.

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

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