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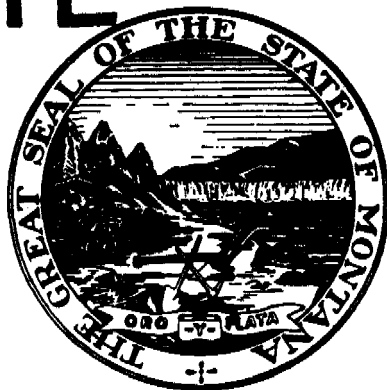
MONTANA ADMINISTRATIVE REGISTER

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**1986 ISSUE NO. 6
MARCH 27, 1986
PAGES 396-493**



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MAR 31 1986
OF MONTANA

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 6

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 The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing, and where written comments may be submitted.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

Page Number

TABLE OF CONTENTS

NOTICE SECTION

AGRICULTURE, Department of, Title 4

4-14-14 Notice of Public Hearing on Proposed
Adoption - Establishing 1080 Livestock Protection
Collar Regulations. 396-403

COMMERCE, Department of, Title 8

8-6-13 (Board of Architects) Notice of Proposed
Amendment and Adoption - Qualifications Required of
Architects Licensed Outside Montana - Examination -
Individual Seal - Disciplinary Actions, and
Partnerships. No Public Hearing Contemplated. 404-409

8-20-13 (Board of Hearing Aid Dispensers) Notice
of Proposed Amendment - Traineeship Requirement
and Standards. No Public Hearing Contemplated. 410-411

8-35-1 (Board of Occupational Therapists) Notice of
Public Hearing on Proposed Adoption - Procedure -
Licensing and Discipline of Occupational
Therapists. 412-417

8-42-10 (Board of Physical Therapy Examiners)
Notice of Proposed Amendment - Examinations. No
Public Hearing Contemplated. 418

COMMERCE, Continued,

Page Number

8-50-14 (Board of Private Security Patrolmen and Investigators) Notice of Public Hearing on Proposed Adoption and Amendment - Definitions - Temporary Employment - Experience Requirements - Insurance Requirements - Fees - Probationary Investigators and Assessments. 419-423

FISH, WILDLIFE AND PARKS, Department of, Title 12

12-2-140 Notice of Public Hearing on Proposed Adoption - Abandoning Teton-Spring Creek Bird Preserve. 424

12-2-141 Notice of Proposed Amendment - Public Use Regulations on Department Lands and Waters. No Public Hearing Contemplated. 425-428

12-2-142 Notice of Public Hearing on Proposed Adoption - Fish Plants by the Department or Commercial Hatcheries. 429-431

LIVESTOCK, Department of, Title 32

32-2-111 Notice of Proposed Amendment - Changing the Requirements for Import of Cattle From States Classified Brucellosis A, B, and C. No Public Hearing Contemplated. 432-434

32-2-112 Notice of Proposed Amendment - Waiving Permanently in all Counties the Change of Ownership Brucellosis Test. No Public Hearing Contemplated. No Public Hearing Contemplated. 435-436

32-2-113 Notice of Proposed Amendment - Allowing Movement of Cats Into State Under Health Certificate. No Public Hearing Contemplated. 437-438

SOCIAL AND REHABILITATION SERVICES, Department of, Title 46

46-2-464 Notice of Public Hearing on Proposed Amendment - Reimbursement for Skilled Nursing and Intermediate Care Services. 439-444

46-2-465 Notice of Adoption of Amendments to Federal Statutes, Agency Rules and Guidelines Presently Incorporated by Reference - Reimbursement for Skilled Nursing and Intermediate Care Services. No Public Hearing Contemplated. 445-448

Page Number

SOCIAL AND REHABILITATION SERVICES, Continued

46-2-466 Notice of Public Hearing on Proposed
Amendment and Adoption - Family Planning
Services. 449-451

RULE SECTION

COMMERCE, Department of, Title 8

AMD (Milk Control Bureau) Licensee
Assessments. 452

JUSTICE, Department of, Title 23

AMD Incorporation by Reference of the Uniform
Fire Code. 453

LABOR AND INDUSTRY, Department of, Title 24

NEW (Workers' Compensation Division) Relative
Value Fee Schedule for Medical, Chiropractic
and Paramedical Services. 454-457

AMD (Workers' Compensation Division) Attorney
Fees. 458-459

REVENUE, Department of, Title 42

AMD Oil and Gas Net Proceeds Deductions. 460-461

SECRETARY OF STATE, Title 44

NEW Interpretive Rules for the Implementation of
Public Law 98-435 -- Voting Accessibility
for Elderly and Handicapped Act. 462-472

INTERPRETATION SECTION

Opinions of the Attorney General.

52 Constitutions - Appointment of District Judge
- Courts, District - Elections - Election of
District Judge Following Appointment and
Confirmation - Judges - Legislature -
Senate Confirmation of District Judge
Nominee. 473-476

53 Antiquities - Historic Preservation Officer's
Duties to Identify Potential Heritage Properties
- Historical Society - Preservation Review
Board - State Agencies - Duties. 477-479

	<u>Page Number</u>
<u>SPECIAL NOTICE AND TABLE SECTION</u>	
Functions of the Administrative Code Committee.	480
How to Use ARM and MAR.	481
Accumulative Table.	482-493

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the Matter of the proposed)	NOTICE OF HEARING ON THE
new rules concerning 1080)	PROPOSED NEW RULES
livestock protection collars)	ESTABLISHING 1080
)	LIVESTOCK PROTECTION
)	COLLAR REGULATIONS.

TO: ALL INTERESTED PERSONS:

1. On April 22, 1986, at 10:00 A.M., in room 225 Agriculture/livestock Building, Sixth and Roberts, Helena, Montana, a public hearing will be held to consider the adoption of proposed new rules concerning the regulation of 1080 livestock protection collars.

2. The proposed new rules read as follows:

Rule I GENERAL (1) The department hereby establishes rules regarding the registration and restricted use of 1080 Livestock Protection Collars [hereafter referred to as collar(s)] to control coyotes (Canis latrans) that depredate sheep and goats.

(2) Registrants of the collar, dealers selling the collar and applicators using the collar, shall be subject to future labeling restrictions and requirements as may be prescribed from time to time by the agency and/or the department.

AUTH: 80-8-105, MCA

IMP: 80-8-105, MCA

Rule II REGISTRATION (1) Registration of the collar for sale or distribution in the state shall be limited to the Montana Department of Livestock and federal agencies.

(2) The collars shall not be sold, transferred, transported, given, or entrusted to the care of any person by the registrant who is not authorized, properly licensed or permitted, by the department.

(3) Only the registrant or the collar manufacturer are authorized to fill collars with 1080 solution. Certified applicators are not authorized to fill collars.

AUTH: 80-8-105, MCA

IMP: 80-8-105, MCA

Rule III DEALER SALES (1) Only registrants of the collar shall be allowed to become licensed dealers for the sale and distribution of the collar. The dealer shall be required to maintain an inventory record of collars purchased, sold, distributed, given away, or entrusted. The record shall include each purchase of the collars by the dealer, each individual's name and license or permit number to whom the dealer sells the collars, and the number of collars remaining in the dealer's stock.

(2) The dealer shall not sell, give away, or entrust any collars to other than trained and certified-licensed or permitted pesticide applicators authorized to use collars.

AUTH: 80-8-105, MCA

IMP: 80-8-105, MCA

MAR Notice No. 4-14-14

6-3/27/86

Rule IV APPLICATOR CLASSIFICATIONS AND REQUIREMENTS

(1) Individuals who desire to use collars shall have to be qualified and certified as either a certified-licensed commercial or government applicator or a permitted farm applicator. All individuals desiring to become certified shall be required to attend a training course sponsored or approved by the department and pass an examination.

(2) The training course shall include, but is not limited to:

(a) Training in the safe handling and attachment of collars.

(b) Training in disposal of punctured or leaking collars, contaminated animal remains, contaminated vegetation and soil, and contaminated clothing.

(c) Instructions for practical treatment of 1080 poisoning in humans and domestic animals.

(d) Instructions on record keeping.

(e) Familiarization with Montana pesticide laws and rules.

(f) Familiarization with collar labeling.

(3) Individuals desiring to become certified shall be required to pass a written examination based on materials and training provided by the department. Applicants for a certified-license must pass the examination with a score of eighty percent (80%), and applicants for a special use permit must pass with a score of seventy percent (70%). Applicants failing the examination the first time shall not be allowed to retake the examination for seven (7) days after notification. Applicants failing the examination a second time may retake the examination fifteen (15) days after notification by certified mail. Applicants failing the examination a third time shall not be allowed to retake the examination until the next licensing period beginning January 1 the next year and shall attend another approved training course. Examinations may be retaken at any reasonable time after the time limitations expressed for the first and second examinations at the department's Helena office, or the applicant may make arrangements for examination or reexamination at other locations in the state at the convenience and approval of the department.

(4) Requalification. Applicators maintaining their license for four consecutive licensing periods shall be required to requalify for licensing prior to every fifth licensing period. Applicator requalification shall be accomplished by passing an examination or by attending an acceptable applicator training course approved by the department. An applicator requalifying for licensing by attending a pesticide training course shall be required to have the sponsor of the training course submit to the department a written verification of the applicator's attendance and an agenda of topics and speakers. The department retains the right to approve or disapprove such training courses relative to meeting the qualification for relicensing. The department may also require applicators to pass an examination and/or attend training during any

licensing period on new major pesticide technology which applies to the applicator's classification.

(5) All individuals who have attended a training course and having passed the written examination on the use of the collars will be certified under one of the following classifications:

(a) Certified-Licensed Government Applicator--Predator - Livestock Protection Collar

(b) Certified-Licensed Commercial Applicator--Agricultural Pest Control--Vertebrate--Livestock Protection Collar

(c) Permitted or Certified Farm Applicator-Livestock Protection Collar

(6) Applicants desiring certification for use of collars and individuals certified to use the collars shall have to meet and comply with other applicable licensing requirements as established by departmental rules.

AUTH: 80-8-105, MCA

IMP: 80-8-105, MCA

Rule V. USE RESTRICTIONS OF COMPOUND 1080 LIVESTOCK PROTECTION COLLARS (1) Use of collars shall conform to all applicable federal regulations and state rules.

(2) The certified applicator is directly responsible for assuring that all use restrictions, directions and precautions are met. The certified applicator will decide, in accordance with label directions, when and under what circumstances collars will be used. The certified applicator will either apply collars or be physically present where collars are applied by a noncertified person. However, the noncertified person who has received appropriate instructions from the certified applicator may store collars, check collars in the field, remove collars, repair or dispose of damaged collars in accordance with use restrictions, retrieve collars lying in the field, and properly dispose of contaminated material and animal carcasses.

(3) Any suspected poisoning of threatened or endangered species must be reported immediately (within 12 hours of knowledge of the incident) to the Montana Department of Agriculture* and to the Environmental Protection Agency** (within three days) as well as each suspected poisoning of humans, domestic animals or nontarget wild animals.

(4) Collars shall not be placed in pastures where wolves or grizzly bears have recently attacked livestock.

(5) Collars shall only be used to take coyotes within fenced pastures. Fenced pastures include all

*Montana Department of Agriculture, Environmental Management Division, Capitol Station, Helena, MT 59620 - Telephone, (406) 444-2944

**William H. Miller, Registration Division (TX-767), EPA, Washington D.C. 20460 - Telephone, (703) 557-2600

pastures which are enclosed by livestock fencing. In addition to wire livestock fences, these may include other man-made fences such as rock walls, and natural barriers such as escarpments, lakes, and large rivers. Collars shall not be used on unfenced, open range. Use of toxic collar shall be limited to fenced pastures no larger than 2560 acres (4 square miles). Larger fenced pastures, up to a maximum of 10,000 acres, may be treated where the average annual precipitation is less than 20 inches and vegetation of the pasture is sparse, non-forested and restricted to short and mid-height grasses and scattered shrubs.

Collared livestock shall not be placed in any pasture in which the applicator cannot monitor use in accordance with all other collar use restrictions. In no case shall collared livestock be placed in a pasture larger than 10,000 acres.

(6) Collars shall be used only where losses of sheep or goats caused by predation from coyotes are occurring or, based upon prior experience, where coyote predation can reasonably be expected to occur.

(7) Where collars are in use, each logical point of access (e.g., gates, trails, etc.) shall be conspicuously posted with a bilingual (English/Spanish or other second language appropriate for the region) warning sign (provided by the Montana Department of Livestock) not less than 8" X 10" in size. Such signs shall be inspected weekly to ensure their continued presence and legibility and will be removed when collars are removed. The signs will have a minimum type size for "DANGER-POISON" of 24 point (1/4 inches). The remaining text would be at least 18 point (3/16 inches).

(8) Permitted farm applicators are authorized to use collars only on lands owned, leased or administered by them.

(9) All collared livestock shall be checked at least once every seven days and collars shall be adjusted or replaced if needed.

(a) If any collared animal is not accounted for in two consecutive checks, an intensive search for it must be made immediately.

(b) In addition, if more than three collared animals are not accounted for during any one check, an immediate intensive search for these animals is required.

(c) If more than nine (9) collars and/or collared animals are unaccounted for during any 60 day period, then all collars shall be removed from animals and their use terminated.

(10) Damaged, punctured or leaking collars shall be removed from the field for repair or proper disposal. Damaged collars shall be placed individually in leakproof containers while awaiting repair or proper disposal. Authorized collar repairs are limited to minor repairs of straps and fastenings. Leaking or punctured collars must be properly disposed.

(11) Disposal of 1080 wastes shall be conducted in the following manner:

(a) Punctured leaking or otherwise unrepairable, damaged collars; contaminated leather, clothing, animal remains, wool, hair, vegetation, water, and soil, shall be

buried under three feet of soil, at a safe location, preferably on property owned or managed by the applicator and at least 1/2 mile from human habitations and water supplies. No more than 10 collars may be buried in any one hole. If buried in a trench, each group of 10 collars shall be separated by 10 feet of soil.

(b) In the alternative, the Montana Department of Agriculture, the Montana Department Health and Environmental Sciences, Solid and Hazardous Waste Management Bureau or the Montana office of EPA may be contacted for guidance in disposing of wastes at approved hazardous waste disposal facilities.

(c) When snow or frozen ground make on site disposal impractical, up to one cubic feet of wastes may be stored in a leak-proof container in a dry, locked place for 90 days.

(d) Metal Container: Triple rinse contaminated and uncontaminated containers with water. Puncture and dispose of contaminated container and rinsate as above.

(e) Plastic Container: Triple rinse with water. Then puncture and dispose of container and rinsate as above.

(12) Compound 1080 solution may not be removed from collars and used in any other form.

(13) All persons authorized to possess and use collars shall store them under lock and key in a dry place away from food, feed, domestic animals, and corrosive chemicals and in outbuildings, or storage areas attached to, but separate from human living quarters.

(14) The collar may not be used in the following areas in Montana, without written approval from the nearest U.S. Fish and Wildlife Service Office (FWS, Endangered Species Specialists). If the U.S. Fish and Wildlife Service or the user determines that the use of the collar may adversely impact an endangered species (black-footed ferret, Northern Rocky Mountain wolf or grizzly bear) in the specific areas requested, the collar may not be used in these areas. Written approval must be obtained annually.

THE NEAREST FWS
OFFICE AND PHONE
NUMBER, Federal
Building, Helena,
Montana
(406) 449-5225

COUNTIES OR AREA
Beaverhead, Carbon,
Flathead, Gallatin,
Glacier, Lake, Lewis
and Clark, Lincoln,
Madison, Missoula, Park,
Pondera, Powell, Sanders,
Stillwater, Sweet Grass,
and Teton

(15) It shall be the responsibility of the certified or permitted applicator to provide the department with a copy of the written permission or denial to use collars in the aforementioned counties.

(16) The number of collars used shall be the minimum necessary for effective livestock protection. For pastures of the following size classes, the applicator shall not use more collars than the number indicated.

<u>Size (acres)</u>	<u>Number of Collars</u>
up to 100	20
101 to 640	50
641 to 10,000*	100

*See Rule V (5)

(17) Each applicator or other authorized persons shall have a one-ounce bottle of syrup of ipecac (to induce vomiting in case of accidental poisoning) available when attaching, inspecting, removing, or disposing of collars.

(18) No contaminated animal shall be used for food or feed.

AUTH: 80-8-105, MCA

IMP: 80-8-105, MCA

Rule VI SUPERVISION, INSPECTION OF 1080 LIVESTOCK PROTECTION COLLARS (1) The department, or its authorized agent(s) shall check the records, warning signs, and collars of each applicator at least once a year to verify that all applicable laws, regulations, rules and restrictions are being strictly followed.

AUTH: 80-8-105, MCA

IMP: 80-8-105, MCA

Rule VII RECORDS (1) Each certified-licensed or permitted collar applicator shall keep records dealing with the placement of the collar and the results of each placement on forms approved by the department. Records shall be maintained in accordance with appropriate state rules and federal regulations. Such records shall include, but need not be limited to:

- (a) The number of collars attached on livestock.
- (b) The pasture(s) where collared livestock were placed.
- (c) The dates of each attachment, inspection, and removal.
- (d) The number and locations of livestock found with ruptured or punctured collars and the apparent cause of the damage.
- (e) The number, dates, and approximate location of collars lost.
- (f) The species, locations, and dates of all animals suspected to have been killed by collars.
- (g) All suspected poisonings of humans or domestic animals resulting from collar use.
- (h) The names of trained noncertified persons authorized by the certified applicator to handle collars according to Rule V.

(2) Each certified licensed or permitted applicator shall maintain monthly report forms which shall be submitted to the department within 14 calendar days after the end of the calendar month.

(3) Each individual applicator shall maintain the records for two (2) operational years.

(4) Dealers selling and distributing collars shall submit their sales inventory records required by rule III to

the department either upon request or annually by January 31 of the following year.

(5) All records shall be subject to inspection and shall be supplied to the department upon request.

AUTH: 80-8-105, MCA

IMP: 80-8-105, MCA

Rule VIII VIOLATIONS (1) It shall be a violation of the Act and these rules to use the collars in a manner inconsistent with its label and labeling. It shall be a violation of the Act and rules adopted thereunder:

(a) To sell, distribute, entrust, give, or use collars in any manner which violates or exceeds the standards established in these rules or by the act.

(b) To use the 1080 solution in any other device, equipment, or manner except the 1080 collar.

(c) For the registrant or the licensed dealer of the collars to sell, distribute, give away, or entrust the collars to any individual other than applicators licensed or permitted to use the 1080 livestock protection collars.

(d) For a farm applicator to use collars other than on lands owned, leased, or administered by them.

(e) For any individual or applicator, whether licensed or permitted or not, to allow any individual, other than the licensed or permitted applicator, to use the 1080 collars except as permitted by Rule V.

(f) Refuse or neglect to maintain applicator records required by these rules.

(g) Make false or fraudulent records or reports.

(h) Refuse to submit records requested by the department.

(i) Refuse an authorized representative of the department to inspect collar storage facilities, collar disposal sites, application and use of the collars or to inspect and record application records at reasonable business hours.

(j) To violate any rule or standard established by these rules or collars or by the act.

AUTH: 80-8-105, MCA

IMP: 80-8-105, MCA

3. The above proposed rules are necessary in order to meet Environmental Protection Agency (EPA) standards for regulations of 1080 collars. Without the establishment of these rules then it is not possible for persons to legally use these predator control collars in the state. The department has determined that a need exists in the state of Montana to permit owners of sheep to use 1080 predator collars so as to control predators of the sheep. A noticeable increase in the number of predators consuming sheep in the past few years has occurred. This has led to public outcry and requests to the department to take the necessary steps to permit the use of 1080 collars in the state. These rules meet the necessary EPA guidelines for 1080 livestock protection collars. The EPA will not permit

these collars in Montana unless the department adopts these rules.


Section 80-8-105 MCA provides the authority for these proposed rules. These rules further implement 80-8-105 MCA.

4. Interested parties may present their data, views and arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Gary Gingery, Montana Department of Agriculture, Environmental Division, Capitol Station, Helena, MT 59620, no later than April 28, 1986.

5. Clyde Peterson, Attorney, Helena, Montana has been designated to preside over and conduct the hearing.

MONTANA DEPARTMENT OF AGRICULTURE

BY:

Keith Kelly, Director

Certified to the Secretary of State, March 17, 1986.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF ARCHITECTS

In the matter of the proposed	)	NOTICE OF PROPOSED AMEND-
amendments of 8.6.406 con-	)	MENTS OF 8.6.406 QUALIFI-
cerning qualifications, 8.6.407	)	CATIONS REQUIRED OF ARCH-
concerning examinations, 8.6.409	)	ITECTS LICENSED OUTSIDE
concerning seals, and proposed	)	MONTANA, 8.6.407 EXAMINATION,
adoption of new rules concerning	)	8.6.409 INDIVIDUAL SEAL, AND
disciplinary actions, and	)	PROPOSED ADOPTION OF NEW
partnerships	)	RULES CONCERNING DISCIPLINARY
	)	ACTIONS, AND PARTNERSHIPS

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On April 26, 1986, the Board of Architects proposes to amend and adopt the above stated rules.

2. The proposed amendment of 8.6.406 will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located on pages 8-208 and 8-209, Administrative Rules of Montana)

"8.6.406 QUALIFICATIONS REQUIRED OF ARCHITECTS LICENSED OUTSIDE MONTANA (1) An architect licensed in a state other than Montana who has (or is contemplating) his first architectural commission in Montana must, before commencing that commission, be licensed by the board, associate with a duly licensed architect in the state of Montana for that one commission. This association or any association of this nature will be recognized for 1 commission only. All subsequent commissions can only be performed as a duly licensed architect in the state of Montana.

(a) The associated architect (Montana resident licensee) must acknowledge this association in writing to the Montana board of architects, and stipulate in this document that he does so with full understanding of his responsibilities for the soundness and accuracy of all contract documents, as related to the rules and regulations of the practice of architecture in Montana; all codes and ordinances pertaining to the design and construction of this commission; and the compliance of the contract documents with all requirements, to insure health and safety of the occupants.

(2) An architect licensed in a state other than Montana must acquire a Montana license before accepting his second commission in the state of Montana. In the event that said architect is not duly licensed, the Montana board of architects shall, in addition to taking such legal action as prescribed by law, notify the following in writing: his local board of examiners, the NCARB and his client, specifically outlining his violations of the laws of the state of Montana.

(a) This notification procedure will also apply in cases where an "out-of-state" architect fails to comply with section 1 of this policy.

(3)(2) No firm, corporation, partnership or individual may establish or maintain within this state, an office or branch office to engage in the practice of architecture unless such branch office or office is under the responsible control and direction of a Montana resident architect duly licensed with this board."

Auth: Sec. 37-65-204 & 305, MCA Imp: Sec. 37-65-305

3. The reason for the amendment is to clarify Section 37-65-305(2), MCA, in light of some experience with actual practice situations.

4. The proposed amendment of 8.6.406 will read as follows: (new matter underlined, deleted matter interlined)(full text of the rule is located on page 8-209, Administrative Rules of Montana)

8.6.407 EXAMINATION (1) Applicants for examination shall be issued cards or letters of admission as approved by the board, for presentation to the board on arrival for the examinations at the examination room. A written examination prescribed by the board must be taken, but only after the applicant has met the prerequisites and has been approved by the board for admission to the examination. Applicants for examination are required to file an application with the board. Application forms will be supplied by the board office. A copy of the applicant's architectural degree and the examination fee must accompany the completed application. Application for examination must be filed by April 15 of each year.

(2) Circulars of information as published and from time to time amended by the National Council of Architectural Registration Boards, relating to educational preparation, practical experience, examinations, grading and re-takes shall constitute the minimum standards of the Montana board of architects. The qualifications for admission to the Architectural Registration Examination (ARE) are as follows:

(a) The applicant must satisfy one of the following educational requirements:

(i) Hold a bachelor of architecture degree from a school of architecture, the degree curriculum of which was accredited by the National Architectural Accrediting Board (NAAB) not later than two years after graduation; or

(ii) Meet the alternate education criteria adopted, updated regularly, and outlined in the National Council of Architectural Registration Boards (NCARB) Circular of Information Number 3.

(b) The applicant must submit three reference letters from either licensed architects or employers describing the applicant's fitness of character.

(c) The applicant must satisfy one of the following practical experience requirements:

(i) Have at least three years' practical training in the office of a registered architect who is a practicing principal in an architectural firm; or

(ii) the equivalent thereof, as outlined in the official 1985 NCARB Table of Equivalents, Circular Information No. 1.

(3) The board of architects hereby adopts and incorporates the Intern-Architect Development Program (IDP) manual of the National Council of Architectural Registration Boards as listed in Circular of Information no. XI. Copies of the circular are available through the board office, 1424 9th Avenue, Helena, Montana 59620. Examination materials prepared by the board and examinations submitted by applicants pursuant to the requirements of this chapter shall be confidential and shall not be considered public records. Nothing herein shall prevent the board from reporting applicants' scores to architectural registration boards in other jurisdictions or to NCARB.

(a) The IDP is a procedure for assisting interns in meeting the board's training requirements and standards.

(4) An applicant failing to pass the examination is entitled to re-examination on divisions of the examination that he failed to pass. Re-examination may be at the next scheduled examination. A re-examination fee will be charged. If the entire examination is not successfully completed within 4 consecutive years, the applicant must reapply and retake the entire examination.

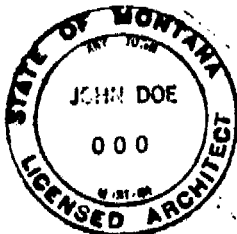
Auth: Sec. 37-65-204 & 303, MCA Imp: Sec. 37-65-303, MCA

5. The reason for the proposed amendment is to review the prerequisites in education, practical experience, and written examination, in light of state of the art advances in the professional practice and formal education now available to intern-architects. These amendments do provide for: the release of examination scores to other state boards and NCARB; confidentiality of examination materials; limiting the number of times a candidate may fail the examination before being required to reapply and retake the entire examination.

6. The proposed amendment of 8.6.409 will read as follows: (new matter underlined, deleted matter interlined)(full text of rule is located on page 8-210, Administrative Rules of Montana.

"8.6.409 INDIVIDUAL SEAL (1) The seal of a Every licensed architect shall have a seal, the impression of which must contain be circular and 2 inches in diameter. The words

"State of Montana" shall appear at the top, between 2 circular lines, and the words "LICENSED ARCHITECT" at the bottom between the same lines. The name of the architect, his or her place of business and, his or her Montana license number, and the words "LICENSED ARCHITECT, STATE OF MONTANA", with which he or she shall stamp and sign all drawings and specifications issued from his or her office for use in this state shall be placed within the inner circle. The proper seal as above described should appear as illustrated herein.



(2) When there is a co-partnership or other business entity of architects, the individual names and license numbers of members may appear on one seal. The seal may be of an impression type, or a rubber stamp will be permitted. All drawings and specifications prepared by the an architect shall be stamped and signed with his seal or the seal of the firm.

Auth: Sec. 37-65-204, MCA Imp: 37-65-308, MCA

7. The Board is proposing this amendment to up-date the seal requirement and authorize one seal for a firm of more than one practitioner.

8. The proposed new rules will read as follows:

I. DISCIPLINARY ACTIONS (1) The board reserves the discretion to take appropriate disciplinary action provided for in 37-1-136, MCA, against a licensed architect violating any law or rules of the board, and to decide on a case by case basis the type and extent of disciplinary action it deems appropriate applying the following considerations;

- (a) The seriousness of the infraction;
- (b) the detriment to the health, safety and welfare of the people of Montana; and
- (c) past or pending disciplinary actions relating to the licensee.

(2) The board may impose one or more of the following sanctions in appropriate cases:

- (a) revocation of a license;
 - (b) suspension of its judgement of revocation on terms and conditions determined by the board;
 - (c) suspension of the right to practice for a period not exceeding 1 year;
 - (d) placing a licensee on probation;
 - (e) public or private reprimand or censure of a licensee;
 - (f) limitation or restriction of the scope of the license and the licensee's practice;
 - (g) deferral of disciplinary proceedings or imposition of disciplinary sanctions;
 - (h) ordering the licensee to successfully complete appropriate professional training.
- (3) When a license is revoked or suspended, the licensee must surrender to the board his wall certificate and current renewal license.

Auth: Sec. 37-1-136, MCA Imp: Sec. 37-1-136, MCA

II ARCHITECT PARTNERSHIPS TO FILE STATEMENT WITH BOARD OFFICE (1) After July 1, 1986, all licensees who enter into partnerships, limited partnerships, or profit corporations, Sub-Chapter S corporations or any other form of business entity in which their professional talent and service are utilized, must file with the board office a statement of the existence of the business entity and of their relationship to it.

Auth: Sec. 35-1-203, MCA Imp: 35-1-203, MCA

9. Rule I is being proposed to implement section 37-1-136, MCA, and provide the Board with more options for disciplinary sanctions in cases of violation of practice standards.

Rule II is being proposed to implement the provisions of section 35-4-208 and 209, MCA. To provide a means for the Board to track the nature of practice of licensees in a time of expanding forms of permissible business entities. The licenses are still limited to individuals, regardless of the form of business entity under which they practice.

10. Interested persons may submit their data, views or arguments concerning the proposed amendments and adoptions in writing to the Board of Architects, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than April 24, 1986.

11. If a person who is directly affected by the proposed amendments and adoptions wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any comments he has to the Board of Architects, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than April 24, 1986.

12. If the board receives requests for a public hearing on the proposed amendments and adoptions from either 10% or 25, whichever is less, of those persons who are directly affected by the proposed amendments and adoptions, from the Administrative Code Committee of the legislature, from a governmental agency or subdivision, or from an association having no less than 25 members who will be directly affected, a public hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 80 based on the 800 licensees in Montana.

BOARD OF ARCHITECTS
GEORGE C. PAGE, PRESIDENT

BY:

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

Certified to the Secretary of State, March 17, 1986.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF HEARING AID DISPENSERS

In the matter of the proposed	)	NOTICE OF PROPOSED
amend of 8.20.401 concerning	)	AMENDMENT OF 8.20.401
traineeship requirement and	)	TRAINEESHIP REQUIREMENT
standards	)	AND STANDARDS

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On April 26, 1986 the Board of Hearing Aid Dispensers proposes to amend the above stated rule.

2. The proposed amendment of 8.20.401 will read as follows: (new matter underlined, deleted matter interlined)(full text of the rule is located at page 8-583, Administrative Rules of Montana)

"8.20.401 TRAINEESHIP REQUIREMENTS AND STANDARDS (1) through (5) will remain the same.

(6) When there is any break in a training program lasting more than six months, the trainee status terminates and the trainee must make new application for original trainee status and pay fees as required.

(7)(6) Trainee shall affix the designation "trainee" after his or her name on all business cards, correspondence, advertising or any written material concerning the hearing aid field."

Auth: 37-16-202, MCA; AUTH Extension, Sec. 11, Ch. 404, L. 1985 Imp: 37-16-301, 405 MCA

3. The Board is deleting subsection (6) as per phone call from Mary McCue of the legislative council. The statute already covers any break in training.

4. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Hearing Aid Dispensers, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than April 24, 1986.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any comments he has to the Board of Hearing Aid Dispensers, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than April 24, 1986.

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

directly affected has been determined to be 7 based on the 70 licensees in Montana.

BOARD OF HEARING AID
DISPENSERS
DUDLEY ANDERSON
CHAIRMAN

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

Certified to the Secretary of State, March 17, 1986.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF OCCUPATIONAL THERAPISTS

In the matter of the proposed	)	NOTICE OF PUBLIC HEARING IN
adoption of new rules con-	)	THE MATTER OF PROPOSED ADOPTION
cerning licensing, procedure,	)	OF NEW RULES FOR PROCEDURE,
discipline for occupational	)	LICENSING AND DISCIPLINE
therapists.	)	OF OCCUPATIONAL THERAPISTS

TO: All Interested Persons.

1. On April 21, 1986, at 10:00 a.m., a public hearing will be held in the conference room of the Department of Commerce, at 1424 9th Avenue, Helena, Montana, to consider the adoption of new rules I through XVI pertaining to the operations of the Occupational Therapists Board.

2. The proposed new rules will read as follows:

"I. ORGANIZATION RULE (1) The board of occupational therapists adopts and incorporates the organization rules of the department of commerce as listed in Chapter 1, of Title 8."

Auth: Sec. 37-24-201, MCA Imp: Sec. 2-4-201, MCA

"II. PROCEDURAL RULES (1) The board of occupational therapists adopts and incorporates the procedural rules of the department of commerce as listed in Chapter 2 of Title 8."

Auth: Sec. 37-24-201, MCA Imp: 2-4-201, MCA

"III. PUBLIC PARTICIPATION (1) The board of occupational therapists adopts and incorporates by this reference the public participation rules of the department of commerce as listed in Chapter 2 of Title 8."

Auth: Sec. 37-24-201, MCA Imp: Sec. 2-3-103, MCA

"IV. BOARD FILING PRACTICES (1) All submissions to the board, or requests of the board, must be made in writing to the office or the board before they will be acted on by the board. Correspondence from the board of any specific nature shall be signed by the chairman. Routine matters will be handled by the administrative assistant."

Auth: Sec. 37-24-201, 37-24-202, MCA Imp: Sec. 37-24-202, MCA

"V. DEFINITIONS As used in these rules, unless the context requires otherwise, the following definitions apply:

(1) 'In association with' means the on-going direction and instruction to establish and maintain an occupational therapy program service combined with observations and evaluation of performances of the occupational therapist and occupational therapist assistant services provided, but without the necessity of a licensed occupational therapist being actually physically present at the times when services are being provided.

(2) 'Reciprocity licensee' means a person licensed under the law of another state that had licensure requirements at least as stringent as the requirements of Chapter 24, Title 37, M.C.A., at the time of original licensure, or the person who meets the requirements for certification as an occupational therapist registered (OTR) or a certified occupational therapist assistant (COTA) established by the American Occupational Therapy Association.

(3) 'Occupational Therapist Student' means a person pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited institution or under an approved educational program."

Auth: Sec. 37-24-201, 202, MCA Imp: Sec. 37-24-202, MCA

"VI. APPLICATIONS FOR LICENSURE (1) An application for a license to practice as an occupational therapist and/or occupational therapist assistant shall be submitted to the board office in Helena on forms provided by the Board.

(2) Every application shall be typed or written in ink, signed and accompanied by the appropriate application fee and by such evidence, statements or documents as therein required.

(3) Applicant shall be notified, in writing, of the results of the evaluation of their respective applications for licensure.

(4) Approved applications and all documents filed in support thereof shall be retained by the board, provided that the board may permit such documents to be withdrawn upon substitution of true copies.

(5) The Board may request that such additional information or clarification of information be provided with the application as it deems reasonably necessary.

(6) An applicant will be deemed to have abandoned his or her application if he or she does not complete the application requirements for licensure within one year from the date on which the application was filed.

(7) An application submitted subsequent to an abandoned application shall be treated as a new application."

Auth: 37-24-201, 202, MCA Imp: 37-24-307, MCA

"VII. APPLICATIONS FOR LIMITED PERMIT (1) An application for a limited permit may be submitted to the board office in Helena on forms provided by the board. The applications must be typed or written in ink, signed and accompanied by the appropriate application fee and by such evidence, statements or documents as required by the board.

(2) The applicant must submit a statement signed by a person who will be his or her responsible licensee and the applicant, outlining the supervision or training to be provided."

Auth: Sec. 37-24-201, 202, MCA Imp: Sec. 37-24-307,
MCA

"VIII. EXAMINATIONS (1) For the purposes of Section 37-24-304(2), MCA, the board adopts as its examination the examinations offered through the American Occupational Therapists Association.

(2) Arrangements and fees for examinations are the responsibility of the applicant and shall be made with the AOTA.

(3) It shall be the responsibility of the applicant to assure that his or her examination score is forwarded by the AOTA to the Board.

(4) Applicants will be notified of the examination results following receipt of the examination score by the board.

(5) Applicants who fail an examination may be re-examined upon payment of another examination fee to the AOTA.

(6) Examinations will be given two times a year as set by the AOTA."

Auth: Sec. 37-24-202, 202, MCA Imp: Sec. 37-24-304,
MCA

"IX. PASS-FAIL CRITERIA (1) The board will utilize the pass/fail criteria of the American Occupational Therapist Association.

Auth: Sec. 37-24-201, 202, MCA Imp: Sec. 37-24-304,
MCA

"X. FEES Fees adopted by the board under Section 37-24-310, MCA are as follows:

(a) Applications for licensure	\$ 80.00
(b) Initial license issuance	80.00
(c) License renewal	120.00
(d) Late license renewal	60.00
(e) Limited permit	80.00
(f) Inactive fee renewal	15.00
(g) Duplicate license fee	10.00

All fees are non-refundable."

Auth: Sec. 37-24-201, 202, MCA Imp: 37-24-310, MCA

"XI. ETHICAL STANDARDS OF PRACTICE For the purpose of implementing Section 37-24-309(1)(b), MCA, the board establishes the following ethical standards of practice, violation of which will be grounds for license revocation or suspension or other disciplines, as contemplated by Section 37-1-136(1), MCA, and Rule XII.

(1) Performing procedures beyond the authorized scope or level of care or treatment for which the practitioner is licensed.

(2) Malpractice.

(3) Guaranteeing the results of any occupational therapy or consultative or therapeutic procedures.

(4) Diagnosing or treating individual disorders by correspondence.

(5) Reveal to unauthorized persons any confidential information obtained from any individual served or consulted with professionally without that individual's permission.

(6) Exploit the clients or patients by accepting them for treatment where benefits cannot reasonably be expected to accrue, by continuing treatment unnecessarily.

(7) Failure to refer patients or clients to other specialists as needed, to effect as great improvement as possible in the client or patient.

(8) Failure to take every precaution to avoid injury to the persons he serves professionally.

(9) Discriminating against a client or patient on the basis of race, religion, sex, or age, in his professional relationships."

Auth: 37-24-201, 202, MCA Imp: Sec. 37-24-309, MCA

"XII. DISCIPLINARY ACTIONS (1) The board reserves the discretion to take appropriate disciplinary action provided for in 37-1-136, MCA against a licensed occupational therapist violating any law or rules of the board, and to decide on a case by case basis the type and extent of disciplinary action it deems appropriate applying the following considerations:

(a) the seriousness of the infraction;

(b) the detriment to the health, safety and welfare of the people of Montana; and

(c) past or pending disciplinary actions relating to the licensee.

(2) The board may impose one or more of the following sanctions in appropriate cases:

(a) revocation of a license;

(b) suspension of its judgement of revocation on terms and conditions determined by the board;

(c) suspension of the right to practice for a period not exceeding one year;

(d) placing a licensee on probation;

(e) public or private reprimand or censure of a licensee;

(f) limitation or restriction of the scope of the license and the licensee's practice;

(g) deferral of disciplinary proceedings or imposition of disciplinary sanctions;

(h) ordering the licensee to successfully complete appropriate professional training.

(3) When a license is revoked or suspended, the licensee must surrender the license to the board."

Auth: Sec. 37-24-201, 202, MCA Imp: Sec. 37-24-202, 309, 37-1-136, MCA

"XIII. RECIPROCITY A person licensed under the laws of another state that has licensure requirements at least as stringent as the requirements of Chapter 24, or the person meets the requirements for certification as an Occupational Therapist registered (OTR) or a certified Occupational Therapist Assistant (COTA) established by the American Occupational Therapists Association may apply for licensure using the same application and procedures as an in-state licensee."

Auth: Sec. 37-24-201, 202, MCA Imp: 37-24-305, MCA

"XIV. RENEWALS Renewal fees must be paid within 30 days of the renewal date of June 15 of each year. A renewal notice will be sent out 30 days prior to the renewal date. If not paid by July 15 of each year, a late fee of \$60.00 shall be charged in addition to the renewal fee. If the fee and the late fee are not paid within 90 days, the license shall lapse. It is the licensee's responsibility to keep the board informed of correct address."

Auth: 37-24-201, 202, MCA Imp: 37-24-308, MCA

"XV. INACTIVE STATUS A licensee may place his or her license on inactive status provided that, prior to the expiration of his license, he makes written application to the Board for such status. Thereafter, he may obtain his license upon payment of the current license renewal fee for that year. It is the licensee's responsibility to keep the Board office informed of their current address."

Auth: Sec. 37-24-201, 202, MCA Imp: Sec. 37-24-308, MCA

"XVI. LIMITED PERMITS Limited permit examination will be given by the American Occupational Therapist Association twice a year. Limited permits can be issued for a one year period. If renewal time comes before the year is up, the limited period can be renewed one time to allow the graduate or student to pass the examination."

Auth: 37-24-201, 202, MCA Imp: Sec. 37-24-307, MCA

3. The rules are being proposed to implement Chapter 24 of Title 37, MCA relating to Occupational Therapists. That body of law was enacted in the 1985 legislative session and these are the first rules adopted pursuant to that law.

Rules, I, II, and III relate to adoption of organizational, procedural and public participation. Rules IV through X relate to filing for licensure and application procedures. Rules XI through XIII relate to standards of practice and disciplinary issues. The standards have been

reviewed by and are now proposed as guidelines for the board and licensees.

4. Interested persons may submit their data, views or arguments concerning the proposed adoptions in writing to the Board of Occupational Therapists, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than April 28, 1986.

5. The hearing will be presided over by Geoffrey Brazier.

BOARD OF OCCUPATIONAL
THERAPISTS
DEBRA AMMONDSON, CHAIRMAN

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

Certified to the Secretary of State, March 17, 1986.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF PHYSICAL THERAPY EXAMINERS

In the matter of the proposed) NOTICE OF PROPOSED
amendment of 8.42.402 con-) AMENDMENT OF 8.42.402
cerning examinations) EXAMINATIONS

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons.

1. On April 26, 1986, the Board of Physical Therapy Examiners proposes to amend the above stated rule.

2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)(full context of rule can be found on page 8-1205, Administrative Rules of Montana)

"8.42.402 EXAMINATIONS (1) and (3) thru (6) will remain the same.

(2) The examination and meeting dates will be the first Tuesday in April and the first Tuesday in October of each year in July and November of each year. Exact examination dates will be established by PES as the national uniform testing date. Applicants must have their applications in the board office at least 45 days prior to the examination date."

Auth: 37-11-201, MCA Imp: 37-11-303 & 304, MCA

3. The reason for the amendment is to comply with the Professional Examination Services uniform testing dates.

4. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Physical Therapy Examiners, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than April 24, 1986.

5. If a person who is directly affected by the proposed amendments wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any comments he has to the Board of Physical Therapy Examiners, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than April 24, 1986.

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

BOARD OF PHYSICAL THERAPY
EXAMINERS
RICHARD BARTOW, CHAIRMAN

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

Certified to the Secretary of State, March 17, 1986.

MAR Notice No. 8-42-10

6-3/27/86

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

In the matter of the proposed) NOTICE OF PUBLIC HEARING
amendments of 8.50.423) OF PROPOSED AMENDMENTS
concerning definitions, 8.50.424) AND NEW RULES
concerning temporary employment,)
8.50.427 concerning experience)
requirements, 8.50.431 con-)
cerning insurance requirements,)
8.50.437 concerning fees, and)
proposed adoption of new rules)
concerning probationary invest-)
igators and assessments)

TO: All Interested Persons.

1. On April 18, 1986, at 9:00 a.m. a public hearing will be held in the conference room of the Department of Commerce, at 1424 9th Avenue, Helena, Montana, to consider the amendment and adoption of the above stated rules.

2. The proposed amendment of 8.50.423 will read as follows: (new matter underlined, deleted matter interlined)(full text of the rule is located on page 8-1376, Administrative Rules of Montana)

"8.50.423 DEFINITIONS (1) thru (6) will remain the same.

(7) An 'internal investigator or auditor' is one who only investigates incidents occurring within the internal affairs of an agency or company by which he is singularly employed and only investigates acts committed by persons who are employed by that company or agency.

(8) A 'journeyman security alarm installer' is an employee of a licensed security alarm installer or is a licensed security alarm installer."

Auth: Sec. 37-60-202, MCA Imp: Sec. 37-60-202, 303, 321, 406, MCA

3. The definitions of an "internal investigator or auditor" and a "journeyman security alarm installer" are added to rule 8.50.423 because the 1985 legislature amended Title 37, Chapter 60 to include these classifications and functions in the licensing law.

4. The proposed amendment of 8.50.424 will read as follows: (new matter underlined, deleted matter interlined)(full text of the rule is located at pages 8-1377, Administrative Rules of Montana)

"8.50.424 TEMPORARY EMPLOYMENT WITHOUT REGISTRATION OR IDENTIFICATION CARD (1) thru (3) and (5) thru (8) will remain the same.

(4) The licensee must notify the board within 5 days of employing a person, for the 90 consecutive calendar day period and must notify the board on a quarterly basis these persons employed on a fragmented schedule. Any person hired by a licensee under the provisions of 37-60-308 shall be issued a temporary license by the board. Within 5 days of hiring such person, the licensee must provide the employee's name and address to the board, and the licensee must submit a quarterly report to the board detailing the cumulative number of days the temporary employee has been employed."

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

5. The 1985 legislature amended the licensure provisions to provide for temporary and probationary licenses. Thus requiring a rule change to accommodate individuals working in that capacity.

6. The proposed amendment of 8.50.427 will read as follows: (new matter underlined, deleted matter interlined)(full text of rule is located on page 8-1378, Administrative Rules of Montana)

"8.50.427 REQUIRED INFORMATION FOR APPLICATION (1) and (2) will remain the same.

(3) Applicant must list 5 references (not related by blood or marriage) and 2 of the 5 shall be former employers or individuals or firms with which he/she had a working contractual agreement if self-employed, or has knowledge of the agreement or working relationship. An application will be processed when 3 of the 5 references have responded to the board. It is the applicant's responsibility to check with the board and/or the listed references to insure that responses have been made.

(4)...

(7) Fingerprints required under this chapter to be submitted to the board shall be submitted to the Federal Bureau of Investigation and the Montana Department of Justice for examination. The board may issue a probationary or temporary license or identification card upon receipt of the criminal history report from the Montana Department of Justice. An original license or identification card may be granted following receipt of the Federal Bureau of Investigation report."

Auth: Sec. 37-60-202, MCA Imp: Sec. 37-60-304, MCA

7. Both of these amendments are proposed to speed up the license-granting process. Under the former system, months went by between application and licensure. These rule changes should result in a much speedier process.

8. The proposed amendment of 8.50.428 will read as follows: (new matter underlined, deleted matter

interlined)(full text of rule is found on pages 8-1378 and 8-1379, Administrative Rules of Montana)

"8.50.428 EXPERIENCE REQUIREMENTS (1) and (2) will remain the same.

(3) One and one-half years Experience as a licensed insurance adjuster may be counted towards the 3-year experience requirement as a private investigator."

Auth: Sec. 37-60-202, MCA Imp: Sec. 37-60-303(1)(g)

9. The board determined that the former rules were discriminatory towards the experience requirements of insurance adjusters who apply for licensure.

10. The proposed amendment of 8.50.431 will read as follows: (new matter underlined, deleted matter interlined)(full text of rule is located on page 8-1380, Administrative Rules of Montana)

"8.50.431 INSURANCE REQUIREMENTS (1) All licensees regulated by Title 37, Chapter 60, MCA, except private investigators, shall file with the board, a certificate of insurance evidencing a comprehensive general liability coverage for both licensees and employees for bodily injury, and property damage; the broad form comprehensive general liability endorsement which includes the following: personal injury and property damage with endorsement for assault and battery and personal injury, including false arrest, false imprisonment, wrongful entry, mental anguish, defamation and discrimination. The minimum amount of coverage of \$300,000 for bodily or personal injury and \$100,000 for property damage. Licensees should also file endorsements for the loss, destruction or damage to property in their care, custody and control and for losses from errors, omissions or acts of the licensees or their employees.

(2) All persons who function solely as private investigators must carry coverage for omission and errors, destruction, damage or loss of property entrusted to their custody, care and control, as well as coverage for defamation, malicious prosecution and invasion of privacy.

(3)(2) All licensees must be insured by a carrier licensed in the state in which the insurance has been purchased or in this state.

(4)..."

Auth: 37-60-202, MCA Imp: Sec. 37-60-202 (8), MCA

11. Deletion of minimum mandatory insurance requirements reflect recent industry frauds making insurance either unavailable or too expensive. Licensees must still be insured, but minimum coverage has been deleted.

12. The proposed amendment of 8.50.436 will read as follows: (new matter underlined, deleted matter

interlined)(full text of the rule is located on page 8-1382, Administrative Rules of Montana)

"8.50.437 FEE SCHEDULE

(1)	License application fees	
(a)	Contract security company	\$75.00
(b)	Proprietary security organization	75.00
(c)	Private investigator employer	75.00
(d)	Qualifying agents and resident managers	75.00
(e)	Security alarm installer	75.00
(e) (f)	License renewals	50.00
(f) (g)	Duplicate licenses	10.00

(2)..."

Auth: Sec. 37-1-134, 37-60-202, MCA Imp: Sec. 37-1-134, 37-60-304, 305, 306, 312, MCA

13. Security alarm installer is a new license category created by the 1985 legislature. This addition creates a fee for such licensure.

14. The proposed new rules will read as follows:

"I. PROBATIONARY PRIVATE INVESTIGATOR Any person who does not meet the requirements for age, employment experience and written examination, as required by 37-60-303(2) and (3), may be sponsored by a licensed private investigator to apply for a probationary registration card. In addition to the information listed in an application for licensure, the sponsor shall detail the age, experience or examination qualifications which are lacking and explain how training and experience and direct supervision will be provided during the probationary period, and how long the probationary period is expected to last. A probationary private investigator shall operate only under the authority and permission of the sponsor listed on his probationary registration card. The probationary period shall last until the statutory requirements have been met or the probationary card has been terminated by the board."

Auth: Sec. 37-60-202, MCA Imp: Sec. 37-60-202(13), MCA

"II. ASSESSMENT (1) The following assessment is made by the board in accordance with a demand by the 49th legislature to repay a \$10,000 debt incurred by the board. This assessment is levied in addition to all other license fees and renewal fees now charged by the board, and payment of said assessment shall be a pre-condition for licensure or renewal until the debt is fully repaid.

(2) Referring to ARM 8.50.437, all existing 1986 licensees and registration card holders mentioned in paragraph (1)(a) through (c) and paragraph (2)(a) through (c) shall be assessed the sum of \$35.00 payable on or before June 30, 1986.

Any new application under these sections received after April 1, 1986 shall also be assessed \$35.00 in addition to the scheduled fee, said assessment to be paid prior to December 1, 1986.

(3) Referring to ARM 8.50.437, all existing identification card holders mentioned in paragraph (3)(a) through (c) shall be assessed the sum of \$5.00 payable on or before June 30, 1986. Any new application under these sections received after April 1, 1986 shall also be assessed \$5.00 in addition to the scheduled fee. Said assessment to be paid prior to December 1, 1986.

(4) Applicants for a security alarm installer license shall pay an assessment of \$35.00 in addition to an application fee of \$75.00 at the time of application to the board."

Auth: Sec. 37-1-134, MCA Imp: Sec. 37-60-202, MCA

15. Rule I is being proposed because the 1985 legislature provided for the probationary status of private investigators to allow for necessary experience for full licensure. The rule reflects legislative intent.

Rule II is being proposed because the board borrowed \$10,000 from the state several years ago after the legislature created it but provided no "start-up" funds. The 1985 legislature demanded that the loan be repaid by June 30, 1987. This one-time assessment against licensess and employees is designed to repay the loan. The board felt the assessment was a more clearcut and less expensive method than first raising and then lowering annual license fees to raise this amount.

16. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Private Security Patrolmen and Investigators, 1424 9th Avenue, Helena, Montana, 59620-0407, no later than April 24, 1986.

BOARD OF PRIVATE SECURITY
PATROLMEN AND INVESTIGATORS
CLAYTON BAIN, CHAIRMAN

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

Certified to the Secretary of State, March 17 1986.

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

In the matter of the) NOTICE OF PUBLIC HEARING ON
adoption of a rule) PROPOSED ADOPTION - ABANDONING
abandoning the Teton) TETON-SPRING CREEK BIRD PRESERVE
Spring Creek Preserve)

1. On April 23, 1986, a public hearing will be held at the Choteau Public Library at 8:00 p.m., Choteau, Montana, to consider the adoption of a Rule abandoning Teton-Spring Creek Bird Preserve.

2. The proposed rule does not replace or modify any section currently found in the administrative rules of Montana. The proposed rule provides as follows:

RULE 1 ABANDONMENT OF TETON SPRING CREEK BIRD PRESERVE
FOR THE PROTECTION OF DEER (1) The Teton-Spring Creek Bird Preserve, as described in Section 87-5-405, MCA, is abandoned to the extent that it provides a preserve for deer. The preserve remains intact for all species except deer.

(2) Hunting is prohibited on all species within the Teton-Spring Creek Preserve except for deer as permitted by the Fish and Game Commission.

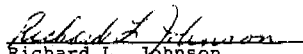
AUTH: 87-5-402(3), MCA IMP: 87-5-402, MCA.

3. The rule is proposed to respond to a petition for its adoption filed by landowners within the boundaries of the Teton-Spring Creek Bird Preserve. According to the petition, the rule is necessary to protect landowners within the preserve from damage to haystacks, grain crops, hay crops, and pastures. The special archery season authorized by Section 87-5-405 have been insufficient to curb damage to property owners within the preserve.

4. Interested parties may submit their data, views, or arguments concerning the proposed rule in writing to Stan Bradshaw, 1420 East Sixth, Helena, Montana 59620 no later than April 30, 1986.

5. Stan Bradshaw has been designated to preside over and conduct the hearing.

6. The authority of the agency to make the proposed rule is based on Section 87-5-402, MCA, and the rule implements Section 87-5-402, MCA.


Richard L. Johnson
Deputy Director
Department of Fish,
Wildlife and Parks

Certified to Secretary of State March 17, 1986.

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

In the matter of the	)	NOTICE OF PROPOSED AMENDMENT
amendment of rules	)	OF ARM 12.8.202,
relating to public	)	12.8.204, 12.8.208, 12.8.210
use regulations on	)	and 12.8.212
department lands and	)	NO PUBLIC HEARING
waters.	)	CONTEMPLATED

TO: All interested persons

1. On May 15, 1986, the Montana Fish and Game Commission (Commission) and the Montana Department of Fish, Wildlife and Parks (Department) propose to adopt amendments to ARM 12.8.202, 12.8.204, 12.8.208, 12.8.210 and 12.8.212 relating to public use regulations on Department lands and waters.

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

12.8.202 WEAPONS AND FIREWORKS (1) No person may discharge any firearm, fireworks, air or gas weapon, or arrow from a bow, on or over either land or water, from April 1 to the opening date of archery season each year, unless the designated area is otherwise posted. Other areas, or parts thereof, may be closed to shooting when the director determines there is undue hazard to human life or property. In addition to any other penalties provided for violation, the participant may be expelled from the area.

AUTH: Sections 23-1-106 and 87-1-303, MCA

IMP: Sections 23-1-102 and 87-1-303, MCA

12.8.204 VEHICLES (1) No motor vehicle may be driven at a speed greater than the posted speed.

(2) No motor vehicle may be driven off authorized roads, except onto parking areas provided.

(3) No person may park any vehicle, trailer, camper, or other vehicle except in designated parking areas, nor shall any person pitch a tent or otherwise set up camp other than in designated camping areas.

(4) No person may operate over-the-snow equipment in any area which is specifically posted against such operation.

(5) No motor vehicle may be operated in a public recreation area that fails to comply with the Title 61, MCA, Motor Vehicle Codes as they relate to driver licensing, vehicle equipment, and vehicle registration.

(6) In addition to any other penalty provided for violation, the participant may be expelled from the area.

AUTH: Sections 23-1-106 and 87-1-303, MCA

IMP: Sections 23-1-102 and 87-1-303, MCA

12.8.208 DISORDERLY CONDUCT (1) Disorderly conduct such as ~~drunkenness,--use--of--vile--or--profane--language, fighting,--indecent exposure, or operation of a motor vehicle in a manner as to create a nuisance or annoyance or danger to others,--or loud or noisy behavior is prohibited,--and in addition to any other penalty provided,--the participant may be expelled from the area.~~ but not limited to, quarreling, challenging to fight or fighting, using threatening, profane or abusive language, drunkenness, rendering vehicular or pedestrian traffic impassible, indecent exposure, public urination, operation of a motor vehicle in a manner as to create a nuisance or any annoyance or danger to others, loud or noisy behavior, is prohibited.

(2) In addition to any other penalty provided, the participants may be expelled from the area.

AUTH: Sections 23-1-106 and 87-1-303, MCA

IMP: Sections 23-1-102 and 87-1-303, MCA

12.8.210 WASTE DISPOSAL (1) No person may dump dead fish or animals or parts thereof, human excrement, refuse, rubbish, or wash water (except in receptacles provided for this purpose) nor pollute or litter in any other manner a public recreational area. Sewage wastes from self-contained trailers, campers, or other portable toilets shall be disposed of only in posted sanitary trailer dump stations. Wash water may be disposed of in sealed vault latrines.

(2) No household or commercial garbage or trash brought in as such from other property shall be disposed of in any designated public recreation area.

(3) In addition to any other penalty provided for violation, the participants may be expelled from the area.

AUTH: Sections 23-1-106 and 87-1-303, MCA

IMP: Sections 23-1-102 and 87-1-303, MCA

12.8.212 BOATING AND SWIMMING (1) No boats may be launched from any boat trailer, car, truck, or other conveyance except at an established launching area, if such a facility is provided. Boats, boat trailers, trucks, or other conveyance may not be kept at a designated area unless the owner or possessor thereof is authorized to use the area under the provisions of these rules.

(2) Swimming areas when designated are limited by white and orange buoys. No person may swim from such designated swimming area to any area beyond that which is so marked or limited.

(3) No person may disturb, deface, remove, or relocate such buoys unless authorized by the director or his agent.

(4) No power boat may be operated or beached within a designated swimming area, nor shall it be operated with its motor in operation so that any portion of such boat approaches closer than 20 feet to any swimmer in the water. The term "swimmer" as used herein shall not mean any water skier, then engaged in water skiing and using said boat as a use of towing power. This regulation is applicable only in water areas which are within 100 feet of the nearest shoreline and shall not apply to emergency or life-saving situations.

(5) No operator of a power boat may tow any water skier so that such water skier is caused to approach within 20 feet of any swimmer in the water. No water skier, while afloat on his water skis, may approach any swimmer in the water within 20 feet or water ski within the bounds of any designated swimming area.

(6) No person may leave a boat or other water craft unattended while moored or attached to a public boat dock nor shall public boat docks be used for any other purpose than loading and unloading of boats or other water craft as posted.

AUTH: Sections 23-1-106 and 87-1-303, MCA

IMP: Sections 23-1-102 and 87-1-303, MCA

3. The proposed amendments are to the public use regulations for lands or waters under the control, administration, and jurisdiction of the Department. The proposed amendments are intended to aid the Department in lowering vandalism and increasing user satisfaction in public recreation areas administered by the department. Two amendments will make the department rules correspond with statutory requirements. ARM 12.8.204 Vehicles will be amended to require that motor vehicle operation in a state recreation area must comply with the Motor Vehicle Codes and ARM 12.8.208 Disorderly Conduct will be amended to conform with the statutory definition of disorderly conduct. These changes will aid in enforcement.

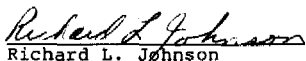
4. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to Mason Niblack, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, Helena, Montana 59620, no later than April 25, 1986.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views or arguments orally or in writing at a public hearing, he must make a written request for a hearing and submit the request along with any comments he has to Mason Niblack, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, Helena, Montana 59620, no later than April 25, 1986.

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

from the Administrative Code Committee, from a governmental agency or subdivision, or from an association having no fewer than 25 members who will be directly affected, a public hearing will be scheduled. Because of the large number of people who use state recreation areas, 10% of that number is larger than 25. Notice of the public hearing will be published in the Montana Administrative Register.

7. The authority of the Department to adopt the proposed amendments is Section 23-1-106, MCA, and the authority of the Commission to adopt the proposed amendments is Section 87-1-103, MCA. The proposed amendments implement Sections 23-1-102 and 87-1-303, MCA.



Richard L. Johnson
Deputy Director
Department of Fish, Wildlife
and Parks

Certified to the Secretary of State 3/17, 1986.

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

In the matter of a new rule) NOTICE OF A PUBLIC HEARING
relating to fish plants by the) ON THE PROPOSED ADOPTION
department or commercial) OF A NEW RULE RELATING TO
hatcheries.) FISH PLANTS

To: All interested persons:

1. On May 1, 1986, a public hearing will be held before the Montana Fish and Game Commission (Commission) at 1:30 p.m. in the Commission Room, Department of Fish, Wildlife and Parks Headquarters, 1420 East Sixth Avenue, Helena, Montana 59620, to consider the adoption of a new rule authorizing fish plants by the Montana Department of Fish, Wildlife and Parks (Department) and by commercial hatcheries in accordance with the requirements of Title 87, Chapter 5, part 7, MCA.

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

3. The proposed new rule provides as follows:

RULE 1. AUTHORIZATION FOR DEPARTMENT AND COMMERCIAL FISH PLANTING (1) The fish species on the following list and those listed in 87-5-714, MCA, may be introduced or transplanted by the department. This includes plants made by the U.S. Fish and Wildlife Service fish hatcheries at the department's request, commercial hatchery stocking of licensed private and commercial ponds when approved by the department and commercial hatchery stocking of waters on private lands when approved by the department. List of fish species approved:

<u>Common Name</u>	<u>Scientific Name</u>
White sturgeon	<u>Acipenser transmontanus</u>
Pallid sturgeon	<u>Scaphirhynchus albus</u>
Shovelnose sturgeon	<u>Scaphirhynchus platyrhynchus</u>
Paddlefish	<u>Polyodon spathula</u>
Goldeye	<u>Hiodon alosoides</u>
Mountain whitefish	<u>Prosopium williamsoni</u>
Pygmy whitefish	<u>Prosopium coulteri</u>
Coho salmon	<u>Oncorhynchus kisutch</u>
Westslope cutthroat trout	<u>Salmo clarki lewisi</u>
Yellowstone cutthroat trout	<u>Salmo clarki bouvieri</u>
Atlantic salmon	<u>Salmo salar</u>
Bull trout	<u>Salvelinus malma</u>
Splake	<u>Salvelinus fontinalis-</u>
	<u>Salvelinus namaycush hybrid</u>
Arctic grayling	<u>Thymallus arcticus</u>

Pearl dace	<u>Semotilus margarita</u>
Creek chub	<u>Semotilus atromaculatus</u>
Northern redbelly dace	<u>Phoxinus eos</u>
Finescale dace	<u>Phoxinus neogaeus</u>
Flathead chub	<u>Hybopsis gracilis</u>
Sturgeon chub	<u>Hybopsis gelida</u>
Sicklefin chub	<u>Hybopsis meeki</u>
Lake chub	<u>Couesius plumbeus</u>
Emerald shiner	<u>Notropis atherinoides</u>
Sand shiner	<u>Notropis stramineus</u>
Brassy minnow	<u>Hybognathus hankinsoni</u>
Plains minnow	<u>Hybognathus placitus</u>
Western silvery minnow	<u>Hesperoleucus symmetricus</u>
Fathead minnow	<u>Pimephales promelas</u>
Longnose dace	<u>Rhinichthys cataractae</u>
Redside shiner	<u>Richardsonius balteatus</u>
Smallmouth buffalo	<u>Ictiobus bubalus</u>
Bigmouth buffalo	<u>Ictiobus cyprinellus</u>
Channel catfish	<u>Ictalurus punctatus</u>
Stonecat	<u>Noturus flavus</u>
Burbot	<u>Lota lota</u>
Plains killifish	<u>Fundulus zebrinus</u>
Mosquitofish	<u>Gambusia affinis</u>
Brook stickleback	<u>Culaea inconstans</u>
Sauger	<u>Stizostedion canadense</u>
Iowa darter	<u>Etheostoma exile</u>
Mottled sculpin	<u>Cottus bairdi</u>
Slimy sculpin	<u>Cottus cognatus</u>
Torrent sculpin	<u>Cottus rhotheus</u>
Shorthead sculpin	<u>Cottus confusus</u>
Spoonhead sculpin	<u>Cottus ricei</u>

(2) The commission concurs, in accordance with its authority under Section 87-5-711, MCA, that the department's experiences with and studies of prior fish plantings and the requirements of the commission's rules on fish planting (ARM 12.7.601 and 12.7.602) constitute a scientific investigation required by Section 87-5-714, MCA, and the plan required by Section 87-5-713, MCA, for those species listed in Section 87-5-714, MCA, or listed in subsection (1) of this rule.


AUTH: Section 87-5-704 and	IMP: Section 87-5-704,
87-5-71	87-5-711,
	87-5-713 and
	87-5-714, MCA.

4. The proposed new rule implements Title 87, Chapter 5, Part 7, MCA, passed and approved as Chapter 624, Laws of 1985 and which regulate the importation, introduction or transplantation of wildlife in the state. The rule adds a list of fish species, in addition to the fish species listed in Section 87-5-714, MCA, that the Department may plant or

authorize commercial hatcheries to plant. The Department has many years of experience in the planting or otherwise managing of the fish species on both the list in Section 87-5-714, MCA, and the list in the proposed rule and experience in approving commercial hatchery planting of fishes included on the lists in waters on private lands. If the Commission concurs after the public hearing and adopts the proposed rule, the Commission will be finding that the Department's experience with fish management and studies of prior fish plantings and the requirements of the Commission's rules on fish planting (ARM 12.7.601 and 12.7.602) constitute a scientific investigation required by Section 87-5-714, MCA, and the plan required by Section 87-5-713, MCA. If the rule is adopted as proposed, the Commission will be authorizing by rule the Department to conduct its annual fish planting program and authorize by rule the Department to approve commercial hatchery stocking, provided that the species to be planted or stocked are either listed in Section 87-5-714, MCA, or listed in the new rule. Such approval in the proposed rule will avoid requiring the Department to obtain the approval of the Commission for every individual fish plant for those species listed. The Department already has sufficient experience in managing or planting these species to meet the purpose and intent of Title 87, Chapter 5, part 7. For any species not listed in Section 87-5-714, MCA, or in the proposed rule, the Commission must approve or disapprove the planting or stocking of that new species pursuant to Title 87, Chapter 5, part 7.

5. Interested persons may submit their data, views or arguments concerning the proposed adoption in writing to George Holton, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, Helena, Montana 59620, no later than May 2, 1986.

6. The authority of the Commission to adopt proposed rule is based on Sections 87-5-704 and 87-5-714, MCA, and the rule implements Sections 87-5-704, 87-5-711, 87-5-713 and 87-5-714, MCA.


Richard Johnson
Deputy Director
Department of Fish, Wildlife
and Parks

Certified to Secretary of State 3 / 17, 1986.

BEFORE THE BOARD OF LIVESTOCK
OF THE STATE OF MONTANA

In the Matter of the AMENDMENT) NOTICE OF PROPOSED
of RULE 32.3.212, Additional) AMENDMENT OF RULE
Requirements for Cattle) 32.3.212; CHANGING THE
) REQUIREMENTS FOR
) IMPORT OF CATTLE
) FROM STATES
) CLASSIFIED BRUCELLOSIS
) A, B, AND C

NO PUBLIC HEARING
CONTEMPLATED

TO: All Interested Persons.

1. On April 28, 1986 the Board of Livestock proposes to amend Rule 32.3.212 by further restricting the importation of cattle from states classified as Brucellosis B and C; and, by allowing Montana cattle to return from states classified as Brucellosis A under certain conditions.

2. The proposed amendment provides as follows:

32.3.212 ADDITIONAL REQUIREMENTS FOR CATTLE

- (1) Remains the same.
- (2) (a) All female cattle over 12 months of age entering Montana from states classified as class A, B, or C, must be found negative to a brucellosis test performed within 30 days prior to the date of entry into the state of Montana, (and confirmed in a state or federally approved animal diagnostic laboratory) except the following:
 - (i) Remains the same.
 - (ii) Remains the same.
 - (iii) Remains the same.
 - (iv) Remains the same.
 - (v) Montana cattle returning from an "A" area in adjacent states where they have pastured as part of normal ranching operating. The cattle must originate from an established Montana herd. No additions to the herd may occur while out of state. The pasture premises must be leased or owned by the owner of the cattle. The owner must file an acceptable grazing permit herd plan prior to the cattle leaving Montana. The owner must assume any liability the department may incur for granting this exception if brucella infection is traced to the pasture location from which the cattle returned. A visual inspection by the department of the pasture area, at the owner's expense, may be required before acceptance of the herd plan. If at any time the department determines the cattle may have been exposed to brucellosis, it may prohibit reentry and require such testing as it determines is necessary.

(h) Remains the same.

(e) (3) Cattle moving from Montana into an adjacent state or from an adjacent state into Montana for purposes of summer grazing are exempt from the provision of the section pertaining to test, quarantine and retest provided the following conditions are met:

(i) (a) The cattle enter and return to Montana under permit from the state veterinarian and an official health certificate certifying the animals are free of visible diseases; and

(ii) (b) While outside of Montana, the cattle are kept under fence and are not intermingled with cattle belonging to another person. The state veterinarian may waive this requirement as to intermingling when he is satisfied that the possibility of exposure to brucellosis is minimal.

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

(iv) (d) Cattle otherwise subject to test under this rule which are added to the herd while it is out of state are subject to test, quarantine and retest as provided in this rule.

(4) (a) Vaccinated female cattle, from states classified as B or C, may enter Montana under permit if they originate directly from a Brucellosis Free certified herd. The herd number and test date must be included on the Certificate of Veterinary Inspection. The State Veterinarian may require a brucellosis test 45 to 120 days after arrival.

(b) Vaccinated nonpregnant heifers under 18 months of age (first pair of permanent incisors not erupted) from any herds not under quarantine in "B" and "C" states may enter if they have been hot iron branded with an "F" brand. The brand must be no less than 3 inches high by 2 inches wide and applied as prescribed by the department. These cattle may only enter for purposes of feeding, grazing, or slaughter. They may not be used as breeding or dairy stock.

(c) Spayed heifers from "B" and "C" areas may enter under permit if they are properly identified and certified by a licensed veterinarian.

(4) (5) Remains the same.

3. The reasons for the amendments are to allow Montana ranchers to graze their cattle in free and A states comparatively free of restriction if the herd is safe from brucellosis infection. However since the chance of infection from states classified B and C is fairly high, the amendment further restricts entry of cattle from those states in order to further reduce the chances of brucellosis infection in Montana. The changes provide advantages for those states which are brucellosis free or which have had

only pockets of infection but they remove any previous advantage given to state which continue to be infected with brucellosis.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Les Graham, Executive Secretary to the Board of Livestock, Capitol Station, Helena, Montana 59620, no later than April 28, 1986.

5. If a person is directly affected by the proposed rules wishes to express his data, views, and arguments orally or in writing at a public hearing he must make written request for a hearing and submit this request along with any written comments he has to Les Graham, Executive Secretary to the Board of Livestock, no later than April 28, 1986.

6. If the agency received requests for a public hearing on the proposed adoption from either 10 or 25%, whichever is less, of the persons who are directly affected by the proposed adoption from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be (250) persons, based on a survey by the Montana Stockgrowers Association.

7. The authority to adopt the proposed amendments is based on Sections 81-2-102 and 81-2-707 MCA. They implement sections 81-2-102 MCA and 81-2-707 MCA.

Handwritten: Nancy Espy

NANCY ESPY
Chairman, Board of Livestock

BY: *Handwritten: Les Graham* *Handwritten: AC 11/1/86*

LES GRAHAM, Executive Secretary
to the Board of Livestock

Certified to the Secretary of State March 17, 1986.

BEFORE THE BOARD OF LIVESTOCK
OF THE STATE OF MONTANA

In the Matter of the AMENDMENT) NOTICE OF PROPOSED
OF RULE 32.3.407A, Change of) AMENDMENT OF RULE
Ownership Test) 32.3.407A WAIVING
) PERMANENTLY IN ALL
) COUNTIES THE CHANGE
) OF OWNERSHIP
) BRUCELLOSIS TEST

NO PUBLIC HEARING
CONTEMPLATED

TO: All Interested Persons.

1. On April 28, 1986 the Board of Livestock proposes to adopt an amendment to Rule 32.3.407A which would waive permanently in all counties the brucellosis test required to be performed on cattle before ownership was changed or the cattle were moved.

2. The proposed amendment provides as follows:

32.3.407A CHANGE OF OWNERSHIP TEST (1) In the county of Flathead (none as of June 6, 1986) before ownership of animals listed in (2) is changed or before the animals are moved to Montana premises located in a Class Free area they must undergo an official test for brucellosis and must be determined negative. The test must be performed not more than 30 days prior to the date they are sold or moved and the results must be entered on a department official test form.

(2) Remains the same.

(3) Remains the same.

(4) Remains the same.

3. The reason for the amendment is to adopt permanently a previously adopted emergency rule. Waiving the requirement for a brucellosis test will save the livestock producers of this state literally millions of dollars. Since Montana has been federally classified as Brucellosis "FREE", the former health reasons for the test are no longer applicable.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Les Graham, Executive Secretary to the Board of Livestock, Capitol Station, Helena, Montana 59620, no later than April 28, 1986.

5. If a person is directly affected by the proposed rules wishes to express his data, views, and arguments orally or in writing at a public hearing he must make written request for a hearing and submit this request along with any written comments he has to Les Graham, Executive Secretary to the Board of Livestock, no later than April 28, 1986.

6. If the agency received requests for a public hearing on the proposed adoption from either 10 or 25%,

whichever is less, of the persons who are directly affected by the proposed adoption; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be (250) persons, based on a survey by the Montana Stockgrowers Association.

7. The authority to adopt the proposed amendment is based on Sections 81-2-102 and 81-2-103 MCA. It will implement section 81-2-102 MCA.

NANCY ESPY
Chairman, Board of Livestock

BY:

LES GRAHAM, Executive Secretary
to the Board of Livestock

Certified to the Secretary of State March 17, 1986.

BEFORE THE BOARD OF LIVESTOCK
OF THE STATE OF MONTANA

In the Matter of AMENDMENT	)	NOTICE OF PROPOSED
OF RULE 32.3.213, Special	)	AMENDMENT OF RULE
Requirements for Dogs	)	32.3.213 ALLOWING
	)	MOVEMENT OF CATS
	)	INTO STATE UNDER
	)	HEALTH CERTIFICATE

NO PUBLIC HEARING
CONTEMPLATED

TO: All Interested Persons.

1. On April 28, 1986 the Board of Livestock proposes to amend Rule 32.3.213 by including cats in the present special requirement section for importation of dogs.

2. The proposed amendment provides as follows:

32.3.213 SPECIAL REQUIREMENTS FOR DOGS AND CATS

(1) Dogs and cats may enter the state of Montana provided they are transported or moved in conformity with applicable rules of this chapter and are accompanied by an official health certificate of the state of origin issued by an accredited veterinarian attesting that the animals are:

(a) free from evidence of any infectious, contagious, communicable or parasitic disease or known exposure thereto, and

(b) have been officially vaccinated by a licensed veterinarian against rabies, in accordance with procedures recommended in the latest version of the U.S. Public Health Compendium for rabies vaccines and are identified on the health certificate by the date of rabies vaccination and the serial number of the rabies tag. Rabies vaccination requirements do not apply to puppies and kittens under three (3) months of age.

(2) Dogs and cats from areas under any federal, state, county or municipal rabies quarantine may not be permitted entrance into Montana except upon a permit from the State Veterinarian of Montana obtained in advance of shipment.

3. The reason for the amendment is to allow entrance of cats into Montana under the same conditions as dogs. The amendment would provide additional health benefits by decreasing the possible incidence of rabies in cats, and would provide this at minimal cost. It would also permit easier tracking of possible sources of rabies outbreaks.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Les Graham, Executive Secretary to the Board of Livestock, Capitol Station, Helena, Montana 59620, no later than April 28, 1986.

6-3/27/86

MAR Notice No. 32-2-113

5. If a person is directly affected by the proposed rules wishes to express his data, views, and arguments orally or in writing at a public hearing he must make written request for a hearing and submit this request along with any written comments he has to Les Graham, Executive Secretary to the Board of Livestock, no later than April 28, 1986.

6. If the agency received requests for a public hearing on the proposed adoption from either 10 or 25%, whichever is less, of the persons who are directly affected by the proposed adoption from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be (250) persons, based on a survey by the Montana Stockgrowers Association.

7. The authority to adopt the proposed amendment is based on Sections 81-2-102 and 81-2-703 and 81-2-707 MCA. It implements 81-2-102 and 81-2-707 MCA.

NANCY ESPY
Chairman, Board of Livestock

BY: LES GRAHAM
Executive Secretary
to the Board of Livestock

Certified to the Secretary of State March 17, 1986.

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

In the matter of the amend-	)	NOTICE OF PUBLIC HEARING ON
ment of Rules 46.12.1201,	)	THE PROPOSED AMENDMENT OF
46.12.1202, 46.12.1204,	)	RULES 46.12.1201,
46.12.1205 and 46.12.1206	)	46.12.1202, 46.12.1204,
pertaining to reimbursement	)	46.12.1205 AND 46.12.1206
for skilled nursing and	)	PERTAINING TO REIMBURSEMENT
intermediate care services	)	FOR SKILLED NURSING AND
	)	INTERMEDIATE CARE SERVICES

TO: All Interested Persons

1. On April 16, 1986, at 1:00 p.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana, to consider the proposed amendment of Rules 46.12.1201, 46.12.1202, 46.12.1204 and 46.12.1205 pertaining to reimbursement for skilled nursing and intermediate care services.

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

46.12.1201 TRANSITION FROM RULES IN EFFECT SINCE
JULY 1, 1983 (1) These rules shall be effective
July April 1, 1985.

(2) Includable costs for cost reports with ending dates before July April 1, 1985, will be determined in accordance with rules for allowable includable costs then in effect.

(3) The payment rate is a result of computing the formula:

$R=RO+RP$

For facilities whose providers are owners on June 30, 1982, until ownership changes, and for facilities whose providers are not owners on June 30, 1982, until the June 30, 1982 provider changes:

$RO=T$, if $A-T$ is less than 0

$RO=A$, if $A-T$ is equal to or greater than 0

$RP=S$, if $M-S$ is less than 0

$RP=S(1)$ for facilities constructing new beds after
July 1, 1984 where $M-S$ is less than or equal to 0

$RP=S(2)$ for facilities extensively remodeled after
July 1, 1984 where $M-S$ is less than or equal to 0

$RP=M$, if $M-S$ is equal to or greater than 0

For all other facilities and for all facilities newly constructed after June 30, 1982, regardless of provider:

$RO=A$

$RP=M$

where:

R is the payment rate for the current year,

S is the interim property rate in effect on June 30, 1982. In the case where costs to a facility decrease such as

through refinancing of debt or the renegotiation of a lease, S will be based on actual costs, if they are less.

$S(1) = [(V \times S) + (Y \times 7.79 \text{ effective April 1, 1986 and } 7.98 \text{ effective July 1, 1986})] \text{ divided by } (V + Y)$

where:

V is the total square footage of the original structure before construction of new beds.

Y is the square footage added to the facility as a result of the construction.

$S(2) = S + ((F \times 12) \text{ divided by } 365) \times 1.025 \text{ effective July 1, 1985 and } 1.0506 \text{ effective July 1, 1986}$

where:

F is $((B \text{ divided by } D) \times .80)$ amortized over 360 months at 12% per annum.

D is the number of licensed beds in the facility.

B is the total allowable remodeling costs.

T is the interim operating rate plus estimated incentive factor in effect on June 30, 1982,

A is the operating rate effective July 1 of the current year in accordance with ARM 46.12.1204(2), and revised annually in accordance with ARM 46.12.1204(5),

M is the property rate effective July 1 of the current year in accordance with ARM 46.12.1204(3), and revised annually in accordance with ARM 46.12.1204(5).

M₁ = the M calculated under 1204(3) in effect 6/30/85 times 1.0506 effective July 1, 1986.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-141 MCA

46.12.1202 PURPOSE AND DEFINITIONS Subsections (1) through (2)(t) remain the same.

(u) "Extensive remodeling" means a renovation or refurbishing of all or part of a provider's physical facility, in accordance with certificate of need requirements, when the projects total cost depreciable under generally acceptable accounting principles exceeds, in a twelve month period, \$2,400 times the number of licensed beds in the facility. "Extensive remodeling" does not include the construction of additional beds, but may include construction of additional square feet.

(v) "Total allowable remodeling costs" means those costs which are supported by adequate documentation. These costs include, but are not limited to, all costs of construction. Costs of moveable equipment, supplies, furniture, appliances, etc. are specifically excluded. Also excluded are those remodeling costs related to certification of additional nursing home beds as required by the department of health and environmental sciences.

(uw) The laws and regulations and federal policies cited in this sub-chapter shall mean those laws and regulations which are in effect as of ~~March 31, 1982~~ April 1, 1986.

AUTH: Sec. 53-6-113 MCA
IMP: Sec. 53-6-141 MCA

46.12.1204 PAYMENT RATE Subsections (1) through (2) (b) remain the same.

(3) The property rate is the result of computing the formula:

(a) $M = N \times Z$ except for facilities extensively remodeled or constructing new beds after July 1, 1984.

$M = N(1) \times Z$ for facilities constructing new beds after July 1, 1984,

$M = N(2) \times Z$ for facilities extensively remodeled after July 1, 1984.

where:

M is the property rate per day of service,

N is the facility's property rate as of 6/30/85. For entire facilities built after 6/30/85

N is \$7.60 for a facility of non-wood-frame construction, and \$7.60 for a facility of wood-frame construction,

For facilities new to the program constructed prior to 6/30/82 a 6/30/85 rate will be computed according to property rules effective 6/30/85. That rate will be carried forward using $M = N \times Z$

$N(1)$ is $((A \times D) + B \times 7.60)$ divided by $(A + B)$ x 1.025 effective April 1, 1986 and 1.0506 effective July 1, 1986.

$N(2)$ is $D \times 1.025$ effective April 1, 1986 and 1.0506 effective July 1, 1986 + $((F \times 12)$ divided by 365) where remodeling is completed during the 7/1/85 to 6/30/86 period.

$N(2) = D \times 1.025$ effective January 1, 1986 and 1.0506 effective July 1, 1986 + $((F \times 12)$ divided by 365) x 1.025 when remodeling is completed during the 7/1/84 to 6/30/85 period.

where:

A is the total square footage of the original structure.

B is the square footage added with the construction of new beds.

D is the property rate as of 6/30/85 for the original structure.

F is $((G \text{ divided by } H \times .80)$ amortized over 360 months at 12% per annum.

H is the number of licensed beds in the facility.

G is total allowable remodeling costs.

Z is 1.025 effective July 1, 1985 and 1.0506 effective July 1, 1986.

Subsections (4) through (4) (b) remain the same.

(c) For facilities constructing new beds after July 1, 1984, an adjustment to the property rate (as described at ARM 46.12.1204(3)(a)) will be allowed, beginning with a given rate year, provided that the construction or the claimed portion thereof ended during the immediate prior July 1 to June 30 period.

(d) For facilities extensively remodeled after July 1, 1984, a remodeling adjustment to the property rate (as described in ARM 46.12.1204(3)(a)) will be allowed, beginning with a given rate year provided that the remodeling or claimed portion thereof ended during the immediate prior July 1 to June 30 period.

Subsection (5) remains the same.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-141 MCA

46.12.1205 PAYMENT PROCEDURES Subsections (1) through

(2)(a)(xiv) remain the same.

(xv) routine nursing supplies used in extraordinary amounts and prior approved by the department;

(xvi) nutrient solutions for parenteral and enteral nutrition therapy when such solutions are the only source of nutrition for patients who, because of chronic illness or trauma, cannot be sustained through oral feeding. These solutions will be allowable only if they are determined medically appropriate and prior authorized by the director of the department or his designee.

Subsections (2)(b) through (4) remain the same.

(5) No payment or subsidy will be made to a provider for holding a bed while the recipient is receiving medical services elsewhere, such as in a hospital, except in a situation where a provider is full and has a waiting list of potential residents. A provider will be considered full if all beds are occupied or being held for a patient temporarily in a hospital. In this exceptional instance, a payment will be made for holding a bed while the resident is temporarily receiving care in a hospital, is expected to return to the provider, and the cost of holding the bed will evidently be less costly than the possible cost of extending the hospital stay until an appropriate bed would otherwise become available. Furthermore, payment in this exceptional instance will be made only upon approval from the director of the department or his designee. A request for payment nursing home bed reservation during a resident's temporary hospitalization in this instance must be submitted to the department on the appropriate forms provided by the department within 90 days of the requested absence. In situations where conditions of billing for holding a bed are met, providers are required to hold the bed and may not fill the bed until these conditions are no longer met. The bed may

not be filled unless prior approval is obtained from the department.

Subsections (6) and (7) remain the same.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-141 MCA

46.12.1206 PATIENT ASSESSMENTS, STAFFING REPORTS AND DEFICIENCIES

Subsections (1) through (3) remain the same.

(4) At least twice once annually the monthly patient assessment reports will be validated for accuracy and consistency with medical records maintained at the facility. If the department's review team indicates that facility patient assessment abstracts submitted are significantly different from the abstract average determined by the review team, the provider's average nursing care time will be computed from the abstracts submitted by the review team.

(a) Any provider which disagrees with the department's computation of the average nursing care time, for rate years beginning July 1, 1986, may request a review of 100% of the monthly patient assessment reports for the month originally reviewed. If the 100% review indicates that facility patient assessment abstracts submitted remain significantly different from the abstract average determined by the review team, the facility will reimburse the Department for the cost of the additional review and the provider's average nursing care time will be computed from abstracts compiled by the review team during the 100% review. Reimbursement for the costs of the review must be made within 30 days after notification to the provider of the costs of the review, or the department will recover the cost by set-off against amounts paid for long term care facility services. If the 100% review indicates that facility patient assessment abstracts submitted are not significantly different from the abstract average determined by the review team the cost of the additional review will be borne by the department and the provider's average nursing care time will be determined in accordance with ARM 46.12.1202(2)(g).

(ab) "Significantly different" shall mean a ten percent or greater variance.

Subsections (5) through (9)(d) remain the same.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-141 MCA

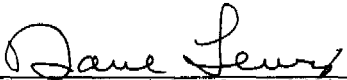
3. The changes in this rule are necessary to provide reimbursement for substantial capital projects as well as enteral and parenteral solutions, the costs of which are significant cost items warranting increases in reimbursement rates for affected facilities. It should be noted, however,

that for facilities constructing new beds or extensively remodeling during the July 1, 1984 through June 30, 1985 period, property rates will be changed only in conjunction with the applicable date of this rule as specified in ARM 46.12.1201(1). Additionally, changes have been made to allow the department to take into account for rate setting purposes any property cost decreases arising from such situations as refinancing of mortgage debt or a renegotiated lease arrangement.

The department is also proposing changes to the patient assessment reporting system to provide a specific remedy for providers whose patient assessment abstracts (from which the average nursing care time is compiled) differ significantly from the abstract average determined by the department's review team. These changes would allow for a 100% review where a facility disagrees with the department's computation. The costs of the 100% review would be borne by the provider if the review indicates that the department's rate computation was correct. Other changes make minor, non-substantive clarifications.

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 April 25, 1986.

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 17, 1986.

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

In the matter of the	)	NOTICE OF ADOPTION OF
adoption of amendments to	)	AMENDMENTS TO FEDERAL
federal statutes, agency	)	STATUTES, AGENCY RULES AND
rules and guidelines	)	GUIDELINES PRESENTLY
pertaining to reimbursement	)	INCORPORATED BY REFERENCE
for skilled nursing and	)	IN RULES 46.12.1202,
intermediate care services	)	46.12.1206, 46.12.1207 and
	)	46.12.1208 PERTAINING TO
	)	REIMBURSEMENT FOR SKILLED
	)	NURSING AND INTERMEDIATE
	)	CARE SERVICES. NO PUBLIC
	)	HEARING CONTEMPLATED

TO: All Interested Persons

1. The Department of Social and Rehabilitation Services hereby gives notice of the adoption and incorporation by reference of the following federal statutes, agency rules and guidelines, as amended through April 1, 1986:

(a) 42 CFR 405 Subpart K, and 42 CFR 442 Subparts F and G, which define the participation standards for providers, are presently incorporated by reference in ARM 46.12.1202(a), purpose and definitions. The amendment generally sets forth policies and procedures defining participation standards for providers. A copy of 42 CFR 405 Subpart K, and 42 CFR 442 Subparts F and G as amended through April 1, 1986, may be obtained from the Department of Social and Rehabilitation Services, Economic Assistance Division, P.O. Box 4210, 111 Sanders, Helena, Montana 59604.

AUTH: Sec. 53-6-113 MCA
IMP: Sec. 53-6-141 MCA

(b) 42 CFR 456.250 through 456.522, which specify utilization review criteria for long term care facilities, are presently incorporated by reference in ARM 46.12.1206(5), patient assessments, staffing reports and deficiencies. The amendment generally sets forth the relationship that should exist between utilization and quality control peer review organizations (PRO) and state medicaid agencies that contract with PRO's to perform review. A copy of 42 CFR 456.250 through 456.522 as amended through April 1, 1986, may be obtained from the Department of Social and Rehabilitation Services, Economic Assistance Division, P.O. Box 4210, 111 Sanders, Helena, Montana 59604.

AUTH: Sec. 53-6-113 MCA
IMP: Sec. 53-6-141 MCA

(c) 42 CFR 456.600 through 456.614, which specify medical review criteria for long term care facilities, are presently incorporated by reference in ARM 46.12.1206(6), patient assessments, staffing reports and deficiencies. The amendment generally sets forth requirements for periodic inspections of care and services in skilled nursing facilities (SNF's), intermediate care facilities (ICF's), and institutions for mental disease (IMD's). A copy of 42 CFR 456.600 through 456.614, as amended through April 1, 1986, may be obtained from the Department of Social and Rehabilitation Services, Economic Assistance Division, P.O. Box 4210, 111 Sanders, Helena, Montana 59604.

AUTH: Sec. 53-6-113 MCA
IMP: Sec. 53-6-141 MCA

(d) Health Insurance Manual, HIM-15, which is a manual published by the United States department of health and human services, social security administration, which provides guidelines and policies 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. HIM-15 is presently incorporated by reference in ARM 46.12.1207(1), includable costs. The amendments generally set forth principles for determining the reasonable cost of provider services including rules on changes of ownership necessitating final cost reports and requirements for review of record keeping capability of a provider involved in a change of ownership. A copy of HIM-15, as amended through April 1, 1986, may be obtained from the Department of Social and Rehabilitation Services, Economic Assistance Division, P.O. Box 4210, 111 Sanders, Helena, Montana 59604.

AUTH: Sec. 53-6-113 and 53-2-201 MCA
TMP: Sec. 53-6-111, 53-6-141 and 53-2-201 MCA

(e) Section 1861(v)(1)(O) and section 1902(a)(13), which establish guidelines concerning includable property costs, of the Social Security Act, which is a federal act establishing the medicare and medicaid programs, are presently incorporated by reference in ARM 46.12.1207(1)(c)(v), includable costs. The amendment generally sets forth rules regarding reasonableness and adequacy of reimbursement for certain services in light of provider costs. A copy of section 1861(v)(1)(O) and section 1902(a)(13) of the Social Security Act, as amended through April 1, 1986, may be obtained from the Department of Social and Rehabilitation Services, Economic Assistance Division, P.O. Box 4210, 111 Sanders, Helena, Montana 59604.

AUTH: Sec. 53-6-113 and 53-2-201 MCA
IMP: Sec. 53-6-111, 53-6-141 and 53-2-201 MCA

(f) Sections 162 and 274 of the internal revenue codes and section 1.162-2 of the income tax regulations, which are federal statutes and regulations dealing with allowable travel expenses and transportation costs, are presently incorporated by reference in ARM 46.12.1207(1)(k), includable costs. The amendments generally set forth rules dealing with income taxation of trade or business expenses and disallowance of certain entertainment, etc., expenses. A copy of the above cited statutes and regulations, as amended through April 1, 1986, may be obtained from the Department of Social and Rehabilitation Services, Economic Assistance Division, P.O. Box 4210, 111 Sanders, Helena, Montana 59604.

AUTH: Sec. 53-6-113 and 53-2-201 MCA
IMP: Sec. 53-6-111, 53-6-141 and 53-2-201 MCA

(g) 42 CFR 405.453, which is a federal regulation setting forth methods for allocating costs, is presently incorporated by reference in ARM 46.12.1208(3), cost reporting. The amendment generally sets forth circumstances allowing changes in provider cost reporting periods. A copy of 42 CFR 405.453, as amended through April 1, 1986, may be obtained from the Department of Social and Rehabilitation Services, Economic Assistance Division, P.O. Box 4210, 111 Sanders, Helena, Montana 59604.

AUTH: Sec. 53-6-113 and 53-2-201 MCA
IMP: Sec. 53-6-111, 53-6-141 and 53-2-201 MCA

2. It is necessary to update these incorporations so that the program remain in compliance with federal program guidelines and to facilitate referral to these federal regulations and policies by providers and others by insuring that the most recent versions of these provisions are incorporated. The effective date for this adoption of later amendments is April 26, 1986.

3. If the Department receives requests for a public hearing under 2-4-315, MCA, on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendments; 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 nine nursing home providers based upon the fact that Medicaid currently contracts with ninety-three nursing home providers throughout the State of Montana.



Director, Social and Rehabilitation Services

Certified to the Secretary of State March 17, 1986.

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

In the matter of the amendment) NOTICE OF PUBLIC HEARING ON
of Rule 46.12.575 and adoption) THE PROPOSED AMENDMENT OF
of rules pertaining to family) RULE 46.12.575 AND ADOPTION
planning services) OF RULES PERTAINING TO
) FAMILY PLANNING SERVICES

TO: All Interested Persons

1. On April 16, 1986, at 9:30 a.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana, to consider the proposed amendment of Rule 46.12.575 and adoption of rules pertaining to family planning services.

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

46.12.575 FAMILY PLANNING SERVICES (1) Family planning services are available without limitation and may include prescribed drugs, the services of provided by a doctor, ~~prescribed drugs and a family planning agency~~ or services provided by local delegate agencies of the family planning program of the department of health and environmental sciences. These services are:

(a) Contraceptive clinic services that include comprehensive history, physical examination, counseling, ordering of laboratory tests, prescription of supplies, and other medical-ly necessary and appropriate family planning services;

(b) Laboratory services ordered by a physician that are medically necessary and appropriate for family planning services;

(c) Contraceptive supplies prescribed by a physician that are appropriate for an individual's family planning needs.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-101 and 53-6-141 MCA

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

RULE I FAMILY PLANNING SERVICES, REQUIREMENTS These requirements are in addition to those contained in ARM 46.12.301 through 46.12.308.

(1) Contraceptive clinic services must be performed by a physician.

(2) Laboratory services must be ordered by a physician.

(3) Contraceptive supplies must be prescribed by a physician.

(4) Eligible recipients requesting family planning services must be free from coercion or mental pressure and free to choose the method of family planning to be used.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-101 and 53-6-141 MCA

RULE II FAMILY PLANNING SERVICES, REIMBURSEMENT

(1) The department will pay the lowest of the following for family planning services not covered by medicare: the provider's actual (submitted) charge for this service or the department's fee schedule contained in this rule.

The department will pay the lowest of the following for family planning services which are also covered by medicare: the provider's actual (submitted) charge for the service; the amount allowed under medicare; or the department's fee schedule contained in this rule.

(2) Contraceptive clinic services

Initial visit - \$30.30
Routine visit - \$22.00
Annual visit - \$27.50

(3) Laboratory services

Pap smear - \$ 7.30
Hematocrit - \$ 3.60
Urinalysis - \$ 3.60
Serology - \$ 4.80
G.C. culture - \$ 6.60
Chlamydia - \$ 6.60
HAI/rubella - \$ 4.80
Pregnancy test - \$ 6.10
Wet mount - \$ 6.10
Herpes - \$ 6.60

(4) Contraceptive supplies

Progestasert IUD - \$14.70
Diaphragm - \$ 8.00
Contraceptive foam,
jelly, creme - \$ 4.50
Condoms, 1 dozen - \$ 4.00
Oral contraceptives,
1 cycle, pills - \$ 4.00
Contraceptive sponge - \$ 1.00

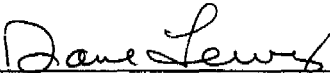
AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-101 and 53-6-141 MCA

4. Family Planning is a mandated component of the Montana Medicaid Program. The current rule is very general and only indicates that family planning services shall be provided. These changes clarify the specific services to be provided as part of Family Planning and the reimbursement rates for these services. Rule I will be adopted as ARM 46.12.576; Rule II will be adopted as ARM 46.12.577.

5. 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 April 25, 1986.

6. 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 17, 1986.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
MILK CONTROL BUREAU

IN THE MATTER OF THE AMEND-) NOTICE OF AMENDMENT
MENT OF RULE 8.79.301 RE-) OF RULE 8.79.301 LICENSEE
GARDING LICENSEE ASSESSMENTS) ASSESSMENTS

TO: All Interested Persons:

1. On February 13, 1986 the Milk Control Bureau of the Department of Commerce published a notice of amendment of Rule 8.79.301 regarding licensee assessments and reporting of those results at page 152, 1986 Montana Administrative Register, Issue no. 3.

2. The Bureau has amended the rules as proposed. However, it should be noted that in the original notice, the authority of the agency to make the proposed amendment was cited as Section 81-23-202, MCA and the implementing Section cited was 81-23-104, MCA. The correct authority of the agency to make the proposed amendment is Section 81-23-202 and 81-23-104, MCA, and the implementing section is 81-23-202, MCA.

3. The purpose cited in the notice for the proposed amendment was to change the effective date of the rule. It should also be noted the amendment was required by statute.

4. No other comments or testimony were received.

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

Certified to the Secretary of State March 17, 1986.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the) NOTICE OF AMENDMENT OF RULE
amendment of Rule) 23.7.111 adopting the Uniform
23.7.111 adopting the) Fire Code by reference.
Uniform Fire Code by)
reference.)

TO: All Interested Persons.

1. On February 13, 1986, the Department of Justice published notice of the proposal to amend rule 23.7.111 which adopts and incorporates the Uniform Fire Code and appendices on page 164, Montana Administrative Register.

2. The Department of Justice has amended the rule as proposed:

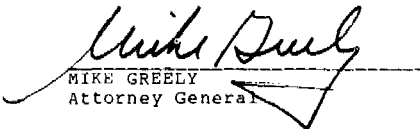
23.7.111 UNIFORM FIRE CODE Same as proposed.

- (2) As is.
- (3) As is.
- (4) Same as proposed.
- (5) As is.
- (6) As is.
- (7) Same as proposed.

AUTH: Sec. 50-3-102, 50-61-102, MCA
IMP: Sec. 50-3-102, 50-61-102, MCA

3. No public hearing was held on the proposed amendment of the rule. One written comment was submitted by Jim Lear of the Administrative Code Committee staff. Mr. Lear commented that the notice failed to demonstrate that the amendment is reasonably necessary to effectuate the purpose of the statutes as required by 2-4-305(6), MCA. The state fire marshal has incorporated by reference the Uniform Fire Code. The Uniform Fire Code was amended in 1985; therefore, it is necessary to amend the rule to reflect the changes in the Uniform Fire Code.

4. The authority of the agency to make the proposed amendments and adoption is based on sections 50-3-102 and 50-61-102, MCA, and the rule implements sections 50-3-102 and 50-61-102, MCA.


MIKE GREELY

Attorney General

Certified to the Secretary of State March 17, 1986.

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

In the matter of the adoption)	NOTICE OF ADOPTION
of a rule regarding a relative)	OF A RULE REGARDING
value fee schedule for medical,)	A RELATIVE VALUE
chiropractic, and paramedical)	FEE SCHEDULE FOR MEDICAL,
services under Section 39-71-)	CHIROPRACTIC, AND
704, MCA)	PARAMEDICAL SERVICES
)	UNDER
)	SECTION 39-71-704, MCA

TO: All Interested Persons.

1. On December 26, 1985, the Division of Workers' Compensation published notice of public hearing on the proposed adoption of a rule pertaining to a Relative Value Fee Schedule for medical, chiropractic and paramedical services under Section 39-71-704, MCA, at page 1970 of the 1985 Montana Administrative Register. The notice advised that a hearing would be held on the proposed rule on January 16, 1986, at 10:00 a.m. in the Workers' Compensation building, 5 South Last Chance Gulch, Helena, Montana.

2. On January 16, 1986, at 10:00 a.m., a public hearing was held in the Workers' Compensation building, 5 South Last Chance Gulch, Helena, Montana, to consider the adoption of the proposed rule.

3. The Division adopts the proposed rule effective April 1, 1986 as follows:

24.29.1420 RELATIVE VALUE FEE SCHEDULE

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

(3) The Division adopts by reference, for the use of procedure codes and relative values contained therein, the following documents:

(a) The Official Medical Fee Schedule for Services Rendered under the California Workers' Compensation Laws, as existing as of December 31, 1985, hereafter referred to as OMFS, for use with the medicine, surgery, radiology--professional component, radiology--total, and pathology groups. Copies of this document are available from the California Workers' Compensation Institute, 120 Montgomery Street, Suite 715, San Francisco, California, 94104, or from the Montana Division of Workers' Compensation, 5 South Last Chance Gulch, Helena, Montana, 59601.

~~(b) Any OMFS procedure by code number, or procedural definition added, revised, modified, or deleted in the fourth edition of the Physician's Current Procedural Terminology, hereafter referred to as CPT, published by the American Medical Association in 1985, which will take precedence over procedures or procedural~~

~~definitions in the OMFS. Copies of this document may be obtained from the American Medical Association, Order Department OP-341-5, P. O. Box 10946, Chicago, Illinois, 60610; or the Montana Division of Workers' Compensation, 5 South East Chance Gulch, Helena, Montana, 59601.~~

(c)(b) The Anesthesia section of the 1985 edition of the Relative Value Guide, hereafter referred to as ASA, published by the American Society of Anesthesiologists, for use with the Anesthesia group. Copies of this document may be obtained from the American Society of Anesthesiologists, 515 Busse Highway, Park Ridge, Illinois, 60068, or the Montana Division of Workers' Compensation, 5 South East Chance Gulch, Helena, Montana, 59601.

(d)(c) The dental code section of the 1985 Health Care Procedure Coding Schedule, hereafter referred to as HCPCS, published by the Health Care Financing Administration of the U. S. Department of Health & Human Services for use with the dental group. Copies of this document (Doc. No. 01-060-00168-2) are available from the Superintendent of Documents, U. S. Government Printing Office, 941 North Capitol Street, Washington, D.C. 20401, or the Montana Division of Workers' Compensation, 5 South East Chance Gulch, Helena, Montana, 59601.

(4) Same as proposed rule.

(5) Unless otherwise provided herein, insurers shall use instructions, definitions, and explanations contained in the OMFS, CPT, ASA or HCPCS when determining procedures for payment of fees.

(a) through (e) Same as proposed rule.

(f) The following medicine group procedure codes may be used only when appropriate skills and time warrant use of such procedures and billings for such procedures must be accompanied by detailed examination and operative notes: 90015, 90020, 90026, 90060, 90070, 90080, 90085, 90220, 90330, 90230, 90270, 90610, 90620, 90625, and 90630. Definitions for such procedures must be based on CPT.

(g) Same as proposed rule.

4. This rule is being adopted because Section 39-71-704, MCA, as amended by the Legislature in 1985, requires the Division to establish a relative value fee schedule for medical, chiropractic, and paramedical services, excluding hospital services, provided for in Chapter 71, of Title 39, MCA. This schedule is to be established annually and become effective in January of each year. Medical fees are to be based on the median fees billed to the State Compensation Insurance Fund during the year preceding the adoption of the schedule. The statute requires the Division to adopt rules establishing relative unit values, groups of specialties, the procedures insurers must use to pay for services under the schedule, and the method of determining the median of billed medical fees based on the California Relative Value Studies. This rule

is adopted in order to comply with the specific mandate of Section 39-71-704, MCA, as amended by Chapter 422, Section 3 of the Laws of 1985.

5. The Division has thoroughly considered all comments received on the proposed rule. Following is a summary of the comments received from the public and the Division's responses:

Comment: Section 5(e) of the Rule is an improper attempt to limit the procedures a chiropractor may use in treating an injured worker.

Response: The Rule does not limit the procedures a chiropractor may use, but attempts to clearly set forth for the insurer what maximum fees it is obligated to pay for.

Comment: Section 39-71-704, MCA, as amended in 1985, states that the fee schedule shall be modeled after the 1974 revisions of the 1969 California Relative Value Fee Schedule. No other schedules, such as OMFS, CPT, ASA, or HCPCS are referred to in the statute.

Response: The statute requires that the Montana fee schedule be modeled after the California schedule, but did not adopt the California schedule per se. The ASA and HCPCS schedules are used to supplement the California schedule in order to make it more useful and up-to-date. The CPT broadens the scope of the California study and to avoid confusion will be deleted.

Comment: Chiropractic services should be considered as a specialty group separate from the medical group.

Response: Chiropractic procedures are within the medical group because no standard, recognized publication of chiropractic procedures and unit values was available for the Division's consideration.

Comment: Adequate notice of hearing regarding this rule was not given.

Response: Adequate legal notice was given by publication in the Montana Administrative Register and an extensive mailing to insurers, adjusters, and medical providers.

Comment: Use of CPT has the effect of eliminating combination code 97200 for physical therapists.

Response: As indicated above, CPT will be omitted.

Comment: Use of the median for calculation of the conversion factor may result in inadequate medical care because of lower fees paid to providers.

Response: Use of the median is required by the statute and cannot be altered in this rulemaking process.

Comment: The conversion factor was not disclosed in the proposed rule or the hearing.

Response: The actual conversion factor was not available at the time the notice was published or at the time of hearing. This figure will change annually. The rule does provide the method by which the factor will be calculated.

Comment: RNE procedures should be eliminated by assignment of a value to such procedures by a physician.

Response: Assigning a relative value by this means will not have any statistical validity.

Comment: The 1986 CPT should be used instead of the 1985 CPT in order to have the most up-to-date procedures and relative values.


Response: As indicated above, CPT will be omitted.

Comment: (Code Committee) A specific edition of OMFS should be referred to.

Response: OMFS will be referred to as the edition existing as of December 31, 1985.

Comment: Code 90330 in subsection (5)(f) does not exist and should be 90230.

Response: This was a typographical error which will be corrected.


ROBERT J. ROBINSON,
Administrator
Div. of Workers' Compensation

CERTIFIED TO SECRETARY OF STATE March 17, 1986.

BEFORE THE WORKERS' COMPENSATION DIVISION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF
Amendment of Attorney	)	AMENDMENT OF RULE
Fee Rule ARM 24.29.3801	)	24.29.3801
		CONCERNING ATTORNEY
		FEES

TO: All Interested Persons:

1. On January 16, 1986, the Division of Workers' Compensation published notice of the proposed amendment of Rule 24.29.3801 at page 27 of the 1986 Montana Administrative Register. This Notice stated that no public hearing was contemplated. The Notice further advised that if the Division received requests for a public hearing on the proposed amendment from 25 persons who are directly affected by the proposed amendment or 10% of the population of the state of Montana, from the Administrative Code Committee of the Legislature, from a governmental subdivision or agency, or from an association having not less than 25 members who will be directly effected, a hearing would be set for a later date. The Division received only seven (7) requests for hearing from interested persons, so it was determined that a hearing would not be required. There were no requests for hearing from the Administrative Code Committee, a governmental subdivision or agency, or from an association having at least 25 members who would be directly effected.

2. The Division has amended 24.29.3801 effective April 1, 1986, as proposed.

3. The rationale for amending ARM 24.29.3801 is to set forth the maximum fees that may be charged by attorneys who represent claimants in Workers' Compensation cases. This rule codifies the common practices used for determining reasonable attorney fees in these cases. An amendment to this rule is necessary because of the changes in the statutory regulation of attorney fees in the 1985 Legislature.

4. The Division has thoroughly considered all comments received on the proposed amendment. The following is a summary of the comments received from the public and the Division's responses:

Comment: Subsection (5) limiting the hourly rate to no more than the contingent percentage rate defeats the purpose of agreeing to an hourly rate.

Response: This limit is reasonable and necessary to protect claimants from hourly fees which could exceed the benefits recovered.

Comment: Subsection (2)(a) providing for a 25% contingency fee is excessive since it was originally set when compensation rates were a great deal lower.

Response: The 25% contingency fee for settlements have been usual and customary in the legal profession for many years and will be maintained at that level.

Comment: Subsections (2)(b) and (c) conflict with Section 39-71-612, MCA, as amended in 1985, and 39-71-614, MCA, enacted in 1985 by allowing a fee calculated as a percentage rather than at an hourly rate.

Response: The statutes cited regulate the amount that the Workers' Compensation Court may award to a claimant for attorney fees to be paid by the insurer or employer. The Division has authority under 39-71-613, MCA, to regulate the amount of attorney fees between the attorney and claimant without regard to the insurer's or employer's obligation for such fees.

Comment: No attorney fees should be allowed for payment of undisputed impairment awards.

Response: Agreed. Subsection (2) of the Rule already provides that the fee charged is based only on benefits obtained due to the efforts of the attorney and to the extent that the attorney can document that he actually obtained an increase in benefits for the claimant.

Comment: The Division should provide a standard form attorney fee contract to simplify attorney fee regulation.

Response: The Division has previously supplied a sample fee agreement and will do so again noting the amendment of this Rule. A printed form agreement will be considered.

Comment: An attorney should be entitled to a fee of 33% for benefits received on behalf of the claimant from an order of the Court, or from a settlement occurring after hearing but before the Court enters an order because the attorney has already performed all the services required to entitle him to the 33% fee at that time.

Response: Subsection (2)(b) reasonably limits the higher fee to situations where the claimant's attorney has taken the greater risk of obtaining a court order on behalf of the claimant.

Comment: The Division has no authority to regulate attorney fees because it amounts to the regulation of the practice of attorneys which is within the jurisdiction of the judicial branch.

Response: The Supreme Court has already determined that regulation of attorney fees by the Division does not intrude on the jurisdiction of the judicial branch in regulating the practice of attorneys.


ROBERT J. ROBINSON, Administrator
Workers' Compensation Division

CERTIFIED TO THE SECRETARY OF STATE: March 17, 1986.

6-3/27/86

Montana Administrative Register

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMEND-	)	NOTICE OF THE AMENDMENT of
MENT of Rules 42.22.1212,	)	Rules 42.22.1212, 42.22.1215,
42.22.1215, and 42.22.1217	)	and 42.22.1217 relating to
relating to oil and gas net	)	oil and gas net proceeds
proceeds deductions.	)	deductions.

TO: All Interested Persons:

1. On December 12, 1985, the Department of Revenue published notice of the proposed amendment of rules 42.22.1212, 42.22.1215, and 42.22.1217 relating to oil and gas net proceeds deductions at pages 1909 through 1911 of the 1985 Montana Administrative Register, issue no. 23.

2. The Department has amended rules 42.22.1212, 42.22.1215, and 42.22.1217 with the following changes:

42.22.1212 EXPENSES RELATED TO MACHINERY (1), (2) and (2)(a) remain the same.

(b) The pro rata portion of the vehicle purchase price will be deductible only in the year of acquisition. It will be assumed for computational purposes that the vehicle was in service for the entire acquisition year. Annual lease costs will be deductible in the production year that payment is made. The deduction for vehicle acquisition and operating costs is effective for production years beginning on or after January 1, ~~1986~~ 1985.

(3) and (4) remain the same.
AUTH: 15-23-108 MCA, and Ch. 642, L. 1985; IMP: 15-23-603 MCA.

42.22.1215 DEDUCTIONS FOR DRILLING COSTS AND CAPITAL EXPENDITURES (1), (2), (3), and (4) remain the same.

(5) The amortization period for deduction of these capital expenditures shall begin with respect to natural gas production, on January 1 of the year production from a nonexempt gas well is first placed into a natural gas distribution system; and, with respect to oil production, on January 1 of the year when production for sale from a crude oil well is pumped or flows. The amortization periods described above are effective for production years beginning on or after January 1, ~~1986~~ 1985. Prior to that time, amortization periods begin when the nonqualified natural gas or crude oil well is completed.

AUTH: 15-23-108 MCA, and Ch. 642, L. 1985; IMP: 15-23-604 MCA.

42.22.1217 ADMINISTRATIVE AND OTHER OPERATIONAL COSTS (1) Remains the same.

(2) All money expended for fire insurance, liability and casualty insurance directly attributable to the operation and

development of the well, ~~workmen's~~ workers' compensation insurance, performance or indemnity bonds required by the laws or rules of this state, and for payment by operators to welfare and retirement funds when required by wage contracts between operators and employees will be allowed as a deduction for net proceeds calculations. Deductions for liability and casualty insurance, and performance or indemnity bonds are effective for production years beginning on or after January 1, 1986 1985.

(3), (4), and (5) remain the same.

AUTH: 15-23-108 MCA, and Ch. 642, L. 1985; IMP: 15-23-603 MCA.


3. A public hearing was held on January 3, 1986, to consider the proposed amendments. Judy and Lester Nevins, Senator Delwyn Gage, Janelle Fallon, representing Montana Petroleum, G. V. Hegle representing Hegles Sales and Services, and Ed Vander Pas, representing Vander Pas Oil appeared primarily to raise questions concerning the proposed amendment. Lynn Chenoweth, Assistant Administrator of the Natural Resource and Corporation Tax Division, appeared on behalf of the Department. Written comments were received from Shell Oil Company.

The Department of Revenue did receive comment from Shell Oil on Rule 42.22.1215 in which they recommended that the wording in section (5) be revised to be consistent with the language used to implement Senate Bill 390 (new production). The Department agrees with the proposed changes and has incorporated the changes in the revised rule.

The Department of Revenue also received oral testimony from Senator Delwyn Gage regarding the effective date of Rules 42.22.1212, 42.22.1215, and 42.22.1217. He stated that he felt the rules should have an effective date of production years beginning on or after January 1, 1985, rather than January 1, 1986, as proposed in the original version.

The Department of Revenue is in agreement with this change. Senate Bill 462, which initiated the rule changes, states that it shall be effective for taxable years beginning after December 31, 1985. The Department of Revenue has always felt that for net proceeds purposes, a tax year beginning January 1, 1986, shall apply to production year beginning January 1, 1985. The change in Rule 42.22.1217(2) from "workmen's" to "workers'" reflects the gender free terminology in that law. No other comments or testimony were received.

4. The authority for the rules is § 15-23-108, MCA, and Ch. 642, L. 1985. The rules implement §§ 15-23-603 and 15-23-604, MCA.


JOHN D. LaFAVER, Director
Department of Revenue

Certified to Secretary of State 03/17/86

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of adoption of) NOTICE OF THE ADOPTION OF
the proposed interpretive) RULES 44.3.101 THRU
rules relative to the imple-) 44.3.114
mentation of Public Law 98-435)
-- Voting Accessibility for)
Elderly and Handicapped Act)

TO: All Interested Persons

1. On February 13, 1986, the Secretary of State published notice of a proposed adoption of interpretive rules relative to the implementation of Public Law 98-435 -- Voting Accessibility for Elderly and Handicapped Act -- at page 180 of the 1986 Montana Administrative Register, issue number 3.

2. The agency has adopted Rules 44.3.101, Introduction, Scope and Intent, 44.3.103, Definitions, 44.3.107, Emergency Exemption, 44.3.112, The Visually Impaired, and 44.3.113, Telecommunications Device for the Deaf as proposed.

3. The agency has adopted the following rules as proposed with the following changes:

44.3.102 ROLE OF SECRETARY OF STATE (1) The secretary of state is empowered under the Voting Accessibility Act, 13-1-202, MCA and these rules to:

Subsections (a) thru (g) are adopted as proposed.
Section 2 is adopted as proposed.

Auth: 13-1-202, MCA; IMP: 13-1-202, MCA

44.3.104 GUIDELINES FOR POLLING PLACE ACCESSIBILITY (1) To be designated as accessible to handicapped and elderly voters, a polling place must meet the following criteria, as provided by Uniform Federal Accessibility Standards:

(a) At least one existing or temporary parking place shall be designated for use by voters with disabilities or impaired mobility for each 900 electors registered to vote at that polling place. The designated parking place(s) shall be in close proximity to the accessible entrance to the building containing the polling place and shall be no less than 14 feet wide. The area surrounding the parking place(s) shall be firm, stable, and generally level. ~~with a maximum slope in any direction of one inch in 50 inches.~~

(b) The exterior circulation route shall be as direct as site conditions allow and shall be free of:

Subsections (1) thru (iii) are adopted as proposed.

(iv) any rise exceeding one inch in ~~twelve~~ ten inches of travel.

(c) Walkways, occurring at any point in the exterior circulation route, shall have:

(i) a minimum clear width of ~~44~~ 36 inches except where it is impractical or impossible to provide the full width, in which case 36 inches is acceptable;

(ii) no abrupt edge over 1/2 inch in height;

(iii) no grating with openings larger than 1/2 inch perpendicular to the direction of travel; and

Subsection (iv) is adopted as proposed.

(d) Curb cuts shall have a clear width of 36 inches and side slopes of no more than one inch in ~~six~~ ten inches.

(e) Ramps may be used to retrofit any polling place which has steps in the circulation route but nothing herein shall be construed as a requirement for the installation of temporary ramps. Any part of a circulation path shall be considered a ramp if it has a slope that is greater than one inch rise in 20 inches of horizontal run. The following requirements apply to both existing and temporary ramps:

(i) hand rails are required on both sides of ramps which exceed a rise greater than six ~~slope of one inch rise in 45 inches of~~ or a horizontal run; projection greater than 72 inches and shall extend 12 inches beyond the top and bottom;

(ii) wheel guides of at least two inches in height shall be provided on both sides of the ramp, other than a curb cut, if the ramp ~~exceeds 40 feet in length~~ and does not abut, on at least one side, on a wall or other structure or with the ground;

Subsection (e) (iii) is adopted as proposed.

(iv) ramps must be designed or positioned to provide a landing at both the top and bottom of the ramp. When a landing area is used to open a door, the landing must be at least five feet by ~~five~~ four feet if the door opens away from the ramp, five feet by ~~six~~ five feet if the door opens toward the ramp and five feet by 42 inches long if the door is secured in an open position during polling hours.

Subsection (f)(i) thru (iii) is adopted as proposed.

(g) The interior circulation route shall:

Subsection (i) is adopted as proposed.

(ii) have a clear height of 79 inches and a clear width of 36 inches. and

~~(iii) a floor surface that does not become slippery if wet.~~

Subsection (h) is adopted as proposed.

AUTH: 13-1-202, MCA; IMP: 13-1-202, MCA

44.3.105 SURVEY PROCEDURE TO DETERMINE ACCESSIBILITY

(1) Unless specified otherwise, the election administrator shall conduct an on-site survey in each polling place

facility 45 days prior to utilizing that facility utilized in elections conducted after December 31, 1985, except those designated as "rural" as provided in 44.3.109, to determine whether such facilities are in compliance with the criteria set forth in these rules.

(2) During the 1986 election cycle Unless specified otherwise, the election administrator may implement the survey procedure in 50% of the polling places in his jurisdiction 45 days prior to the 1986 June primary election and the remaining 50% of the polling places 45 days prior to the 1986 November general election.

(a) An election administrator shall be exempt from the requirements of section (2) if he requests an exemption in writing, from the secretary of state 50 days prior to the election for which the exemption is intended.

(b) Such request shall specify the reasons for non-compliance.

(3) Election administrators should encourage County commissioners, election judges, members of the election administrator's staff, and a Voting Accessibility Advisory Committee ~~are encouraged~~ to participate in the survey procedure.

(4) The survey shall be conducted in such a manner as to represent the actual path of travel an elector would take upon arrival at the polling place on election day.

Section (5) is adopted as proposed.

(6) If an existing polling place fails to satisfy the criteria for accessibility and cannot be permanently or temporarily altered in a safe and reasonable manner to satisfy the criteria before the date of the election, it will either be:

(a) designated "inaccessible" and shall not be used unless an exemption is granted by the secretary of state in accordance with the provisions of 44.3.106; or

(b) surveyed, evaluated and certified as "technically inaccessible but usable" by a Voting Accessibility Advisory Committee, as provided in 44.3.109.

(7) A copy of all survey forms for polling places having the designation "inaccessible but usable" and "technically inaccessible but usable" shall be forwarded to the secretary of state 45 days prior to the election for which the survey was conducted, as provided in section 2 of this rule.

Section (8) is adopted as proposed.

(9) A copy of an evaluation form as prescribed by the secretary of state, signed by the members of a Voting Accessibility Advisory Committee shall be attached to the survey for a polling place designated "technically inaccessible but usable."

AUTH: 13-1-202, MCA; IMP: 13-1-202, MCA

44.3.106 EXEMPTION PROCEDURE Sections (1) and (2) are adopted as proposed.

(3) If ~~all~~ potential polling place facilities have been surveyed and no accessible facility is available and the facilities which are available cannot safely and reasonably be made temporarily accessible, the election administrator shall request in writing to the secretary of state that the existing polling place be exempt from the criteria set forth in these rules.

Sections (4) and (5) are adopted as proposed.

(6) If the secretary of state has reason to believe such an exemption would not be in the best interest of the majority of the ~~affected elderly and handicapped~~ electors, he shall deny the exemption and :

Section (6) (a) and (b) and Sections (7) and (8) are adopted as proposed.

AUTH: 13-1-202, MCA; IMP: 13-1-202. MCA

44.3.108 POLLING PLACE DESIGNATION (1) As the result of an on-site survey, or current voter registration reports, a polling place shall be designated as:

- (a) "accessible";
- (b) "inaccessible";
- (c) "technically inaccessible but usable"; or
- (d) "rural"

Sections (2) and (3) are adopted as proposed.

(4) A "technically inaccessible but usable" polling place is one that does not meet all the criteria for accessibility but has been surveyed, evaluated and certified by a Voting Accessibility Advisory Committee as "usable". Such certification is cause for the secretary of state to grant that polling place an exemption. However, the secretary of state may issue an objection to the criteria used for the determination of "usability" for future elections.

(5) A "rural" polling place is one that serves 400 200 or less registered electors and is:

(a) granted an exemption from the criteria for accessibility by the secretary of state;

(b) subject to review and redesignation 45 days prior to an election; and

(c) subject to redesignation following the 1986 election cycle at the time it serves more than 400 registered electors.

Section (6) is adopted as proposed.

AUTH: 13-1-202, MCA; IMP: 13-1-202, MCA

44.3.109 VOTING ACCESSIBILITY ADVISORY COMMITTEE
Sections (1) thru (3) are adopted as proposed.

(4) The committee has sole authority to evaluate and certify a polling place as "technically inaccessible but usable."

Sections (5) thru (7) are adopted as proposed.

AUTH: 13-1-202, MCA; IMP: 13-1-202, MCA

44.3.110 ALTERNATIVE MEANS FOR CASTING BALLOT Section

(1) (a) and (b) is adopted as proposed.

(c) prearranged assignment to an accessible polling place within the county. An elector, prevented from voting at his own polling place on election day because it has been exempt from meeting the accessibility criteria set forth in these rules, shall:

(1) notify the election administrator, in writing, by 5:00 p.m. on the Friday seven days preceding the election, of his desire to vote on election day at an accessible polling place;

Section (1) subsection (c) (ii) thru (v) is adopted as proposed.

AUTH: 13-1-202, MCA; IMP: 13-1-202, MCA.

44.3.111 THE ELDERLY ELECTOR Section (1) is adopted as proposed.

(a) Election administrators shall conspicuously display instructions for voting, printed in oversize type, preferably 18 point type or larger, at each polling place for every election and instructions for registering at each permanent registration facility.

(b) Each polling place shall have a desk, table, or other surface no more than 36 inches in height, with room to accommodate a chair or a wheelchair to permit physically feeble or mobility-impaired electors to vote in a seated position. Adequate privacy shall be provided to ensure the seated elector the same degree of ballot secrecy enjoyed by other electors.

Section (2) (c) and (d) is adopted as proposed.

AUTH: 13-1-202, 13-13-111, 13-13-112 MCA; IMP: 13-1-202, MCA

44.3.112 THE VISUALLY IMPAIRED The entire rule is adopted as proposed with the following exception:

AUTH: 13-1-202, 13-13-111, 13-13-112, MCA; IMP: 13-1-202, MCA

44.3.114 COMPLAINTS Sections (1) thru (3) are adopted as proposed.

(4) If the complainant requests, in writing, that further action be taken, the secretary of state ~~shall~~ may call for a hearing in which the complainant, election

administrator, representatives of the county governing body, affected groups and his office ~~are~~ may be represented.

(a) The purpose of the hearing is to show ~~just~~ cause why the particular polling place facility should be:

Section (4)(a)(i) thru (iii) is adopted as proposed.

AUTH: 13-1-202, MCA; IMP: 13-1-202, MCA

COMMENT Two election administrators pointed out that most of the criteria used as guidelines for accessibility were taken from the Uniform Federal Accessibility Standards. Because these standards apply to new construction and polling places are located in existing buildings, it was requested that in cases of conflicting criteria, less stringent standards of the Architectural Barriers Act, 42 U.S.C. 4151-4157, and ANSI A117.1 be adopted.

RESPONSE: Adopting this suggestion would likely result in confusion as there would then be three sets of standards to consider when surveying a polling place. Rather than allow that, and after discussing the issue with an architect from the Building Codes Division, some changes have been made in the criteria for accessibility that reflect the ANSI A117.1-1980 standards.

COMMENT: An election administrator pointed out that federal standards base the required number of designated handicapped parking places on the total number of parking places provided for the building.

RESPONSE: While the federal standards deal with permanent designated parking places provided for the building, and is also determined by the usage of the building, the agency recognizes that a polling place is utilized for one day and, in most cases, does not involve the entire building. For that reason, the agency feels a guideline independent of federal standards is appropriate.

COMMENT: A representative of the Montana Independent Living Project requested, for those polling sites with known concentrations of elderly and handicapped, an expansion of designated handicapped parking spaces from one per 900 registered electors to three per 900 registered electors.

RESPONSE: The point is well taken but in very large precincts, the three per 900 registered electors could result in as many as six designated parking places. For that reason, and because several other states also propose the one to 900 ratio, the rule will remain as proposed. However, election administrators will be encouraged to add additional designated parking places in areas of elderly and/or handicapped concentration.

COMMENT: Also pointed out was the fact that federal standards specify a parking place of 8 feet next to a 5 foot access aisle, a total of 13 feet.

RESPONSE: While it's not acceptable to adopt guidelines less stringent than a federal standard, it is acceptable to adopt guidelines more stringent than a federal standard. The proposed rule is not amended.

COMMENT: A representative of the Montana Independent Living Project suggested that exterior circulation routes, with reference to "any rise exceeding one inch in twelve inches of travel" be treated the same as ramps requiring no greater slope than one inch rise in twenty inches of horizontal run.

RESPONSE: The reference to one inch rise in twelve inches of travel refers to curb slopes and ensures that they will not be too short and steep. Actually, a representative of the Building Codes Division suggested an amendment to ten inches and that change has been made.

COMMENT: One election administrator requested that Rule V (44.3.105) be amended to require a survey in only 20% of the county's polling places 45 days prior to the 1986 June primary. The request was based on the fact that these rules could not be finalized before March 14th, leaving just over a month to complete the required pre-primary surveys.

RESPONSE: The requirements of Public Law 94-435 were first presented to county election officials in July/August of 1985. Since that time, a number of counties have already moved polling places from clearly inaccessible facilities to accessible facilities. Also, there are no requirements that election administrators conduct the surveys personally. In fact, Rule V (3) (44.3.105(3)) encourages utilizing the services of county commissioners, election judges, members of the election administrator's staff, senior citizens and handicapped individuals. For these reasons, and because other, larger counties don't appear to have a problem with the timeframe, the agency does not concur in the request. However, new language was added to provide an election administrator with an exemption to the requirement if the request is made in writing and shows that the requirement would cause undue hardship.

COMMENT: The proposed rules establish certain procedures which I believe may exceed the authority delegated to the Secretary of State by the federal Voting Accessibility Act. Examples are:

COMMENT: A. Prescribing the forms and materials necessary to ensure uniformity in the surveying of polling places Rule II(1)(b) (44.3.102(1)(b));

RESPONSE: A. Authority to prescribe forms and materials necessary to ensure uniformity is provided in 13-1-201 and 13-1-202, MCA.

COMMENT: B. All of Rule V (44.3.105) relating to the survey procedure to be used, unless the final rules limit these requirements to the cases in which an exemption is requested from the Secretary of State;

RESPONSE: B. Public Law 98-435 requires that "each political subdivision responsible for conducting elections shall assure that all polling places for Federal elections are accessible to handicapped and elderly voters unless the chief election officer of the state determines that all potential polling places have been surveyed and no such accessible place is available, nor is the political subdivision able to make one temporarily accessible....". It's clear that the Secretary of State cannot make such a determination without access to the findings of the survey. Also, stating the manner in which the survey shall be conducted ensures procedural uniformity throughout the counties and has the result of treating all of Montana's elderly and handicapped alike. Rule V (44.3.105), Survey Procedure to Determine Accessibility, is adopted as amended.

COMMENT: C. Specifying the composition of a Voting Accessibility Advisory Committees, investing these committees with sole authority to certify the designation of "inaccessible but usable," requiring that the names, addresses and telephone numbers of committee members be provided to the Secretary of State, and authorizing compensation for these committees.

RESPONSE: C. The proposed rules do not require an election administrator to appoint and utilize a Voting Accessibility Advisory Committee (V.A.A.C.), nor is compensation authorized. Instead, the rules provide guidelines for an election administrator to follow if he or she chooses to appoint a committee. The concept of a V.A.A.C. was over-whelmingly endorsed by the majority of Montana election administrators as serving the needs of both election officials and the population affected by Pub. L. 98-435 and is adopted as part of these rules.

COMMENT: D. Requiring reassignment of voters to accessible polling places when other alternative means are available for casting a ballot on election day Rule X(1)(c) (44.3.110(1)(c));

RESPONSE D. Public Law 98-435 authorizes the Secretary of State to establish procedures that "assures any handicapped or elderly voter assigned to an inaccessible polling place, upon advance request of such voter, will be assigned to an accessible polling place." Rule X(1)(c) (44.3.110(1)(c)) clearly does not require a reassignment of voters to accessible polling places but, rather, provides the procedure for doing so if the voter so requests.

COMMENT E: Requiring local election administrators to provide certain items and materials when the federal legislation specifies that the State shall make aids available Rule XI(2) (44.3.111(2));

RESPONSE: E. 13-13-112, MCA, already provides for instructions in polling places and 13-1-302, MCA, states that all costs shall be paid by the counties. Rule XI (2)(a) (44.3.111(2)(a)) simply restates a condition that already exists and provides guidelines to ensure these materials are adequate to meet the requirements of Public Law 98-435.

COMMENT: Several election administrators expressed the concern that allowing an elector who is prevented from voting at his own polling place because it is inaccessible to request a reassignment to an accessible polling place as late as 5:00 p.m. on Friday preceding the election could create a hardship, time-wise.

RESPONSE: The agency concurred and the rule was amended to require notification seven days prior to the election.

COMMENT: The term, "inaccessible but usable," creates confusion for the voters most affected by polling place designations. Thus, I recommend that the Secretary of State consult with representatives of handicapped groups and local election administrators to develop terminology that will be meaningful to both groups, and I ask that the terminology thus developed be used in the final rules.

RESPONSE: The term "inaccessible but usable" has been discussed and it has been suggested that the word "technically" be added to the term. This agency concurs with the suggestion and the original terminology shall be amended wherever appropriate.

COMMENT: A member of the Governor's Committee on Employment of the Handicapped expressed distaste for the term "feeble" in Rule XI (b) (44.3.111(b)), stating it has connotations of feeble mindedness.

RESPONSE: The agency concurs and has included the word "physically" for clarification.

COMMENT: A member of the Montana Association for the Blind questioned the adequacy of the requirement in Rule XII (a) (44.3.112 (a)) that "adequate lighting shall be provided in both the voting booth and polling place."


RESPONSE: It's very difficult to define "adequate" for the simple reason that what's adequate to some electors won't be adequate at all for those with greater degrees of visual impairment. The agency discussed the issue with the Supervisor of the Blind and Physically Handicapped Services, Montana State Library, and the consensus was to leave the rule as proposed until further information is available. In the meantime, the agency will encourage election administrators to borrow high intensity lamps for their larger polling places. Since most polling places are located in schools where such equipment should be readily available, this suggestion shouldn't cause a hardship.

COMMENT: An election administrator questioned the agency's authority to establish a grievance procedure other than the enforcement provisions set forth in the law and recommends that the final rules embody the basic principle of all grievance procedures: problems should be resolved at the lowest level possible. Any grievance should first be submitted to the election administrator so that he or she has an opportunity to correct the problem. If the aggrieved party is not satisfied with the election administrator's response, the grievance and the election administrator's response can then be referred to the agency.

RESPONSE: The comment is inaccurate in that Public Law 98-435, Section 6(b) states "an action may be brought only if the plaintiff notifies the chief election officer of the state of noncompliance and a period of 45 days has elapsed since the date of notification." Clearly, the agency is brought into the complaint procedure as a first step and, before the district court option is even available to the plaintiff, a 45 period must lapse. Public Law 98-435 is silent on how the agency should use that 45 day period, or even the necessity for doing anything. It is the intent of the Secretary of State that that period of time be utilized to address the issue at the local level and hopefully provide a remedy without requiring costly adjudication. Rule XIV (44.3.114) establishes the procedures for carrying out that intent. A number of election administrators desire the agency to be involved in any grievance process.

4. No other comments or testimony were received.

Dated this 17th day of March, 1986.


Jim Waltermire
Secretary of State

VOLUME NO. 41

OPINION NO. 52

CONSTITUTIONS - Appointment of district judge;
COURTS, DISTRICT - Appointment of district judge;
ELECTIONS - Election of district judge following
appointment and confirmation;
JUDGES - Appointment of district judge;
LEGISLATURE - Senate confirmation of district judge
nominee;
MONTANA CODE ANNOTATED - Sections 3-1-1013, 3-1-1014,
13-1-104(1), 13-1-107, 13-10-201(6), 13-14-112(4);
MONTANA CONSTITUTION - Article VII, sections 8(1), 8(2);
OPINIONS OF THE ATTORNEY GENERAL - 37 Op. Att'y Gen. No.
115 (1978).

HELD: An individual appointed by the Governor to the
office of district judge need not run in the
general election for the year in which Senate
confirmation takes place if, at the time of
confirmation, the filing date for judicial
candidates has passed.

10 March 1986

Ted O. Lympus
Flathead County Attorney
Flathead County Courthouse
Kalispell MT 59901

Dear Mr. Lympus:

You have asked my opinion as to whether a district judge
recently appointed by the Governor must run for election
in the general election to be held in 1986. In
November 1985 the Governor appointed a new district
judge to fill the vacancy created by the death of the
Honorable James M. Salansky. Judge Salansky's term of
office was to expire in January 1989. Article VII,
section 8(1) of the Montana Constitution provides for
the selection and confirmation of district judges
appointed under these circumstances:

The governor shall nominate a replacement from
nominees selected in the manner provided by
law for any vacancy in the office of supreme
court justice or district court judge. If the

Montana Administrative Register

6-3/27/86

governor fails to nominate within thirty days after receipt of nominees, the chief justice or acting chief justice shall make the nomination. Each nomination shall be confirmed by the senate, but a nomination made while the senate is not in session shall be effective as an appointment until the end of the next session. If the nomination is not confirmed, the office shall be vacant and another selection and nomination shall be made. [Emphasis added.]

The underscored constitutional language quoted above is paraphrased in section 3-1-1013, MCA, clearly indicating that the Governor's nomination must in all instances be confirmed by the Senate.

On March 24, 1986, the Legislature will meet in special session to consider a number of matters that have arisen since the last session adjourned. I have been advised that the Governor's nomination will be submitted to the Senate for confirmation at the special session. Section 13-1-104(1), MCA, specifically provides for election of district judges in the general election to be held in November of even-numbered years. Section 13-10-201(6), MCA, however, requires declarations for nomination to be filed with the Secretary of State "no later than 5 p.m., 75 days before the date of the primary election." This filing deadline is applicable to nonpartisan judicial candidates. § 13-14-112(4), MCA. Former statutes setting similar filing deadlines have been held to be mandatory by the Montana Supreme Court. State ex rel. Bevan v. Mountjoy, 82 Mont. 594, 600, 268 P. 558, 560 (1928); State ex rel. Galen v. Hays, 31 Mont. 227, 230, 78 P. 301, 302 (1904). The primary election must be held on the first Tuesday after the first Monday in June preceding the general election. § 13-1-107, MCA. Thus, the primary election will be held on June 3, 1986, and the filing deadline for declarations for nomination is March 20, 1986. The question thus becomes whether an election for the office of district judge must be held in November of 1986 when the confirmation of the Governor's nominee will not occur, if at all, until sometime after the statutory filing deadline provided in section 13-10-201(6), MCA. I conclude that the nominee, if confirmed, need not run for election this year.

Article VII, section 8(2) of the Montana Constitution specifies the procedure for the first election following senate confirmation of a district judge nominee:

If, at the first election after senate confirmation, and at the election before each succeeding term of office, any candidate other than the incumbent justice or district judge files for election to that office, the name of the incumbent shall be placed on the ballot. [Emphasis added.]

The language of this constitutional provision sheds some light on the issue, for it refers to candidates filing for the first election after Senate confirmation. The drafters of the Constitution obviously intended that Senate confirmation must take place before the entire election process has been set in motion. This is consistent with my holding in 37 Op. Att'y Gen. No. 115 at 492 (1978), that Senate confirmation of a district judge nominee is a prerequisite to placing that office on the ballot for election. Potential candidates cannot file for election to the instant office by the deadline of March 20, 1986, because at that point the nominee will not have been confirmed, as required by the Montana Constitution. Failure of the Senate to confirm the nomination would, moreover, result in the office becoming vacant, in which case the selection and confirmation process would have to be repeated. Mont. Const. art. VII, § 8(1). The first election after Senate confirmation of the nominee for the office, for which candidates will have an opportunity to file, will be the general election in 1988. See § 13-1-104(1), MCA.

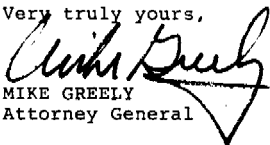
Section 3-1-1014, MCA, provides that a nominee confirmed by the Senate "serves until the next succeeding general election," and the candidate elected at that election holds office for the remainder of the unexpired term. Although at first blush this provision appears to require a judicial nominee to run at the first general election following Senate confirmation, the statute must be read in light of the Constitution. 82 C.J.S. Statutes § 362 (1953); Goodyear Aircraft Corp. v. Industrial Commission, 158 P.2d 511, 515 (Ariz. 1945). Article VII, section 8(2) of the Montana Constitution specifically refers to candidates filing for the first election after Senate confirmation of the nominee. The

phrase "next succeeding general election" in section 3-1-1014, MCA, must therefore be construed as referring to the next general election after Senate confirmation for which the statutory filing deadline has not passed, in this case 1988.

THEREFORE, IT IS MY OPINION:

An individual appointed by the Governor to the office of district judge need not run in the general election for the year in which Senate confirmation takes place if, at the time of confirmation, the filing date for judicial candidates has passed.

Very truly yours,



MIKE GREELY
Attorney General

VOLUME NO. 41

OPINION NO. 53

ANTIQUITIES - Historic preservation officer's duties to identify potential heritage properties;
HISTORICAL SOCIETY - Historic preservation officer's duties to identify potential heritage properties;
PRESERVATION REVIEW BOARD - Historic preservation officer's duties to identify potential heritage properties;
STATE AGENCIES - Duties concerning identification of potential heritage properties;
MONTANA CODE ANNOTATED - Sections 22-3-421 to 22-3-442;
OPINIONS OF THE ATTORNEY GENERAL - 41 Op. Att'y Gen. No. 8 (1985);
SESSION LAWS OF 1979 - Chapter 563.

HELD: The responsibilities of the state historic preservation officer in the identification of heritage properties on state-owned lands may not be limited by a state agency.

13 March 1986

Robert Archibald, Director
Montana Historical Society
225 North Roberts Street
Helena MT 59620

Dear Mr. Archibald:

You have asked my opinion on the following question:

May the responsibilities of the state historic preservation officer in the identification of heritage properties on state-owned lands be limited by a state agency?

According to your request, this inquiry arises as the result of a policy adopted by the university system which assumes that the identification of heritage property located on the premises of the university system rests solely with the university system itself and not with the historic preservation officer.

The State Antiquities Act, adopted in 1979, and codified in sections 22-3-421 to 442, MCA, provides for the preservation of "heritage property" and paleontological remains. Heritage properties include those properties which are "significant in American history, architecture, archaeology, or culture." § 22-3-421(2), MCA. As heritage properties are identified, they may be added to statewide inventories and included in the National Register of Historic Places. The Preservation Review Board (hereinafter referred to as the Review Board) must approve or disapprove all nominations to the National Register of Historic Places and all additions to statewide inventories of heritage properties. § 22-3-422, MCA. Nominations are formally made by the preservation officer for Review Board consideration. § 22-3-423(4), MCA. Your question concerns who may "identify" potential heritage properties so that they may be evaluated and nominated by the preservation officer and approved or disapproved by the Review Board for addition to statewide inventories or for nomination to the National Register of Historic Places.

In April 1985, I issued 41 Op. Att'y Gen. No. 8, wherein I concluded that the Antiquities Act gives exclusive authority to the Preservation Review Board to determine which properties on state-owned lands are "heritage properties." In that opinion, I referred to the legislative history of the Antiquities Act as indicating that the intent of the Act was to allow the State's heritage preservation staff to give direction to the overall preservation program and to centralize authority in the State with respect to historical sites. Minutes of the Senate Natural Resources Committee, March 7, 1979, on House Bill 785 (ch. 563). 41 Op. Att'y Gen. No. 8 (1985) also states:

The State's inventory file is maintained by the historic preservation officer who is also responsible for conducting an ongoing survey to "identify" heritage properties. § 22-3-423(2) and (3), MCA. The historic preservation officer's duty to identify heritage properties is shared with state agencies [Emphasis added.]

The conclusion that the responsibility to "identify" potential heritage properties for eventual consideration by the Review Board is shared by state agencies and the

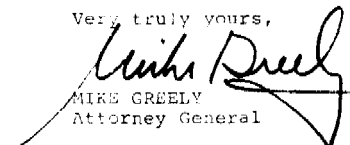
preservation officer is borne out by the language of the statutes themselves. Section 22-3-423(2), MCA, gives the preservation officer the duty to "conduct an ongoing statewide survey to identify and document heritage properties and paleontological remains." (Emphasis added.) State agencies are given the authority to "identify and develop, in consultation with the historic preservation officer, methods and procedures to ensure that the identification and protection of heritage properties and paleontological remains on lands owned by the state are given appropriate consideration in state agency decisionmaking." (Emphasis added.) § 22-3-424 (2), MCA.

The above-cited statutes require that the preservation officer share with state agencies the responsibility of identifying potential heritage properties on state-owned lands. This conclusion, also reached in 41 Op. Att'y Gen. No. 8 (1985), means that if the policy adopted by a state agency restricts or abolishes the preservation officer's authority to identify potential heritage properties on state-owned lands, such a policy is inconsistent with the statutes and is therefore invalid.

THEREFORE, IT IS MY OPINION:

The responsibilities of the state historic preservation officer in the identification of heritage properties on state-owned lands may not be limited by a state agency.

Very truly yours,



MIKE GREELY
Attorney General

NOTICE OF FUNCTIONS OF ADMINISTRATIVE CODE COMMITTEE

The Administrative Code Committee reviews all proposals for adoption of new rules or amendment or repeal of existing rules filed with the Secretary of State. Proposals of the Department of Revenue are reviewed only in regard to the procedural requirements of the Montana Administrative Procedure Act. The Committee has the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. In addition, the Committee may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt or amend a rule.

The Committee welcomes comments from the public and invites members of the public to appear before it or to send it written statements in order to bring to the Committee's attention any difficulties with the 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 statutes 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 list 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, 1985. This table includes those rules adopted during the period January 1, 1986 through March 31, 1986, 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, 1985, this table and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule and the page number at which the action is published in the 1986 Montana Administrative Register.

ADMINISTRATION, Department of, Title 2

(Teachers' Retirement Board)

I Procedure to Allow a Retired Member to Designate a Different Beneficiary and Select a Different Retirement Option, p. 1596, 1670, 1982

I-II Written Requests Required for a Refund Below a Certain Amount Before Refund Will be Sent - Exceptions to Refund Rule, p. 1598, 1977

I-X Minimum Standards for the Administration of a Probationary Period for State Employees, p. 1043, 1978

2.5.301 and other rules - Procurement of Used Equipment - Procurement from Sheltered Workshops and Work Activity Centers - Delegation of Purchasing Authority - Bid and Performance Security - Competitive Sealed Bids - Small Purchases of Supplies and Services, p. 1900, 242

2.21.122 and other rules - Administration of Sick Leave, p. 865, 1237

2.21.133 Administration of Sick Leave, p. 1657, 103

2.21.216 Annual Vacation Leave, p. 1441, 101

2.21.6705 and other rules - Administration of the Employee Incentive Awards Program, p. 1660, 31

(Workers' Compensation Judge)

2.52.343 and other rule - Attorney Fees - Petition for New Trial or Reconsideration of Attorney Fee Award, p. 302

AGRICULTURE, Department of, Title 4

- I-II Establishing Fertilizer Assessments and Reporting, p. 1448, 1855
- I-III Designation of Noxious Weeds Pursuant to the County Weed Control Act, p. 88, 337
- I-V Grading of Certified Seed Potatoes, p. 711, 1146
- I-XII Noxious Weed Trust Fund, p. 1
- 4.4.314 and other rule - Emergency Amendment Extending Hail Insurance Coverages for the 1985 Crop to October 31, 1985, p. 1606
- 4.9.401 Annual Assessment on Wheat and Barley, p. 1183, 1555
- 4.12.1205 and other rule - Importation of Alfalfa Leafcutting Bees, p. 6, 336
- 4.12.3503 and other rule - Grading of Certified Seed Potatoes, p. 8, 245

STATE AUDITOR, Title 6

- I-III Montana Title Insurance Act, p. 12
- I-V Comprehensive Health Care Association and Plan, p. 531, 1322
- I-VI Joint Rulemaking with Human Rights Commission. Discrimination in Insurance and Retirement Plans, p. 1049, 194
- I-VIII Voluntary Payroll Deductions - Automatic Deductions from Payroll Warrants Other than those Mandated by Law, p. 1941, 246
- I-IX Emergency Rules Relating to Unfair Trade Practices on Cancellations, Non-renewals, or Premium Increases of Casualty or Property Insurance, p. 1147
- I-X Unfair Trade Practices on Cancellations, Non-renewals, or Premium Increases of Casualty or Property Insurance, p. 1450, 1983
- 6.2.101 and other rules - Incorporation of Attorney General's Model Procedural Rules by the Insurance Department - Procedural Rules for Contested Case Hearings Before the Securities Department, p. 870, 1238
- 6.6.2003 Unfair Trade Practices on Mid-term Cancellations of Casualty or Property Insurance, p. 10
- 6.6.2003 Emergency Amendment Relating to Unfair Trade Practices on Cancellations of Casualty or Property Insurance, p. 32

COMMERCE, Department of, Title 8

- (Board of Athletics)
- 8.8.2802 and other rule - Definitions - Prohibitions, p. 1945, 200

- 8.8.2803 and other rule - Prohibitions - Referee, p. 1185, 1608
(Board of Barbers)
8.10.405 and other rules - Fee Schedule - Qualifications for Examination for Out-of-State Applicants - General Requirements - Apprentice Barbers, p. 1187, 1609
(Board of Chiropractors)
8.12.601 and other rule - Applications, Education Requirements - Hair Analysis, p. 1905, 201
(Board of Cosmetologists)
8.14.401 and other rules - Expanding Existing Cosmetology Rules to Incorporate Manicuring Specifications Granted by the 1985 Legislature, p. 1807
(Board of Dentistry)
I-X Dental Procedures Involving the Administration of Anesthetics - Training and Monitoring Requirements - Inspecting and Approving Dental Practice Facilities in Which Anesthetics are Administered, p. 1672, 1994
8.16.405 and other rules - Allowable Functions for Dental Auxiliaries - Examination - Fee Schedule for Dental Auxiliaries - Identification of Dentures - Application to Convert Inactive Status License to Active Status License for Dentists and Dental Hygienists, p. 715, 1323
(State Electrical Board)
8.18.407 Fee Schedule - Examination Fee, p. 873, 1239
(Board of Hearing Aid Dispensers)
8.20.401 and other rules - Traineeship Requirement and Standards - Fees - Examination - Renewals - Address Change - Code of Ethics - Hearings - Disciplinary Actions - Fines - Purchaser Recision Rights - Continuing Education, p. 1822, 202, 250
(Board of Horse Racing)
8.22.302 and other rules - Board of Stewards - Licenses Issued for Conducting Wagering on Horse Racing Meetings - Definition of Conduct Detrimental to Racing, p. 1455, 1912
8.22.502 Licenses Issued for Conducting Parimutual Wagering on Horse Racing Meetings, p. 90
(Board of Landscape Architects)
8.24.405 Examinations, p. 1947
(Board of Medical Examiners)
8.28.501 Approval of Schools, p. 1055, 1395
(Board of Morticians)
8.30.402 and other rules - Applications - Internship - Examinations - Inspections - Morticians Qualifications - Continuing Education, Conditional Permission to Practice While on Inactive Status, p. 1271, 1610
(Board of Nursing)
8.32.402 and other rules - Licensure by Examination - Temporary Work Permit - Preparation of Licenses -

- Conduct of Nurses - Consideration of Reapplication
for a License After Previous Denial, Revocation or
Suspension - Officers - Duties of Members -
Standards for Nursing Practice, p. 1056, 1556, 1753
- (Board of Pharmacy)
8.40.403 and other rule - Examination for Licensure -
Approved Programs, p. 305
- (Board of Private Security Patrolmen and Investigators)
8.50.437 Fee Schedule, p. 1275, 1600
- (Board of Radiologic Technologists)
8.56.402 and other rules - Applications - Certificate of
Licensure - Renewals - Duplicate or Lost Licenses -
Definitions - Permit Applications - Temporary
Permits - Verification that Temporary Permit
Applicant can Safely Perform X-Rays without
Endangering the Public - Permit Restrictions -
Approval of Physician Specializing in Radiology -
Permits - Course Requirements for Limited Permit
Applicants - Permit Examinations - Fees - Renewals,
p. 721, 1152
- (Board of Realty Regulation)
I Continuing Education, p. 1832
- 8.58.401 Purpose of Board, p. 307
- 8.58.406 and other rule - General Licensure Requirements -
Fee Schedule, p. 1277, 1754
- 8.58.419 Discrimination, p. 1907, 105
- (Board of Sanitarians)
8.60.407 and other rules - Applications - Minimum Standards
for Registration - Registration Exam and
Certificates - Annual Renewals - Fee Schedule, p.
874, 1239
- (Social Work Examiners and Professional Counselors)
I-IV Continuing Education Requirements, p. 309
- I-IV Licensure Requirements - Application Procedure -
Fee Schedule - Ethical Standards, p. 312
- 8.61.404 Fee Schedule, p. 878, 1239
- (Board of Speech Pathologists and Audiologists)
8.62.413 and other rule - Fees - Continuing Education When
Required, p. 1190, 1611
- (Board of Veterinary Medicine)
8.64.501 and other rules - Applications - Examinations -
Disciplinary Actions, p. 316
- (Building Codes Bureau)
8.70.101 and other rules - Incorporation by Reference of
Uniform Building Code, Uniform Housing Code,
Uniform Code for the Abatement of Dangerous
Buildings, Model Energy Code, Uniform Mechanical
Code, Uniform Plumbing Code, Safety Code for
Elevators and Escalators, CABO One and Two Family
Dwelling Code, Part II Uniform Federal
Accessibility Standards, Carnivals, Fairs, Outdoor
Concerts and Similar Amusement Establishments and

- Other Public Assemblies of a Temporary Nature, p. 1680, 106
- 8.70.407 Electrical Inspection Fees, p. 1693, 109
(Bureau of Weights and Measures)
- I Metric Packaging of Fluid Milk Products, p. 731, 1153
(Milk Control Bureau)
- 8.79.301 Licensee Assessments, p. 152
(Financial Division)
- 8.80.301 Advertising by Consumer Loan Licensees, p. 321
(Board of Milk Control)
- I Emergency Rule - Limited Service Wholesale Allowance - Temporary Wholesale Prices, p. 251
- 8.86.301 and other rules - Class I Producer Formula - Establishing a Statewide Pooling Arrangement with a Triggered Base Plan as a Method of Payment of Milk Producer Prices, p. 1459
(Economic and Community Development Division)
- I Administration of the 1986 Federal Community Development Block Grant (CDBG) Program, p. 156
- 8.94.3701 Incorporation by Reference of Rules for the Administration of the Federal Development Block Grant Program, p. 154
(Montana Economic Development Board)
- 8.97.301 and other rules - Definitions - Criteria for Determining Eligibility - Description of Economic Development Bond Program - Bonding Limit - Eligibility Requirements - Applications and Financing Fees, Costs and other Charges - Loans to Capital Reserve Account on Guarantee Fund - Loan Loss Reserve Fund, Investment Authorized by Rule - Purchase of Guaranty of Debentures of Qualified Montana Capital Companies, p. 1066, 1073, 1077, 1080, 1082, 1557, 1558, 34
(Board of Housing)
- Zero Notice of Public Hearing - Annual Policy Statement Report by the Montana Board of Housing with Respect to Housing, Development and Low Income Housing Assistance Which Such Board will Follow for Issuing Qualified Mortgage Bonds and Mortgage Credit Certificates, p. 1834
(Aeronautics Division)
- 8.120.201 and other rule - Definitions - Fees, p. 1279, 1755
(Science and Technology Development Board)
- I-XXXIX Operations of the Science and Technology Board, p. 1836, 110

EDUCATION, Title 10

- (Superintendent of Public Instruction)
- 10.16.1003 Destruction of Special Education Personally Identifiable Information, p. 879, 1241

- (Board of Public Education)
- I Minimum Scores on the National Teacher Examination Core Battery, p. 158
 - 10.55.202 Board of Trustees, p. 161
 - 10.55.302 Certificates, p. 162
 - 10.55.402 Basic Instructional Program: High School, Junior High, Middle School and Grades 7 and 8 Budgeted at High School Rates, p. 159
 - 10.55.406 and other rule - Guidance and Counseling: High School, Junior High School, Middle School and 7th and 8th Grades Funded at High School Rates - Guidance and Counseling: Elementary, p. 1601
 - 10.55.505 Safety, p. 163
 - 10.57.301 Experience Requirement for Counselors, p. 637, 1396
 - 10.58.702 and other rules - School Principals - School Superintendents - School Principals and Superintendents, p. 639, 1397
- (Montana State Library Commission)
- I-III and other rule -State Coal Severance Tax Funding to Federations and Grant Programs, p. 324
- (Montana Arts Council)
- I-VIII Specifying Criteria Applied by the Cultural and Aesthetic Projects Advisory Committee in the Evaluation of Grant Proposals, p. 1282, 1756

FISH, WILDLIFE AND PARKS, Department of, Title 12

- I Reporting and Tattooing of Bears, Wolves, Tigers, Mountain Lions and Coyotes Captured or Held in Captivity, p. 1465, 119
- I-VI Migratory Game Bird Avicultural Permits, p. 1471, 116
- I-IV Fish and Game Crimestoppers Program, p. 1474, 122
- I-X Preservation of Cultural Resources on Lands Controlled by the Department, p. 1293, 1762
- 12.3.106 Hunting by Certain Disabled Persons from Parked Vehicles, p. 1468, 115
- 12.6.902 Use of Boats and Other Craft on Castle Rock Reservoir, p. 1298, 2003
- 12.9.207 Seeley Lake Game Preserve, p. 1696

HEALTH AND ENVIRONMENTAL SCIENCES, Department of, Title 16

- I-II Certification of Wood Stoves or Other Combustion Devices for Tax Credit Purposes, p. 1477, 2004
- I-III Notification Requirements for Owners and Operators of Underground Storage Tanks - Interim Prohibition for Installation, p. 326
- I-IV Establishing a Protocol for Probation & Termination of Local Family Planning Programs, p. 998, 1332
- I-VII Health and Sanitation Standards for Youth Camps, p. 454, 889, 2007

- I-XVII Standards and Criteria Relating to Health, Safety and Physical Well-being in Schools, p. 443, 882, 1479
- 16.8.701 and other rules - Definitions - Circumvention - Definitions: PSD - Permits - NSPS - Hazardous Air Pollutants - Visibility Protection, p. 330, 1326
- 16.8.1404 and other rules - Air Quality - Limiting Visible Air Contaminants - Prohibiting Wood Stove Combustion of Certain Materials - Setting Standards for Stack Heights, p. 20, 91
- 16.24.201 and other rules - Requirements for Testing of Newborns for Inborn Errors of Metabolism - When a Newborn Needing an Exchange Transfusion Must Be Tested, p. 1300, 1612
- 16.28.201 and other rule - Emergency Amendment pertaining to Reportable Diseases, p. 372, 1765
- 16.28.201 and other rule - Communicable Diseases - AIDS, Who must Report a Communicable Disease - What Diseases are Reportable - Reporting Requirements, p. 1949, 254
- 16.32.501 and other rule - Reportable Tumors - Tumor Records Which Must be Kept by an Independent Laboratory, p. 1480, 1857

HIGHWAYS, Department of, Title 18

- 18.6.202 and other rules - Regulation of Outdoor Advertising, p. 1482, 339

INSTITUTIONS, Department of, Title 20

- I-IV Standards for Chemical Dependency Educational Courses provided by State-Approved Treatment Programs, p. 1371, 2011
- I-VI Voluntary Admissions to Montana State Hospital, p. 1960, 258
- I-IX and other rules - Admission Policy for the Center for the Aged, p. 1965, 257
- I-XII Certification of Mental Health Professional Persons, p. 1953, 260
- 20.3.202 and other rules - Certification and Evaluation of Alcohol Programs, p. 1192, 1768, 1913

JUSTICE, Department of, Title 23

- I Safety Equipment Requirements for Trailers Used for Hauling and Spreading Fertilizer, p. 643, 1858
- I Completion and Filing of Final Disposition Reports, p. 1698, 43
- 23.3.231 and other rule - Probationary Driver's Licenses - Restrictions on Probationary Driver's Licenses, p. 1083, 1398

- 23.3.901 and other rules - Alcohol Analysis, p. 1086, 1560, 1614
23.7.111 Uniform Fire Code, p. 164

LABOR AND INDUSTRY, Department of, Title 24

- I Minimum Wage Rates to be Paid on Public Contracts - Annual Adoption of Standard Prevailing Rate of Wages, p. 1846, 44
I-VI Wage Rates to Be Paid to Laborers on Public Works Projects and To Specific Obligations of Contractors and Agencies Entering Into Contracts for Public Works, p. 1306, 1859
(Board of Labor Appeals)
24.7.301 and other rules - Policy - General Rules Governing Appeals - Definitions - Right to Appeal - Hearing Procedure - Determination of Appeals, p. 732, 1562
24.11.303 and other rules - Hearing Procedure - Benefit Determinations - Hearing Procedure - Tax Appeal Determinations - Disqualification Due to Misconduct - Leaving Work without Good Cause Attributable to Employment - Strike, p. 736, 1333
(Human Rights Commission)
Zero Public Hearing and Notice of Petition for Declaratory Ruling - Applicability of Section 49-2-305, MCA to its Requirements for Occupancy of a Potential Multi-family Project, p. 1206
I Age Discrimination in Housing Accommodations and Improved or Unimproved Property, p. 339, 1399
I-VI Joint Rulemaking with State Auditor.
Discrimination in Insurance and Retirement Plans, p. 1049, 1615
I-VII Maternity Leave, p. 482, 949, 1369
(Workers' Compensation Division)
I Relative Value Fee Schedule for Medical, Chiropractic and Paramedical Services, p. 1970
I-IV Lump Sum Conversions of Benefits, p. 645, 1564
I-VII Licensing Requirements for Construction Blasters, p. 1001, 1402
24.29.101 Organizational Rule, p. 1563
24.29.705 and other rule - Corporate Officer Coverage Under the Workers' Compensation Act, p. 1490, 49
24.29.3801 Attorney Fee Regulation and Submission of Attorney Fee Contracts, p. 27

STATE LANDS, Department of, Title 26

- I-XI Consultation of the Department of State Lands with the State Historic Preservation Office Under the Antiquities Act, p. 1849
26.2.401 Fee Schedule for State Land Use Authorizations and Sale Documents, p. 1208, 1622

LIVESTOCK, Department of, Title 32

- I Determining Amounts of Bond Coverage for Licensed Livestock Dealers, p. 1492
- 32.8.202 Time from Processing that Fluid Milk may be Sold for Human Consumption, p. 1494, 50

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

(Board of Natural Resources and Conservation)

- 36.12.103 Application Fee for Water Right Transfer Certificates, p. 578, 1242

(Board of Water Well Contractors)

- I-VII Definitions - Disciplinary Action, p. 235
- 36.21.402 and other rules - Licensure Restricted to Natural Persons - Nontransferable - Supervision - Examination - Renewals - Fee Schedule - Board Meetings - Requirements for Contractors and Drillers Licenses, p. 1496, 1914

PUBLIC SERVICE REGULATION, Department of, Title 38

- I-XXXIX Telecommunications Act - Minimum Rate Case Filing Requirements for Telephone Utilities, p. 166
- 38.3.201 Filing of Evidence of Insurance by Interstate Carriers, p. 1314, 2014

REVENUE, Department of, Title 42

- I Disability Income Exclusion, p. 1316, 1771
- I SRS Inspection of Income Tax Returns, p. 1318, 51, 261
- I Gasohol Blenders, p. 651, 1245, 1341
- I Requiring Taxpayers to pay Taxes Due of \$500,000 or Greater by Electronic Funds Transfer, p. 657, 1154
- I Waiver of Assessment of Late Payment Penalty Fees for Liquor License Renewals, p. 1006, 1340
- I Electrical Energy Production License Tax and Line Loss, p. 1222, 123
- I Collection of Delinquent Taxes Through Offsets, p. 1376, 2016
- I Social Security Benefits Taxation, p. 1378, 1916
- I Net Operating Loss Computations, p. 1504, 2015
- I-II Montana Adjusted Gross Income - Subchapter "S" Shareholder's Income, p. 1320, 1633
- I-II and other rule - Special Fuel User's Registration Card - Compressed Natural Gas Provisions - What Constitutes Special Fuels, p. 1215, 1636, 2038
- I-II and other rule - Valuation of Centrally Assessed Property, p. 1533, 2034
- I-IV Jointly Owned Generating Facilities and the Coal Tax Rebate, p. 1548, 125

- I-VI Reporting Requirements for New Production of Oil and Gas, p. 1974
- I-VI Valuation of Real Property, p. 1526, 2019
- I-IX Montana Appraisal Plan, p. 1537, 2018
- I-XIV Valuation of Land Beneath Agricultural Improvements and Timberlands, p. 1519, 2025
- I-XXXIII Video Draw Poker Machines, p. 1100, 1623
- 42.12.111 Processing Fee for the Beer Importer License, p. 659, 1155
- 42.12.123 Removal of the Requirement that a Business Operated on the Same Premises as a Licensed Alcoholic Beverage Business be "Closed Off" from 2 a.m. to 8 a.m., p. 661, 1155
- 42.12.143 Temporary Ownership of a Second All-beverages License, p. 1211, 1632
- 42.12.323 Permissible and Prohibited Activities of a Special or Catering Permit Holder, p. 1213
- 42.13.301 Storage of Alcoholic Beverages, p. 242, 1243
- 42.15.323 Nongame Wildlife Checkoff, p. 1218, 1634
- 42.15.424 Household and Dependent Care Expenses, p. 1217, 1634
- 42.15.511 and other rule - Expanding and Extending Alternate Energy Credit, p. 1219, 1635
- 42.20.113 and other rules - Valuation of Agricultural and Timberland, p. 1513, 2023
- 42.10.113 Valuation of Agricultural and Timberland - Christmas Trees, p. 92
- 42.21.101 and other rules - Valuation of Personal Property, p. 1508, 2032
- 42.22.1102 and other rule - Net Proceeds Reclamation Costs, p. 1604, 30
- 42.22.1212 and other rules - Oil and Gas Net Proceeds Deductions, p. 1909
- 42.27.102 and other rule - Gasoline Tax and Distributor's Bond, p. 240
- 42.27.603 and other rule - Alcohol Tax Incentive for Exported Alcohol, p. 653, 1247

SECRETARY OF STATE, Title 44

- I Fees for Filing Documents - Uniform Commercial Code, p. 1123, 1406
- I Ballot Preparation for the AIS-315 Optical Scan Ballot Counter, p. 1224, 1568
- I-VI Fees for Filing Documents and Issuing Certificates - Nonprofit Corporations, Assumed Business Names and Trademarks, p. 1119, 1405
- I-VII Use of the Computer Election Systems Optech I Voting Device, p. 1700, 2040
- I-XIV Interpretative Rules for the Implementation of Public Law 98-435, Voting Accessibility for the Elderly and Handicapped Act, p. 180

- I-XV Use of the American Information Systems 315 Optical Scan Ballot Counter, p. 901, 1249
- 1 2 419 Scheduled Dates for Filing and Publication of the Montana Administrative Register, p. 1708, 2039
- 44.5.101 and other rules - Fees for Filing Documents and Issuing Certificates - Business Corporations and Limited Partnerships, p. 1116, 1405
- (Commissioner of Political Practices)
- 44.10.321 and other rules - Contributions - Expenditures - Definitions - Reporting Requirements - Personal Financial Disclosure by Elected Officials, p. 1551, 128

SOCIAL AND REHABILITATION SERVICES, Department of, Title 46

- I-III and other rule - Licensed Clinical Social Work Services, p. 1234, 1571
- I-IX Residential Alcohol and Drug Treatment for Indigent Juveniles, p. 585, 911, 1251
- I-XV Licensing Requirements for Community Group Homes for Physically Disabled Persons, p. 1382, 1774
- 46.5.902 and other rules - Day Care Facilities, p. 1726, 2041, 51
- 46.6.102 and other rules - Physical Disabilities Program, p. 1228, 1569
- 46.8.102 and other rules - Utilization of Aversive Training Procedures in Development of Disabilities Services, p. 1712, 345
- 46.8.110 and other rules - Standards for Developmentally Disabled Persons, p. 764, 1156
- 46.10.318 AFDC Emergency Assistance to Needy Families with Dependent Children, p. 191
- 46.10.403 AFDC Lump Sum Payment Penalties, p. 1012, 1342
- 46.10.407 AFDC Transfer of Property, p. 1380, 1772
- 46.10.512 AFDC Daycare Earned Income Disregards, p. 1127, 1408
- 46.12.102 Medical Assistance, Definitions, p. 96, 248, 1125, 1409
- 46.12.102 and other rule - Billing, Reimbursement, Claims Processing and Payment for the Medicaid Program, p. 94, 359
- 46.12.204 and other rules - Co-payments for Licensed Clinical Social Workers' Services, p. 330
- 46.12.509 All Hospital Reimbursement, General, p. 770, 1160
- 46.12.601 and other rules - Dental Services, p. 1008, 1410
- 46.12.1205 Emergency Amendment - Payment Procedures for Skilled Nursing and Intermediate Care Services, p. 360
- 46.12.3001 Medicaid Applications-Social Security Number Requirements, p. 1226, 1574
- 46.12.3002 and other rules - Eligibility Determinations for SSI - and AFDC - Medically Needy Assistance -

- Mandatory Social Security Number Requirements, p. 332
- 46.12.3803 Medically Needy Income Standard for One Person, p. 1710, 2051
- 46.13.106 and other rules - Low Income Energy Assistance Program, p. 1129, 1412
- 46.13.401 LIEAP Maximum Benefit Awards for Wood, p. 96, 362
- 46.13.401 Emergency Amendment of LIEAP Maximum Benefit Awards for Wood, p. 130