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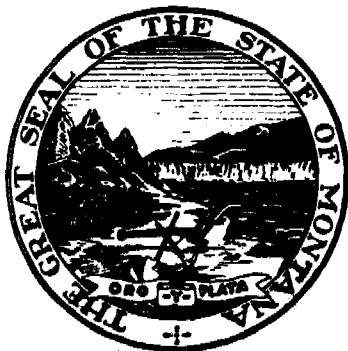
APR 27 1989

OF MONTANA

**MONTANA
ADMINISTRATIVE
REGISTER**

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1989 ISSUE NO. 8
APRIL 27, 1989
PAGES 460-500



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APR 27 1989

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 8

OF MONTANA

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 The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing and where written comments may be submitted.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

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BEFORE THE BOARD OF OUTFITTERS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING
amendments of rules pertaining) ON AMENDMENT OF 8.39.504
to outfitters and professional) LICENSURE--APPROVED
guides) OPERATIONS PLAN, 8.39.701
) CONDUCT--STANDARDS OF
) OUTFITTER AND PROFESSIONAL
) GUIDE, 8.39.702 CONDUCT--
) ADDITIONAL REQUIRED
) OUTFITTER PROCEDURES, AND
) 8.39.703 OUTFITTER RECORDS

TO: All Interested Persons

1. On Friday, May 26, 1989, at 1:00 p.m., a public hearing will be held in the downstairs conference room of the State of Montana Department of Commerce building located at 1424 - 9th Avenue, Helena, Montana, to consider the proposed amendments of rules pertaining to outfitters and professional guides.

2. The proposed amendment of 8.39.504 will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at pages 8-1120 and 8-1121, Administrative Rules of Montana):

"8.39.504 LICENSURE--APPROVED OPERATIONS PLAN (1) through (12) will remain the same.

(13) Submitted outfitter operations plans shall be maintained as confidential information and shall not be released to any person or organization without approval of the board, written permission of the outfitter, subpoena or order of a court, or written request of a state or federal agency for the purpose of furthering investigation of criminal activities."

Auth: Sec. 37-1-131, 37-47-201, MCA; Imp: Sec. 37-47-201, MCA

REASON: The information provided in the operations plan, although essential to the proper regulatory function of the board, contains ownership, permit, lease, and area of use and other trade information that could be adversely used by persons in competition with the outfitter filing the plan. This amendment is needed to protect that information that is private in nature that exceeds the merits of public disclosure.

3. The proposed amendment of 8.39.701 will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at pages 8-1123.5 and 8-1123.6, Administrative Rules of Montana)

"8.39.701 CONDUCT--STANDARDS OF OUTFITTER AND PROFESSIONAL GUIDE (1) through (i) will remain the same.

(j) not conduct any services on private or public land, except legal transportation across such lands, without first having obtained written permission from the landowner or written authorization from the agency administering the public land, unless the landowner or agency does not require ~~and does not~~ provide such permission;

(k) through (q) will remain the same.

(r) promptly refund deposits paid by participants upon request if such deposits are due to the participant in accordance with the outfitter's written deposit and deposit refund policy required by ARM 8.39.702(1)."

Auth: Sec. 37-1-131, 37-47-201, MCA; Imp: Sec. 37-47-201, 37-47-341, 37-47-402, MCA

REASON: Amendment to subsection (j) is necessary to clarify that written permission is not required from a landowner or agency, that does not require such permission. Subsection (r) is necessary to provide for license discipline enforcement in the event that a licensee does not abide by the required written deposit refund policy. Refund disputes have generated a significant portion of the complaints received by the board and the existing rules do not address the problem adequately.

4. The proposed amendment of 8.39.702 will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at page 8-1123.6, Administrative Rules of Montana)

"8.39.702 CONDUCT--ADDITIONAL REQUIRED OUTFITTER PROCEDURES (1) through (2) will remain the same.

(3) Outfitters soliciting or accepting clients through booking agents or others shall directly provide the client with the information required in part (1)."

Auth: Sec. 37-1-131, 37-47-201, MCA; Imp: Sec. 37-47-201, 37-47-301, MCA

REASON: This rule is necessary to place responsibility for providing a client with certain information directly on the outfitter. This will help avoid problems arising from indirect representations to potential clients.

5. The proposed amendment of 8.39.703 will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at pages 8-1123.6 and 8-1123.7, Administrative Rules of Montana)

"8.39.703 OUTFITTER RECORDS (1) and (2) will remain the same.

(3) Submitted outfitter records shall be maintained as confidential information and shall not be released to any person or organization without approval of the board, written permission of the outfitter, ~~or being otherwise required by subpoena or other order of a court, or written request of~~

a state or federal agency for the purpose of furthering investigation of criminal activities."

Auth: Sec. 37-1-131, 37-47-201, MCA; Imp: Sec. 37-47-301, MCA

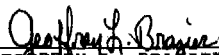
REASON: This amendment is necessary to enhance cooperation and timely access to information in intra agency investigations. State and federal agencies conducting criminal investigations in areas of mutual concern with the board, have observed that the present rule and procedure for confidentiality of the records is cumbersome and unduly burdensome.

6. Interested persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to the Board of Outfitters, Department of Commerce, 1424 - 9th Avenue, Helena, Montana 59620, no later than Friday, May 26, 1989.

7. Martin Jacobson, staff attorney, Board of Outfitters, Department of Commerce, State of Montana, 1424 - 9th Avenue, Helena, Montana 59620, phone (406) 444-4290, has been designated to preside over and conduct the hearing.

BOARD OF OUTFITTERS
RON CURTISS, CHAIRMAN

BY:


GEOFFREY L. BRAVIER, ATTORNEY
DEPARTMENT OF COMMERCE

Certified to the Secretary of State April 17, 1989.

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

In the matter of the proposed) NOTICE OF PROPOSED REPEAL
repeal of rules pertaining to) OF 8.42.702 THROUGH 8.42.706
reported violations) PERTAINING TO VIOLATIONS

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On May 27, 1989 the Board of Physical Therapy Examiners proposes to repeal ARM 8.42.702 through 8.42.706. These rules are located at pages 8-1219 through 8-1221, Administrative Rules of Montana.

2. The repeal of these rules was inadvertently omitted in the notice of proposed repeal, amendment and adoption published at page 174, 1989 Montana Administrative Register, issue number 2.

3. The reason for the proposed repeal is that ARM 8.42.702 through 8.42.706 have been superseded by new rule I. Unprofessional Conduct, as shown in the above referenced Montana Administrative Register.

4. The Board's authority to repeal these rules is 37-1-131 and 37-11-201, MCA. These rules implemented 37-1-131 and 37-11-202, MCA.

5. Interested persons may submit their data, views or arguments concerning the proposed repeal in writing to the Board of Physical Therapy Examiners, 1424 - 9th Avenue, Helena, Montana 59620-0407, no later than May 25, 1989.

6. If a person who is directly affected by the proposed repeal 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 May 25, 1989.

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

date. Notice of the hearing will be published in the Montana Administrative Register.

BOARD OF PHYSICAL THERAPY
EXAMINERS
LORIN WRIGHT, P.T., CHAIRMAN

BY: *Groffrey L. Brayner*
GROFFREY L. BRAYNER, ATTORNEY
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, April 17, 1989.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
POLYGRAPH EXAMINERS

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of a rule pertaining) OF 8.47.404 LICENSE RENEWAL
to license renewals) - DATE - CONTINUING EDUCATION

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On May 27, 1989, the Department of Commerce proposes to amend the above-stated rule.

2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at page 8-1276, Administrative Rules of Montana)

"8.47.404 LICENSE RENEWAL - DATE - CONTINUING EDUCATION

~~(1) -- The first 100 licenses issued will expire on March 1st following date of issue and to remain current must be renewed on or before March 1st of each year thereafter.~~

(2) through (5) will remain the same but will be renumbered (1) through (4)."

Auth: 37-62-102, MCA Imp: 37-62-204, MCA

3. REASON: Section 37-62-204(1), MCA, was amended by the 1985 Legislature stating that all licenses would expire March 1st annually; therefore this rule is no longer necessary.

4. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to Mary Lou Garrett, Polygraph Examiners, Department of Commerce, 1424 - 9th Avenue, Helena, Montana 59620-0407, no later than May 25, 1989.

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 Mary Lou Garrett, Polygraph Examiners, Department of Commerce, 1424 - 9th Avenue, Helena, Montana 59620-0407, no later than May 25, 1989.

6. If the Department 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 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 2 based on the 28 licensees in Montana.

POLYGRAPH EXAMINERS
DEPARTMENT OF COMMERCE

BY: Jeffrey L. Brazier
GEOFFREY L. BRAZIER, ATTORNEY
DEPARTMENT OF COMMERCE

Certified to the Secretary of State April 17, 1989.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF REALTY REGULATION

In the matter of the proposed	)	NOTICE OF PUBLIC HEARING ON
amendment of rules pertaining	)	THE PROPOSED AMENDMENT OF
to inactive licenses, reacti-	)	8.58.412 INACTIVE LICENSES,
vation of licenses and	)	8.58.413 REACTIVATION OF
continuing education	)	LICENSES AND 8.58.415A
	)	CONTINUING EDUCATION

TO: All Interested Persons:

1. On May 26, 1989, at 9:00, a.m., a public hearing will be held in the downstairs conference room of the Department of Commerce building, 1424 - 9th Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The proposed amendment of 8.58.412 will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at page 8-1606 and 8-1607, Administrative Rules of Montana)

"8.58.412 INACTIVE LICENSES (1) A salesman licensee who is unemployed at-the-time-of-renewal-must-renew must place his license on an inactive basis by:

(a) paying the required inactivation fee in accordance with section 37-51-311(2), MCA, and ARM 8.58.411;

(b) will remain the same.

(c) indicating on-the-renewal-application in writing "inactive at present" instead-of-the-signature-of-the employing-broker;

(d) will remain the same.

~~4e) An inactive licensee may remain on inactive status for one year from the time of renewal. If the licensee does not go active at that time, his license will lapse.~~

~~4f) Effective December 4, 1976, the board through the rule amendment process, deleted from its rules the status of the non-resident real estate salesman. Those non-resident real estate salesmen licenses issued prior to that date and presently in existence will be re-issued as Montana real estate salesman licenses upon application and payment of fees and will be retained as inactive in the state of Montana board of realty regulation office for one year from the time of renewal.~~

~~4g) (2) An out-of-state resident may be permitted to sit for the real estate salesman's exam and upon receiving a passing score, completing the required course, and upon making the proper application for licensure will be issued a real estate salesman's license. He must be sponsored for licensure by a resident real estate broker. The real estate license of a non-resident will be activated when that person is actually in the state. When the person leaves the state, the sponsoring broker must return the license to the board office, and pay the fee for the license to be placed on inactive~~

~~basis, where it will remain for one year from the time of renewal. If the licensee does not reactivate his license at that time, the license is lapsed."~~

Auth: Sec. 37-1-131, 37-51-203, MCA; IMP, Sec. 37-51-204, MCA

3. The proposed amendment of 8.58.413 will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at page 8-1607, Administrative Rules of Montana)

"8.58.413 REACTIVATION OF LICENSES (1) For an inactive real estate licensee to again become active, he or she must:
~~(a) if he has not paid the current year real estate license fee, he must pay the required fee in accordance with section 37-51-311(e), (g), (i), MCA, according to class of licensee;~~

~~(b) comply with bonding requirements of section 37-51-304, MCA; and~~

~~(c) (a) file a change of address application and pay the required fee in accordance with section 37-51-311(i), MCA, to transfer the license to a resident Montana broker ARM 8.58.411;~~

(b) submit proof of obtaining 15 classroom or equivalent hours of continuing education in the two years prior to reactivation for any inactive license held on inactive status for longer than one year."

Auth: Sec. 37-1-131, 37-51-203, MCA; IMP, Sec. 37-51-204, 37-51-302, MCA

4. The proposed amendment of 8.58.415A will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at page 8-1609, Administrative Rules of Montana)

"8.58.415A CONTINUING EDUCATION (1) Each and every active real estate licensee is hereby required to receive and successfully complete a minimum of 15 classroom or equivalent hours of continuing education in any two (2) year period, beginning January 1, 1988.

(2) through (4) will remain the same."

Auth: Sec. 37-1-131, 37-51-203, MCA; IMP, Sec. 37-51-204, MCA

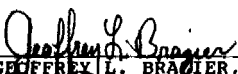
5. REASON: The rules for limited inactive status are not meeting the needs of the licensee nor serving the purpose they were intended to serve. With the implementation of continuing education, it would be consistent to eliminate the one year restriction and simply require updated education to reactivate.

6. Interested persons 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 Board of Realty Regulation, Department of Commerce, 1424 -

9th Avenue, Helena, Montana 59620-0407, no later than May 26, 1989.

7. Martin Jacobson has been designated to preside over and conduct the hearing.

BOARD OF REALTY REGULATION
JOHN DUDIS, CHAIRMAN

BY: 

GEOFFREY L. BRAIER, ATTORNEY
DEPARTMENT OF COMMERCE

Certified to the Secretary of State April 17, 1989.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE FINANCIAL DIVISION

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of a rule pertaining) OF 8.80.102 BANKS - DIRECT
to direct leasing) LEASING OF PERSONAL PROPERTY

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On May 27, 1989, the Financial Division proposes to amend the above-stated rule.

2. The proposed amendment of 8.80.102 will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at page 8-2345, Administrative Rules of Montana)

"8.80.102 BANKS - DIRECT LEASING OF PERSONAL PROPERTY

(1) through (c) will remain the same.

(d) Residual value of the property at the end of a lease agreement's original term may be considered by the bank to constitute partial recovery of its cost of acquisition if such residual value is not more than 10 25 percent of the cost of acquisition.

(e) through (2) will remain the same."

Auth: Sec. 32-1-362, 32-1-455, MCA; IMP, Sec. 32-1-362, 32-1-455, MCA

3. REASON: This amendment will permit state banks to engage in the direct leasing of personal property with a residual value at the end of a lease not to exceed 25 percent of the acquisition cost. The proposed change increases residual value from 10 percent to 25 percent in order to allow state banks to compete in a leasing businesses on the same terms as nationally chartered banks. (Law - 12 U.S.C. 371d. Sec. 73400)

4. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Financial Division, Room 50, Lee Metcalf Building, 1520 East Sixth Avenue, Helena, Montana 59620-0542, no later than May 25, 1989.

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 Financial Division, Room 50, Lee Metcalf Building, 1520 East Sixth Avenue, Helena, Montana 59620-0542, no later than May 25, 1989.

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

FINANCIAL DIVISION

BY:



GEOFFREY L. BRAZIER, ATTORNEY
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, April 17, 1989.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BOARD OF INVESTMENTS

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of a rule pertain-) OF 8.97.1502 INTEREST RATE
ing to interest rate reduction) REDUCTION FOR LOANS FUNDED
for loans) FROM THE COAL TAX TRUST

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On May 27, 1989, the Board of Investments proposes to amend the above-stated rule.

2. The proposed amendment of 8.97.1502 will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at pages 8-3582 and 8-3583, Administrative Rules of Montana)

"8.97.1502 INTEREST RATE REDUCTION FOR LOANS FUNDED FROM THE COAL TAX TRUST (1) The board will provide an interest rate reduction based on the number of jobs created the loan generates over a two year period from the time the loan is delivered to the board. The date of the formal written interim or permanent loan application to the seller/servicer will be used as a beginning date for counting jobs created. The interest rate reduction shall be calculated as follows: (a) through (f) will remain the same."

Auth: Sec. 17-6-324, MCA; Imp: Sec. 17-6-304, MCA

3. REASON: This rule change clarifies at what point to begin counting jobs created. The existing rule did not allow for job creation prior to delivery of the loan to the Board of Investments.

4. Interested persons may submit their data, views or arguments concerning the proposed amendment in writing to the Board of Investments, Department of Commerce, 555 Fuller Avenue, Helena, Montana 59620, no later than May 25, 1989.

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 Investments, Department of Commerce, 555 Fuller Avenue, Helena, Montana 59620, no later than May 25, 1989.

6. If the Department 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 hearing will be held

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

MONTANA BOARD OF INVESTMENTS
W. E. SCHREIBER, CHAIRMAN

BY: Jeffrey L. Bragier
JEFFREY L. BRAGIER, ATTORNEY
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, April 17, 1989.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
POLYGRAPH EXAMINERS

In the matter of the amendment	)	NOTICE OF AMENDMENT OF
of a rule pertaining to license	)	8.47.404 LICENSE RENEWAL -
renewal - date - continuing	)	DATE - CONTINUING
education.	)	EDUCATION

TO: All Interested Persons:

1. On January 12, 1989, the Department of Commerce published a notice of proposed amendment of the above-stated rule at page 1, 1989 Montana Administrative Register, issue number 1.
2. The Department amended the rule exactly as proposed.
3. No comments or testimony were received.

POLYGRAPH EXAMINERS

BY: 

GEOFFREY L. BRAZIER, ATTORNEY
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, April 17, 1989.

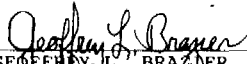
STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF REALTY REGULATION

In the matter of the amendment) NOTICE OF AMENDMENT OF
of a rule pertaining to time-) 8.58.606 LICENSURE--COURSE
share licensure) OF EDUCATION

TO: All Interested Persons:

1. On January 26, 1989, the Board of Realty Regulation published a notice of proposed amendment of the above-stated rule at page 179, 1989 Montana Administrative Register, issue number 2.
2. The Board amended the rule exactly as proposed.
3. No comments or testimony were received.

BOARD OF REALTY REGULATION
JOHN DUDIS, CHAIRMAN

BY: 

GEOFFREY L. BRAZDER, ATTORNEY
DEPARTMENT OF COMMERCE

Certified to the Secretary of State April 17, 1989.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BUILDING CODES BUREAU

In the matter of the amend-) NOTICE OF AMENDMENTS, REPEAL,
ments and repeal of rules) AND ADOPTION OF NEW RULES
pertaining to incorporation)
by reference of codes,)
standards; fees and adoption)
of new rules)

TO: All Interested Persons:

1. On December 22, 1988, the Building Codes Bureau published a notice of public hearing on the proposed amendment, repeal and adoption of the above-stated rules on page 2611, 1988 Montana Administrative Register, issue number 24.

2. The hearing was held on January 18, 1989, at 9:00 a.m., in the Director's Conference Room of the Department of Natural Resources building, 1520 East Sixth Avenue, Helena, Montana.

3. The Bureau has amended ARM 8.70.102, 8.70.103, 8.70.105, 8.70.108, 8.70.203, 8.70.302, 8.70.402, 8.70.502, 8.70.566, 8.70.567, 8.70.568, 8.70.569, 8.70.601 and 8.70.604; repealed ARM 8.70.106 and adopted new rule II. (8.70.506) exactly as proposed.

4. The Bureau has amended ARM 8.70.101 as proposed but with two revisions. The Bureau's proposal to delete UBC Appendix Chapter 12 from the list of required appendix chapters and add it to the list of optional appendix chapters was dropped due to lack of support and due to opposition from several groups. (As a result, the amendments will be underlined and interlined as they are done in an original notice.) An additional clarifying statement regarding plan review fees was proposed by the Bureau at the public hearing. No comment was received on addition of this clarifying statement. The clarifying statement added is shown below in capitalized letters and underlined.

"8.70.101 INCORPORATION BY REFERENCE OF UNIFORM BUILDING CODE (1) The building codes bureau of the department of commerce adopts and incorporates by reference herein the Uniform Building Code, 1988 Edition, together with the Appendix Chapter 7 (Part I, Covered Mall Buildings) (Part II, Aviation Control Towers), Appendix Chapter 12 (requirements for Group R, Division 3 Occupancies) as amended by 8.70.108, Appendix 23 (Division I - Alternate Snow Load Design), Appendix Chapter 32 (Re-Roofing), Appendix Chapter 49 (Patio Covers), Appendix Chapter 53 (Energy Conservation in New Building Construction), as amended by 8.70.104, and Appendix Chapter 55 (Membrane Structures), with the following amendments thereto:

(a) through (c) will remain the same.

(d) Subsections (b) and (c) of section 304 of the Uniform Building Code, 1988 Edition, are amended to read as follows:

Sec. 304.(b) will remain the same.

Sec. 304.(c) Plan Review Fees: When a plan or other data are required to be submitted by subsection (b) of section 302, a plan review fee shall be paid. Said plan review fee shall be 25 percent of the building permit fee as set forth in Table No. 3-A. WHEN ONLY PLAN REVIEW SERVICES ARE PROVIDED, THE PLAN REVIEW FEE SHALL BE 65% OF THE BUILDING PERMIT FEE AS SET FORTH IN TABLE NO. 3-A.

(e) through (8) will remain the same.

(9) Appendix Chapter 1 (Division I - Life Safety Requirements for Existing Buildings other than High-rise (Buildings), Appendix Chapter 1 (Division II - Life Safety Requirements for Existing High-rise Buildings), Appendix Chapter 11 (Agricultural Buildings), ~~Appendix Chapter 12 (Requirements for Group R, Division 3 Occupancies) as amended by 8-70-108~~, Appendix Chapter 23 (Division II - Earthquake Instrumentation), Appendix Chapter 35 (Sound Transmission Control), Appendix Chapter 39 (Basement Pipe Inlets), Appendix Chapter 57 (Regulations Governing Fallout Shelters), Appendix Chapter 70 (Excavation and Grading) are adopted for use by local governments specifically adopting them. However, the department will not be enforcing them."

Auth: Sec. 50-60-104, 50-60-203, MCA; IMP, Sec. 50-60-103, 50-60-104, 50-60-108, 50-60-109, 50-60-203, MCA

5. The Bureau has thoroughly considered all oral and written comments received. Those comments and the Bureau's responses are as follows:

COMMENTS ON PROPOSED AMENDMENTS TO 8.70.402: Several commentors stated opinions that NM (non-metallic sheathed) cable is not as safe as EMT (electrical metallic tubing) for the following reasons:

- (1) they felt NM cable was more subject to physical damage;
- (2) they felt NM cable was more easily damaged by fire;
- (3) they felt fire involving NM cable would travel further than a fire involving EMT;
- (4) they felt NM cable gives off dense, toxic smoke when burned;
- (5) they felt NM cable installations were easier to install and/or modify illegally by unlicensed persons;
- (6) they felt NM cable did not lend itself easily to changes to accommodate increased demands; and
- (7) they felt neither NM cable nor ENMT (electrical nonmetallic tubing) should be allowed in commercial structures.

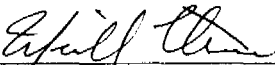
RESPONSE: The Bureau felt that use of NM cable within the guidelines defined by the National Electrical Code (NEC) is safe. The NEC is authored by the National Fire Protection Association and is a national code whose purpose is to protect life and property by effecting safe wiring. The NEC takes into account occupancy of buildings, explosion potential, physical protection requirements and other factors when

determining allowable methods and materials for wiring. In certain cases, when conditions warrant, the NEC does require use of conduit. In such cases, conduit would also be required in Montana. However, where the NEDC allows use of NM cable, the Bureau feels use of NM cable should be allowed in Montana. To routinely require that commercial and public building wiring in Montana exceed the national code is unjustifiable and unnecessarily adds cost to building construction.

6. No other comments or testimony were received.

BUILDING CODES BUREAU
JAMES BROWN, BUREAU CHIEF

BY:


MICHAEL L. LETSON, DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State April 17, 1989.

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

In the matter of the adoption)
of new rules I through XV) NOTICE OF ADOPTION
setting licensure standards) OF
for medical assistance) NEW RULES
facilities) (Medical Assistance Facilities)

To: All Interested Persons

1. On November 10, 1988, at page 2349 of the 1988 Montana Administrative Register, issue number 21, the department published notice of the proposed adoption of new rules setting licensure standards for medical assistance facilities.

2. The department has adopted the new rules with the following changes (new material is capitalized and underlined; material to be stricken is interlined):

RULE I (to be codified as 16.32.397) MEDICAL ASSISTANCE FACILITIES--DEFINITIONS Same as proposed.

RULE II (to be codified as 16.32.398) MEDICAL ASSISTANCE FACILITIES--ORGANIZATIONAL STRUCTURE; GOVERNING BODY A medical assistance facility must have a governing body that is legally responsible for the conduct of the facility and that:

(1) Ensures that the medical staff of the facility:

~~(a) are-licensed,-certified,-or--registered-in-accordance with-Montana-law-and-rules;~~

~~(b)(A)~~ Same as proposed.

~~(c)(B)~~ have bylaws and written policies that are approved by the governing body and meeting MEET the requirements of (3) below and Rule III;

~~(d)(C)~~ Same as proposed.

~~(e)(D)~~ Same as proposed.

(2) Same as proposed.

(3) In accordance with a written policy, ensures that:

(a) Every patient is EITHER under the care of either a physician or UNDER THE CARE OF a nurse practitioner or physician's assistant supervised by a physician;

(b) Same as proposed.

(c) A physician, nurse practitioner, or physician's assistant is on duty or on call and PHYSICALLY available AT THE FACILITY within one hour at all times, UNLESS THE PROCEDURE DESCRIBED IN (D) IS ADOPTED AND IMPLEMENTED;

(D) IF THE FACILITY CANNOT ENSURE THAT A PRACTITIONER IS AVAILABLE WITHIN ONE HOUR AFTER A PATIENT FIRST CONTACTS THE FACILITY, WITHIN THAT HOUR, THE DIRECTOR OF NURSING OR ALTERNATE;

(I) EVALUATES THE CONDITION OF THE PATIENT;

(II) DETERMINES WHETHER A PRACTITIONER CAN REACH THE FACILITY BEFORE THE HOUR IS UP; AND

(III) IF THE PRACTITIONER WILL NOT BE AVAILABLE, ARRANGES FOR THE TRANSPORT OF THE PATIENT TO ANOTHER FACILITY CAPABLE OF

PROVIDING THE APPROPRIATE LEVEL OF CARE; and

(d)(E) Same as proposed.

(4)-(5) Same as proposed.

(6) ENSURES THAT THE MEDICAL AND NURSING STAFF OF THE FACILITY ARE LICENSED, CERTIFIED, OR REGISTERED IN ACCORDANCE WITH MONTANA LAW AND RULES AND THAT EACH SUCH STAFF MEMBER PROVIDES HEALTH SERVICES WITHIN THE SCOPE OF HIS OR HER LICENSE, CERTIFICATION, OR REGISTRATION.

RULE III (to be codified 16.32.399) MEDICAL ASSISTANCE FACILITIES--MEDICAL STAFF (1) The facility must have a medical staff that includes at least one physician, and may also include one or more physician's assistants and/or nurse practitioners, and which does the following:

(a)-(b) Same as proposed.

(2) A physician on staff must:

(a)-(c) Same as proposed.

(d) Provide medical HEALTH CARE services to the patients in the facility, WHENEVER NEEDED AND REQUESTED;

(e) Same as proposed.

(f) At intervals no more than 30 days apart, be physically present in the facility for a sufficient period of time to provide the medical direction, medical care services, staff consultation and supervision required by this rule, and when not present, either be available through direct telecommunication for consultation, assistance with medical emergencies, or patient referral, or ensure that another physician is available for the purpose; HOWEVER, THE PHYSICAL SITE VISIT FOR A GIVEN 30-DAY PERIOD IS NOT REQUIRED IF, DURING THAT PERIOD, NO PATIENTS HAVE BEEN TREATED BY THE FACILITY.

(3)-(4) Same as proposed.

(5) At all times, either a physician, nurse practitioner, or physician assistant must be on duty or on call and available physically to the facility within 20--minutes ONE HOUR, UNLESS THE FACILITY HAS IMPLEMENTED THE PROCEDURE REQUIRED BY RULE II(3)(D) TO DEAL WITH OCCASIONS IN WHICH A PRACTITIONER IS UNAVAILABLE.

RULE IV (to be codified 16.32.400) MEDICAL ASSISTANCE FACILITIES--NURSING SERVICES A medical assistance facility must have a nursing service that provides 24-hour nursing services whenever a patient is in the facility and that meets the following standards:

(1) Same as proposed.

(2) A registered nurse must be on duty at least 8 hours per day, and THE DIRECTOR OF NURSING OR ANOTHER REGISTERED NURSE DESIGNATED AS THE DIRECTOR'S ALTERNATE must be on call and available within 20 minutes at all times.

(3)-(6) Same as proposed.

(7) Each order for drugs and biological BIOLOGICALS must be CONSISTENT WITH FEDERAL AND STATE LAW AND BE in writing and signed by the physician PRACTITIONER WHO IS BOTH responsible for the care of the patient;--consistent-with-federal-and-state law AND LEGALLY AUTHORIZED TO PRESCRIBE.

(8)-(9) Same as proposed.

RULE V (to be codified 16.32.401) MEDICAL ASSISTANCE
FACILITIES--PHARMACEUTICAL SERVICES Same as proposed.

RULE VI (to be codified 16.32.402) MEDICAL ASSISTANCE
FACILITIES--RADIOLOGIC SERVICES Same as proposed.

RULE VII (to be codified 16.32.403) MEDICAL ASSISTANCE
FACILITIES--LABORATORY SERVICES Same as proposed.

RULE VIII (to be codified 16.32.404) MEDICAL ASSISTANCE
FACILITIES--FOOD AND DIETETIC SERVICES The medical assistance facility must have dietary services that are directed and staffed by adequate personnel and meet the following standards:

(1) The facility must assign an employee OR CONTRACT WITH A CONSULTANT to direct the food and dietetic service and to be responsible for the daily management of the dietary service who is qualified by experience and training as a food service supervisor.

(2)-(3) Same as proposed.

(4) Nutritional needs must be met in accordance with recognized dietary practices and, at a minimum, the recommended daily dietary allowances established by the Food and Nutrition Board of the National Research Council, National Academy of Sciences, ~~as of 1980~~ 8TH EDITION, 1974.

(5) Same as proposed.

(6) The department hereby adopts and incorporates by reference the recommended daily dietary allowances published in 1980 1974 by the Food and Nutrition Board of the National Research Council, National Academy of Sciences, 8TH EDITION, which set the minimum amounts of all nutrients required daily by most normal persons living in the U.S. under usual environmental stresses in order to maintain health, depending upon the age and sex of the individual. Copies of the recommended daily dietary allowances may be obtained from the department's licensing and certification bureau.

RULE IX (to be codified 16.32.405) MEDICAL ASSISTANCE
FACILITIES--OUTPATIENT SERVICES Same as proposed.

RULE X (to be codified 16.32.406) MEDICAL ASSISTANCE
FACILITIES--EMERGENCY SERVICES Same as proposed.

RULE XI (to be codified 16.32.407) MEDICAL ASSISTANCE
FACILITIES--THIRD-PARTY SERVICES (1) Same as proposed.

(2) If any of the agreements REFERRED TO IN (1) are not in writing, there must be evidence that patients referred to another provider by the facility are being accepted and treated.

(3) IF THE FACILITY IS UNABLE TO ENSURE THAT A PRACTITIONER IS PHYSICALLY AVAILABLE TO THE FACILITY WITHIN ONE HOUR AFTER S/HE IS CONTACTED, THE FACILITY MUST ENTER INTO A WRITTEN AGREEMENT WITH A LICENSED AMBULANCE SERVICE COMMITTING THE

SERVICE TO BE AVAILABLE TO COMMENCE TRANSPORT OF A PATIENT, WITHIN ONE HOUR AFTER THAT PATIENT FIRST CONTACTS THE FACILITY, TO A FACILITY PROVIDING THE LEVEL OF CARE NEEDED BY THE PATIENT.

RULE XII (to be codified 16.32.408) MEDICAL ASSISTANCE FACILITIES--MEDICAL RECORDS Same as proposed.

RULE XIII (to be codified 16.32.409) MEDICAL ASSISTANCE FACILITIES--QUALITY ASSURANCE Same as proposed.

RULE XIV (to be codified 16.32.410) MEDICAL ASSISTANCE FACILITIES--UTILIZATION REVIEW A medical assistance facility must:

(1) Same as proposed.
(2) Contract with the state peer review organization (PRO) OR ITS DEPARTMENT-APPROVED EQUIVALENT to do the following:

(a)-(b) Same as proposed.
(c) Periodically sample facility cases and review them to determine the medical necessity of the professional services furnished, including drugs and biological BIOLOGICALS.

RULE XV (to be codified 16.32.411) MEDICAL ASSISTANCE FACILITIES--INFECTION CONTROL Same as proposed.

3. Comments received by the department and the department's responses follow.

a. April Milroy, Garfield County Commissioner and Garfield County Health Center Board member, and Senator Cecil Weeding requested that Rules II(3)(c) and III(5) be amended to require a practitioner to be available to the facility within one hour, not at all times, but only whenever a patient was in the facility and suggested the facility be required to have a policy in place for transfer and/or referral of the patient when a practitioner is not available within an hour.

In order to protect the public who rely on such a facility, the department made the change conditioned upon the adoption by the facility of a procedure ensuring that anyone coming to the facility would be, within an hour, evaluated by a nurse and transported to another appropriate facility if the practitioner was not available within that same hour, and requiring, in Rule XI, that the facility have a contract with an ambulance service to provide the needed transportation.

b. Jim Tavary, administrator of Powder River Manor in Broadus, asked that Rule III(2)(d) be amended to clarify that a physician has to give medical service only when it is needed and requested.

The department added the clarifying language, since it did not intend to require the provision of unneeded services.

c. Ms. Milroy asked that Rule III(2)(f) be amended to allow the staff physician to avoid making the required periodic on-site visit if documented "extraordinary circumstances" ex-

isted, e.g. no patients were in residence since the last physician visit.

The department declined to allow an exception for "extraordinary circumstances" due to the potential for argument over the meaning of that phrase, but did allow an exception from the site visit requirement if no patient had been treated during that period.

d. Senator Weeding asked whether the department might be outside the scope of its authority in requiring a physician's assistant employed by a facility to keep on hand a copy of his or her utilization plan approved by the Board of Medical Examiners (BME) [Rule III(4)], since having such a plan is a BME requirement and within the BME's jurisdiction.

The department kept the requirement since it is in no way infringing upon BME jurisdiction, since it is neither requiring there be a utilization plan nor specifying its contents, but instead is fulfilling its own responsibility to ensure that facility staff are providing appropriate services, e.g. services that are not outside of the scope of their authority. In order to make clear that the facility is responsible for ensuring that its staff members do not act outside of the scope of their authority, Rule II was amended to reflect that fact.

e. Senator Weeding pointed out that Rule III(5) requires a practitioner to be available to the facility within 20 minutes, while the statement of intent attached to Senate Bill 385, the 1987 legislation creating medical assistance facilities, a minimum response time of one hour may be required. In the same vein, David Watson of Billings felt that the 20-minute requirement was too difficult to meet in some parts of the state, especially in areas where physicians and other health professionals were already in short supply.

Senator Weeding was correct and the required response time is now one hour.

f. Senator Weeding wondered if there was any significance in the fact that Rule III refers to physicians providing "medical services", while physician assistants and nurse practitioners were to provide "health care services". Jim Tavery suggested that the phrase read "medical services" in both instances.

Other than the fact that the word "medical" is commonly used in connection with physician services, there is no particular reason for the different wording or intended effect. In order to avoid raising such questions in the future, the language in both cases will be "health care services", "health care" rather than "medical" to avoid questions about whether the department was somehow authorizing PAS and nurse practitioners to practice medicine-- which, of course, it is not.

g. Jim Tavery requested that the requirement in Rule IV(2) that a registered nurse must be available to the facility within 20 minutes be loosened to a one-hour response time as was the practitioner response time.

The department declined to make the change, since, if the facility is to be allowed avoid having a practitioner on 1-hour call at all times, at a minimum a nurse must be quickly avail-

able to evaluate anyone who might show up at the facility, attempt to contact the practitioner, and arrange for transportation to another facility, if needed. In order to ensure proper evaluation of the medical condition of such a patient, Rule IV(2) was also amended to require that the director of nursing or the director's registered nurse alternate be the person on call.

h. Ms. Milroy and Mr. Tavary asked that a "practitioner" rather than a "physician" be named in Rule IV(7) as the type of individual who could order drugs and biologicals, so long as the order was "consistent with federal and state law", in anticipation of the possibility that the 1989 Legislature might allow health professionals other than physicians to make such orders.

The department agreed to make the change, adding the qualifying and clarifying language that the practitioner making orders had to be "legally authorized to prescribe".

i. Ms. Milroy was concerned that the Rule VIII requirement that a qualified food service supervisor be employed would be difficult or impossible for some small communities to meet, and suggested a contract with a food service consultant might be sufficient.

The department amended the rule to allow contracting with, rather than employing, a food service consultant.

j. Ms. Milroy requested that the nutritional standards for facility meals not be made more stringent than those for hospitals or nursing homes.

The department agreed that the standards should not be more stringent and changed the incorporation of recommended daily dietary allowances from the 1980 to the 1974 edition published by the National Research Council, the edition referred to in the licensure standards for intermediate care nursing homes.

k. Ms. Milroy and Mr. Tavary also requested that, in Rule XIV, a facility be allowed to contract with any state-approved peer review organization rather than solely with a single state peer review organization.

The department agreed and allowed contracting with any peer view organization equivalent to the state PRO.

l. Senator Weeding was concerned about the inclusion in Rule IV(6) of the phrase "including applicable licensing requirements" because of the difference of opinion between the nurses and the physician assistants concerning whether PA's can direct a nurse to administer a drug.

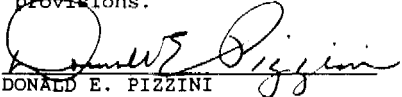
The provision was retained since it is obvious that such activities would have to be in accordance with licensing requirements, and that whatever confusion there may be about what those licensure requirements cannot be determined by the department but may have to be settled by the legislature or the courts.

m. Mr. Tavary requested the department to specifically allow a skilled nursing facility either to utilize some of its licensed SNF beds as swing beds for a medical assistance facility when needed, or to set aside, for a MAF, a distinct portion

of a building housing a skilled nursing facility (this latter instance would not involve using any of the licensed SNF beds).

As far as allowing a MAF and a SNF to be physically tied together, no change is needed in the rules, since the licensure laws already allow such arrangements, e.g. skilled nursing and personal care facilities under the same roof. However, allowing a licensed SNF bed to be used as a swing bed is a complicated issue, especially in regard to impact on staff and patient care, and is still under consideration by the department. Due to the urgent need for these rules to be effective, the department is filing them without allowing swing beds but will continue to evaluate the advisability of allowing them in the future.

n. Editing changes were also made on the department's initiative to clarify existing provisions.


DONALD E. PIZZINI
Director

Certified to the Secretary of State April 17, 1989.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF THE AMENDMENT
amendments of Rules 23.3.502,	)	OF RULES 23.3.502, 23.3.503,
23.3.503, 23.3.505, 23.3.506,	)	23.3.505, 23.3.506, 23.3.507,
23.3.507, 23.3.508, 23.3.509,	)	23.3.508, 23.3.509, 23.3.511,
23.3.511, 23.3.512, 23.3.514,	)	23.3.512, 23.3.514, 23.3.515,
23.3.515, and 23.3.519, repeal	)	AND 23.3.519, REPEAL OF RULE
of Rule 23.3.516, and adoption	)	23.3.516 AND ADOPTION OF A
of a new rule.	)	NEW RULE 23.3.516A, LICENSING
	)	OF COMMERCIAL MOTOR VEHICLE
	)	ENDORSEMENTS

TO: All Interested Persons.

1. On December 22, 1988, the department of justice published notice of a proposed amendment of rules, repeal of a rule, and adoption of a new rule concerning the issuance of commercial motor vehicle endorsements at page 2680 of the 1988 Montana Administrative Register, issue number 24.

2. The agency has amended rules 23.3.502, 23.3.503, 23.3.505, 23.3.507, 23.3.508, 23.3.509, 23.3.511, 23.3.512, 23.3.514, 23.3.515, and 23.3.519, repealed rule 23.3.516, and adopted the new Rule 1 as proposed. The agency has adopted the amended version of Rule 23.3.506 with the following changes:

23.3.506 PHYSICAL QUALIFICATIONS FOR TYPE 2 ENDORSEMENT

(1) to (f) remain the same.

(g) has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle unless he/she has not had any episode of loss of consciousness or control within the preceding 5 years as certified by his/her physician and who does not require medication for the control of the condition.

(h) to (l) remain the same.

3. No comments or testimony were received.

By:

Judy Browning

JUDY BROWNING

Chief Assistant Attorney General

Certified to the Secretary of State April 17, 1989.

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment	) NOTICE OF THE AMENDMENT
of rules 24.9.202 Definitions,	) OF RULES 24.9.202
24.9.222 and 24.9.224	) DEFINITIONS, 24.9.222
Investigation, 24.9.225	) AND 24.9.224 INVESTIGATION,
Procedure on finding of lack	) 24.9.225 PROCEDURE ON
of cause, 24.9.230 Certifi-	) FINDING OF LACK OF CAUSE,
cation, 24.9.263 and 24.9.264	) 24.9.230 CERTIFICATION,
Right to sue letters; the	) 24.9.263 AND 24.9.264
repeal of rule 24.9.262	) RIGHT TO SUE LETTERS;
Issuance of right to sue	) THE REPEAL OF RULE
letter; and the adoption of	) 24.9.262 ISSUANCE OF
24.9.262A (Rule I), Issuance	) RIGHT TO SUE LETTER;
of right to sue letter.	) AND THE ADOPTION OF
	) 24.9.262A (RULE I),
	) ISSUANCE OF RIGHT TO SUE
	) LETTER

TO: All Interested Persons

1. On December 8, 1988 at page 2539, of the 1988 Montana Administrative Register, Issue no. 23 the human rights commission published notice of proposed amendments to rules 24.9.202, 24.9.222, 24.9.224, 24.9.225, 24.9.230, 24.9.263, and 24.9.264. These rules relate to removal of cases to district court from the administrative process. The commission proposed to repeal rule 24.9.262 which is found on page 24-400 of the Administrative Rules of Montana and to adopt 24.9.262A (RULE I). These rules deal with the issuance of a right to sue letter.

2. The commission received no comments in opposition to the proposed repeal of rule 24.9.262.

3. The commission is authorized to repeal this rule by sections 49-2-204 and 49-3-106, MCA.

4. The repealed rule implemented sections 49-2-509 and 49-3-312, MCA.

5. The commission has repealed the rule as proposed.

6. The commission received comments from John MacMaster, staff attorney for the Legislative Council, concerning the proposed rule amendments. He suggested that rule 24.9.222(2) be reworded to make it clear that the commission staff will make reasonable efforts to locate a charging party prior to the administrator dismissing a case. The commission agreed and amended the rule as proposed with the following changes:

24.9.222 INVESTIGATION; FAILURE OF CHARGING PARTY OR AGGRIEVED PERSON TO COOPERATE OR KEEP THE COMMISSION ADVISED OF CHANGES IN ADDRESS (1) same as proposed

(2) Whenever any charging party or aggrieved person fails to advise the commission of a change of address ~~so that~~ and the commission staff is unable to locate the charging party or

aggrieved person through reasonable efforts including a certified letter to the last address of record, the division administrator may dismiss the case and issue a right to sue letter or may dismiss so much of the complaint as relates to that charging party or aggrieved person.

7. MacMaster suggested changing the heading of rule 24.9.225 to reflect the changes in the body of the rule. The commission agreed. The commission also voted to subdivide sub-section 1 into two parts and to make minor wording changes in the new sub-sections 2 and 3 for clarity. The commission amended the rule as proposed with the following changes:

24.9.225 PROCEDURE ON FINDING OF LACK OF REASONABLE NO CAUSE (1) If a finding of lack of reasonable cause is made by the division in regard to any complaint, notice of the finding shall be served on all parties. The notice shall include a statement of the reasons for the finding. The notice shall be accompanied either by a dismissal order and right to sue letter in accordance with the provisions of ARM 24.9.263, or by a statement explaining the right of the charging party or aggrieved person to request a hearing before the commission.

(2) The determination ~~whether~~ to dismiss the complaint and issue a right to sue letter or to allow the charging party or aggrieved person an opportunity for hearing before the commission shall be within the sound discretion of the administrator. If the administrator elects to allow the charging party or aggrieved person an opportunity for hearing before the commission, the notice shall specify the time in which the charging party or aggrieved person must file a written request for hearing which in no case shall be less than 14 days from the date the notice of the finding was mailed to the parties.

~~(2)~~ (3) If a charging party or aggrieved person in a case in which the division has found lack of reasonable cause makes a timely written request for hearing in response to the statement accompanying the lack of reasonable cause finding the administrator shall certify the case for hearing in accordance with ARM 24.9.230.

~~(3)~~ (4) remains the same but will be renumbered

8. Rules 24.9.202, 24.9.224, 24.9.230, 24.9.263 and 24.9.264 were amended as proposed.

9. The commission is authorized to amend rules by sections 49-2-204 and 49-3-106, MCA.

10. The amended rules implement sections 49-2-101, 49-2-201, 49-2-504, 49-2-505, 49-2-506, 49-2-509, 49-3-101, 49-3-308 and 49-3-312, MCA.

11. MacMaster suggested deleting sub-section 1 of proposed 24.9.262A (Rule 1) to avoid unnecessarily repeating statutory language. He also suggested that 24.9.262A(5) (Rule 1) should be reworded by inserting "refusal to issue" in place of the words "issuance of." The commission voted to

retain sub-section 1 to make the rule easier to understand by itself and voted to make the suggested change in subsection 5. The commission adopted 24.9.262A (Rule I) as proposed with the following changes:

24.9.262A (RULE I) ISSUANCE OF RIGHT TO SUE LETTER WHEN REQUESTED BY A PARTY (1) and (2) same as proposed

(3) A party who requests issuance of a right to sue letter and is dissatisfied with a decision of the administrator to refuse to issue a right to sue letter may seek commission review of the decision by filing written objections within 14 days after the decision is served. The date of service is the date the administrator's decision is mailed.

(4) same as proposed

(5) If the commission sustains the objections to the refusal to issue issuance-of a right to sue letter, it will direct the administrator to issue a right to sue letter.

12. The commission is authorized to adopt this rule by sections 49-2-204 and 49-3-106, MCA.

13. Rule 24.9.262A (Rule I) implements sections 49-2-509 and 49-3-312, MCA.

MONTANA HUMAN RIGHTS COMMISSION
JOHN B. KUHR, CHAIR

By: _____

Anne L. MacIntyre
ANNE L. MACINTYRE
ADMINISTRATOR
HUMAN RIGHTS DIVISION

Certified to the Secretary of State April 17, 1989.

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.
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, 1988. This table includes those rules adopted during the period January 1, 1989 through March 31, 1989 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, 1988, 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 1988 and 1989 Montana Administrative Registers.

ADMINISTRATION, Department of, Title 2

I	Exempt Compensatory Time - Workweek, p. 2609
I-VII	Exchange and Loan of Employees, p. 1935, 2370
2.21.1812	Exempt Compensatory Time, p. 1933, 2372
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