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ISSUE NO. 7
APRIL 14, 1994
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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 7

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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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BEFORE THE BOARD OF ARCHITECTS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of a rule pertaining) OF 8.6.405 RECIPROCITY
to reciprocity)

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On May 14, 1994, the Board of Architects proposes to amend the above-stated rule.
2. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.6.405 RECIPROCITY (1) and (1)(a) will remain the same.

(2) All applicants for licensure by reciprocity who were licensed in their respective jurisdiction prior to ~~1964~~ January 1, 1966, shall submit evidence of having successfully completed a NCARB approved seminar on seismic forces or have taken and passed Division B, Structural Lateral Forces of the Architectural Registration Examination."

Auth: Sec. 37-1-131, 37-65-204, MCA; IMP, Sec. 37-65-305, MCA

REASON: The Board is proposing to amend the year 1964 to January 1, 1966. The year 1964 is, in fact, incorrect. The National Council of Architectural Boards actually began including seismic force test questions in their national examinations beginning January 1, 1966.

3. Interested persons may submit their data, views or arguments concerning the proposed amendment, in writing, to the Board of Architects, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., May 12, 1994.

4. If a person who is directly affected by the proposed amendment wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Architects, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., May 12, 1994.

5. If the Board receives requests for a public hearing on the proposed amendment from either 10 percent 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.

BOARD OF ARCHITECTS
KEITH RUPERT, PRESIDENT

BY: *Annie M. Bartos*
ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, April 4, 1994.

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

In the matter of the proposed amendment of rules pertaining to fees and examinations and the adoption of a new rule pertaining to licensees from other states)	NOTICE OF PROPOSED AMENDMENT OF 8.20.402 FEES AND 8.20.403 EXAMINATION - PASS/FAIL POINT AND THE ADOPTION OF OF NEW RULE I LICENSEES FROM OTHER STATES
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NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On May 14, 1994, the Board of Hearing Aid Dispensers proposes to amend and adopt the above-stated rules.
2. The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

"8.20.402 FEES (1) and (1)(a) will remain the same.

(b) Application fee for licensees from other states \$75.00

(b) through (g) will remain the same but will be renumbered (c) through (h)."

Auth: Sec. 37-1-134, 37-16-202, MCA; IMP, Sec. 37-1-134, 37-16-202, 37-16-402, 37-16-405, 37-16-407, MCA

REASON: The proposed amendment will add a fee for applications from persons licensed in other states, in keeping with proposed new rule I below establishing a procedure for licensure of these candidates. The fee will be commensurate with costs of processing and evaluating these applications.

"8.20.403 EXAMINATION - PASS/FAIL POINT (1) will remain the same.

(2) The passing score on the written examination shall be 70%. The written examination shall include a Montana jurisprudence section.

(3) will remain the same.

(4) All applicants, original or licensed in other states, shall be required to pass a jurisprudence examination on Montana laws and rules, administered by the board."

Auth: Sec. 37-16-202, MCA; IMP, Sec. 37-16-403, 37-16-406, MCA

REASON: The proposed amendment will establish that the jurisprudence examination on Montana laws and rules is required of all candidates, whether for original licensure, or as a licensee from another state, to ensure that all candidates are knowledgeable in Montana laws affecting them.

3. The proposed new rule will read as follows:

"I. LICENSEES FROM OTHER STATES (1) Upon payment of the proper license fee, the board may issue a license to a person who, at the time of application, holds a current active license in good standing, as a hearing aid dispenser, issued by the proper authority of any state. When a person applies for licensure under this provision, the board shall obtain information from the other state(s), and determine whether the requirements for obtaining such other license(s) are substantially equivalent to or stricter than the requirements of Montana law.

(2) Verification of applicant's current license in good standing shall be requested by the applicant to be sent directly from the other state. Applicant shall also submit to the board information concerning the nature of the prior examination, with their completed application forms.

(3) "License" shall mean only those granted by other states under statutory provisions.

(4) A completed application form shall be required from the applicant to initiate consideration for licensing.

(5) All applicants for licensure under this rule shall be required to pass a jurisprudence examination, on Montana laws and rules, administered by the board."

Auth: Sec. 37-16-202, MCA; IMP, Sec. 37-16-406, MCA

REASON: The proposed new rule will establish a procedure for evaluation and admission of licensees from other states, consistent with the existing statute.

4. Interested persons may submit their data, views or arguments concerning the proposed amendments and adoption, in writing, to the Board of Hearing Aid Dispensers, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., May 12, 1994.

5. If a person who is directly affected by the proposed amendments and adoptions wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Hearing Aid Dispensers, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., May 12, 1994.


6. If the Board receives requests for a public hearing on the proposed amendments and adoption from either 10 percent 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 11 based on the 110 licensees in Montana.

BOARD OF HEARING AID DISPENSERS
WALT HOPKINS, CHAIRMAN

BY: 

ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, April 4, 1994.

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

In the matter of the proposed amendment of rules pertaining to definitions, qualifications, applications, fees, utilization, plans, protocol, temporary approval, informed consent, termination and transfer, and the adoption of a new rule pertaining to unprofessional conduct)	NOTICE OF PROPOSED AMENDMENT AND ADOPTION OF RULES PERTAINING TO PHYSICIAN-ASSISTANTS
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NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On May 14, 1994, the Board of Medical Examiners proposes to amend and adopt rules pertaining to physician-assistants.

2. The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

"8.28.1501. DEFINITIONS As used in this subchapter the following definitions apply:

(1) and (2) will remain the same.

(3) "Certificate License" means that authorization granted by the board of medical examiners to a physician assistant-certified to practice in the state of Montana.

(4) through (7) will remain the same."

Auth: Sec. 37-20-201, 37-20-203, MCA; IMP, Sec. 37-20-203.

MCA

REASON: Section 37-20-203, MCA, enacted in 1993, gives the Board of Medical examiners authority to issue physician assistant-certified licenses. The proposed change is necessary to reflect and comply with the change in statutory terminology.

"8.28.1503. QUALIFICATIONS FOR PHYSICIAN ASSISTANT-CERTIFIED (1) and (1)(a) will remain the same.

(b) a copy of a diploma issued by a physician assistant program approved by the American medical association committee on allied health education and accreditation, or its successor.

(c) through (2)(b) will remain the same.

(c) a statement that the applicant has not had a physician assistant license refused, suspended, or revoked by any other state, territory, district, or county for reasons which related to his the applicant's ability or morals.

(3) will remain the same."

Auth: Sec. 37-20-201, MCA; IMP, Sec. 37-20-101, 37-20-402, MCA

REASON: The proposed amendments are necessary to provide for the eventuality of a change in the referenced accreditation committee, and also to make the language gender neutral.

"8.28.1504 APPLICATION (1) An application for ~~certification licensure~~ or for approval of a physician assistant-certified utilization plan shall be submitted on forms available from the department and received in the board office not later than 15 days prior to the next scheduled board meeting.

(2) and (3) will remain the same."

Auth: Sec. 37-20-201, MCA; IMP, Sec. 37-20-101, 37-20-203, 37-20-301, 37-20-402, MCA

REASON: Section 37-20-203, MCA, enacted in 1993, gives the Board of Medical Examiners authority to issue physician assistant-certified licenses. The proposed change is necessary to reflect and comply with the change in statutory terminology.

"8.38.1505 FEES (1) The fee for an initial ~~certificate license~~ including the application for approval of an initial utilization plan is \$150-00.

(2) The fee for annual renewal of a ~~certificate license~~ is \$50-00. If said renewal is late, there is an additional \$50 fee.

(3) through (6) will remain the same.

(7) The date for annual ~~certificate license~~ renewal and payment of fees therefor is set by the board. In the first year of implementation of this rule, ~~certificate license~~ holders who have renewed within six months of the renewal date will not be required to pay an additional renewal fee."

Auth: Sec. 37-1-134, 37-20-201, MCA; IMP, Sec. 37-20-203, 37-20-302, MCA

REASON: Section 37-20-203, MCA, enacted in 1993, gives the Board of Medical Examiners authority to issue physician assistant-certified licenses. The proposed change is necessary to reflect and comply with the change in statutory terminology. The additional fee for late renewal is necessary to cover additional costs of processing a late renewal application.

"8.28.1506 UTILIZATION PLAN (1) will remain the same.

~~(a) the provision of liability insurance;~~

(b) will remain the same but will be renumbered (a).

(i) will remain the same.

(ii) the location of the supervising physician's office or hospital assignment in relationship to the locations where the physician assistant-certified proposes to practice,

(c) through (e) will remain the same but will be renumbered (b) through (d).

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

Auth: Sec. 37-20-201, MCA; IMP, Sec. 37-20-301, MCA

REASON: The liability insurance requirement in former section 37-20-102, MCA, has been repealed by the 1993 Legislature. Thus, the proposed change in this rule is necessary to maintain consistency with the enabling legislation.

"8.28.1507. PROTOCOL (1) The filing of the utilization plan with a hospital or other medical facility where the physician assistant-certified will regularly practice will constitute compliance with ~~this rule 37-20-403, MCA.~~"

Auth: Sec. 37-20-201, MCA; IMP, Sec. 37-20-403, MCA

REASON: The proposed amendment is necessary to clearly expresses the relationship between the statute and the rule, as it is the statute which governs the practice of a physician assistant.

"8.28.1508. TEMPORARY APPROVAL (1) Temporary approval of a license and/or a utilization plan may be granted by a member of the board when:

(a) an applicant has met the requirements of approval except having never taken the examination of the national commissions on certification of physician's assistants, or its successors, and is scheduled for the next examination; or

(b) and (2) will remain the same.

(3) Supervision of the A physician's assistant who is practicing under a temporary approval must be in-person, continual and direct. license while awaiting certification.

(a) must be supervised directly; and

(b) may not deliver services in a remote site.

(4) A physician assistant-certified who is practicing under a temporary license and who holds certification may deliver services in a remote site after complying with ARM 8.28.1506(2)(a).

~~+~~ (5) Violation of any provision of these rules during the term of a temporary ~~license~~ approval shall constitute a basis for denial of approval of the license and/or utilization plan.

~~+~~ (6) The physician's assistant and primary supervising physician must be interviewed by one board member for temporary approval."

Auth: Sec. 37-20-201, MCA; IMP, Sec. 37-20-203, 37-20-301, MCA

REASON: Section 37-20-203(2), MCA, enacted in 1993, gives the Board of Medical Examiners authority to issue temporary physician assistant-certified licenses. The proposed rule changes are necessary to place appropriate restrictions on such licenses in order to protect the public.

"8.28.1510. INFORMED CONSENT (1) and (2) will remain the same.

(3) The physician assistant-certified's certificate license issued by the board, or an accurate and representative copy, must be displayed in a conspicuous place in the physician assistant-certified's primary place of practice.

(4) will remain the same."

Auth: Sec. 37-20-201, MCA; IMP, Sec. 37-20-202, 37-20-203, MCA

7-4/14/94

MAR Notice No. 8-28-42

REASON: Section 37-20-203, MCA, enacted in 1993, gives the Board of Medical Examiners authority to issue physician assistant-certified licenses. The proposed change is necessary to reflect and comply with the change in statutory terminology.

"8.28.1518. TERMINATION AND TRANSFER (1) An approved utilization plan is ~~terminated~~ suspended whenever:

(a) a physician assistant-certified discontinues his or her participation in the utilization plan; or

(b) the license of the primary supervising physician is suspended or revoked by action of the board; or

~~(2) (c) An approved utilization plan is suspended whenever the primary supervising physician discontinues his or her participation therein.~~

~~(2) In the case of subsection (1)(b) or (c) above,~~ the physician assistant-certified may apply to the board to substitute another primary supervising physician.

(3) ~~Whenever participation in a utilization plan is terminated by either the primary supervising physician or the physician assistant-certified discontinues participation in a utilization plan,~~ the supervising physician and the physician assistant-certified must each independently provide the board with a written explanation of the reason(s) participation in the utilization plan was terminated."

Auth: Sec. 37-20-201, MCA; IMP, Sec. 37-20-202, MCA

REASON: The suggested amendments are necessary to make clear that a utilization plan is suspended when supervision is discontinued by the primary, as opposed to alternate, supervising physician. Also, the proposed changes are necessary to reflect the use of gender neutral language.

"8.28.1519. TRAINING OF STUDENT PHYSICIAN ASSISTANTS

(1) will remain the same.

(2) A physician assistant student must train under the supervision of a physician who is licensed or physician assistant-certified who is certified licensed in Montana.

(3) will remain the same.

(a) be currently enrolled in a physician assistant training program accredited by the American medical association committee on allied health education and accreditation, or its successor; and

(b) conspicuously wear an identification badge indicating that he or she is a "physician assistant student" whenever engaged in patient care activities."

Auth: Sec. 37-20-202, MCA; IMP, Sec. 37-20-202, MCA

REASON: The proposed amendments are necessary to reflect that the Board may now issue a license to a physician assistant-certified, as opposed to certification. The proposed amendments are also necessary to provide for the eventuality of a change in the referenced accreditation committee, and to make the language gender neutral.

3. The proposed new rule will read as follows:

"I UNPROFESSIONAL CONDUCT The board of medical examiners may take disciplinary action against a physician assistant-certified pursuant to 37-20-401, MCA, for the following unprofessional conduct:

- (1) Fraud, misrepresentation or deception in applying for or in securing a license or utilization plan approval.
- (2) Use of any false, fraudulent, or deceptive statement, whether written or verbal, in connection with the physician assistant-certified's medical practice.
- (3) Malpractice or negligent practice.
- (4) Abusive billing.
- (5) Guilty plea to or conviction of any offense or crime involving moral turpitude, and guilty plea or conviction of any crime involving the practice of medicine. The acceptance of the guilty pleas or conviction by a court of competent jurisdiction, unless pending on appeal, is conclusive evidence of unprofessional conduct.
- (6) Commission of an act of sexual abuse, misconduct or exploitation.
- (7) Administering, dispensing or prescribing any controlled substance, as defined by the federal food and drug administration or successors, otherwise than in the course of legitimate professional practice.
- (8) Habitual or excessive use of any addictive substance, including alcohol, controlled substances, and any other drug or substance. This does not include a licensee who is maintaining an approved therapeutic regimen as described in 37-3-203, MCA.
- (9) Testifying in a legal proceeding on a contingency basis.
- (10) Practicing while subject to a physical or mental condition which renders the licensee unable to safely engage in the practice of medicine.
- (11) Aiding or abetting an unlicensed person in the practice of medicine.
- (12) Allowing another person or organization to use the licensee's license to practice medicine.
- (13) Willfully or negligently violating the confidentiality between physician and patient or physician assistant-certified and patient, except as required by law.
- (14) Failing to transfer medical records to the patient, another physician assistant-certified, or physician when requested to do so pursuant to the Uniform Health Care Information Act.
- (15) Failing to cooperate with an investigation conducted by the board or its representative, or failing to furnish to the board or its representative information legally requested by the board.
- (16) Having been subject to license discipline by another state or jurisdiction based upon acts or conduct similar to acts or conduct that would constitute grounds for action under this rule. A certified copy of the record of the action taken by the other state or jurisdiction is conclusive proof of unprofessional conduct.

(17) Violation or failure to comply with any section in Title 37, chapter 20, MCA, or with any rule in ARM 8.28.1501, et seq.

(18) The promotion of the sale of services, goods, appliances, or drugs in such a manner as to exploit the patient for the financial gain of the licensee or a third party.

(19) Violating any term or probation or condition or limitation imposed on the licensee, or willfully disobeying any rule or order of the board.

(20) Willfully harassing, abusing or intimidating a patient either physically or verbally.

(21) Failing to maintain a record for each patient which accurately reflects the evaluation, diagnosis and treatment of the patient.

(22) Failing to exercise appropriate supervision over persons who provide health care under the supervision of the licensee."

Auth: Sec. 37-20-202, MCA; IMP, Sec. 37-20-409, MCA

REASON: The proposed new rule is necessary to provide a definition of the circumstances under which a physician assistant-certified may be disciplined under section 37-20-409, MCA, enacted by the 1993 Legislature, pursuant to the Board's authority under section 37-20-202, MCA. The proposed rule is necessary to hold physician assistants-certified to the same level of standards for defining unprofessional conduct as are maintained for physicians. This is necessary because the physician assistant acts as an extension of the physician under certain circumstances and needs to be guided by the same rules of conduct.

4. Interested persons may submit their data, views or arguments concerning the proposed amendments and adoption in writing to the Board of Medical Examiners, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., May 12, 1994.

5. If a person who is directly affected by the proposed amendments and adoption wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Medical Examiners, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., May 12, 1994.

6. If the Board receives requests for a public hearing on the proposed amendments and adoptions from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed amendments and adoption, 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

BEFORE THE BOARD OF REAL ESTATE APPRAISERS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed amendment of rules pertaining to definitions, application requirements, course requirements, continuing education and fees)	NOTICE OF PROPOSED AMENDMENT OF 8.57.401 DEFINITIONS, 8.57.404 APPLICATION REQUIREMENTS, 8.57.406 COURSE REQUIREMENTS, 8.57.411 CONTINUING EDUCATION AND 8.57.412 FEES
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NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On May 14, 1994, the Board of Real Estate Appraisers proposes to amend the above-stated rules.

2. The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

8.57.401 DEFINITIONS (1) through (2)(b) will remain the same.

(3) "Appraisal activity" means activity which has been done in conformity with Uniform Standards of Professional Appraisal Practice (USPAP) and consists of:

(a) through (6) will remain the same."

Auth: Sec. 37-54-105, MCA; IMP, Sec. 37-54-105, 37-54-403, MCA

REASON: The proposed amendment will clarify that all appraisal activity used to meet the experience requirement must meet USPAP standards, as some applications are not presently showing the standards to have been met, as the statute requires.

8.57.404 APPLICATION REQUIREMENTS (1) will remain the same.

(2) An applicant must have made a substantial contribution to the appraisal report and arrived at a conclusion of value in any appraisal report claimed as evidence of meeting the experience requirements. To determine if an applicant has made a substantial contribution, the applicant must show:

(a) applicant has signed the report or certification; or

(b) applicant's name is listed in the report or certificate as someone who provided significant professional assistance.

(3) through (4)(c) will remain the same.

(5) An applicant who is unable to provide evidence of appraisal activity supported by written file memoranda or written reports must:

(a) submit an experience log for which the applicant desires credit, which indicates which reports or other items are not available for board review.

(b) submit a written explanation as to why the applicant cannot obtain copies of written reports or file memoranda;

(c) submit a letter from the specific employer/client explaining the reason the information cannot be made available to the applicant or the board;

(d) submit a written affidavit from an individual with direct knowledge (supervisor, etc.) of the applicant's work experience verifying the appraisal experience documented on the experience log is accurate. The affidavit shall be submitted on a form supplied by the board. The individual signing the affidavit shall also sign on the applicant's experience log, where appropriate, and indicate on the log which appraisal reports he/she is verifying.

(6) An applicant who becomes licensed or certified under subsection (5) above shall submit an experience log for the first 12 months following the license or certification date."

Auth: Sec. 37-54-105, MCA; IMP, Sec. 37-54-105, MCA

REASON: The proposed amendment to (2) will clarify that USPAP Standard Rule 2-3 already requires each written real estate appraisal report to contain a certification that identifies each individual providing significant professional assistance. Many applications have been received, however, without this requirement being met. The proposed amendment to (2) will clarify the Board is following the federal standards in requiring applicant's name to appear on the reports. The proposed amendment to (5) and (6) will allow an alternate method of verification of appraisal activity, as some applicants have been unable to produce appraisal reports due to VA, HUD or other regulations or circumstances.

"8.57.406 COURSE REQUIREMENTS (1) will remain the same.

(2) Educational and training courses offered on or after the adoption of these rules must receive prior approval by the board. Each course shall be approved for a three-year period only, and must be resubmitted, with all updated information required in (5) below, for re-approval at the end of the three-year period.

(3) through (15) will remain the same."

Auth: Sec. 37-54-105, 37-54-202, 37-54-203, MCA; IMP, Sec. 37-54-105, 37-54-202, 37-54-203, MCA

REASON: The proposed amendment will require a review of approved courses every three years, to determine whether substantial changes have occurred which may disqualify the course from meeting board requirements for approval.

8.57.411 CONTINUING EDUCATION (1) Continuing education courses shall be approved according to the criteria of ARM 8.57.406, including application for re-approval after three years, except that an examination shall not be required.

(2) and (3) will remain the same."

Auth: Sec. 37-54-105, MCA; IMP, Sec. 37-54-105, 37-54-210, 37-54-310, MCA

REASON: The proposed amendment will require re-approval of continuing education courses after a three-year period, as consistent with the proposed re-approval requirement of ARM 8.57.406, to determine whether substantial changes in required course content have occurred.

"8.57.412 **FEES** (1) through (1)(e) will remain the same.
(f) upgrade/downgrade fee ~~200.00~~ 75.00
(g) through (i) will remain the same."

Auth: Sec. 37-54-105, MCA; IMP, Sec. 37-54-105, 37-54-112, 37-54-201, 37-54-210, 37-54-211, 37-54-302, 37-54-310, 37-54-406, MCA

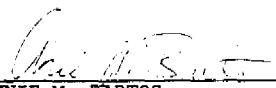
REASON: The proposed amendment will change the upgrade/downgrade fee to reflect an annual renewal of the license, rather than a three-year renewal, as was previously in place.

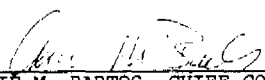
3. Interested persons may submit their data, views or arguments concerning the proposed amendments, in writing, to the Board of Real Estate Appraisers, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., May 12, 1994.

4. If a person who is directly affected by the proposed amendments wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Real Estate Appraisers, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., May 12, 1994.

5. If the Board receives requests for a public hearing on the proposed amendments from either 10 percent 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 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 27 based on the 272 licensees in Montana.

BOARD OF REAL ESTATE APPRAISERS
PAT ASAY, CHAIRMAN


ANNIE M. BARTOS
RULE REVIEWER

BY: 
ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, April 4, 1994.

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

In the matter of the proposed amendment of rules pertaining to applications and unprofessional conduct)	NOTICE OF PROPOSED AMENDMENT OF 8.58.406C APPLICATION FOR EQUIVALENCY - BROKER AND 8.58.419 GROUNDS FOR LICENSE DISCIPLINE - GENERAL PROVISIONS - UNPROFESSIONAL CONDUCT
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NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On May 14, 1994, the Board of Realty Regulation proposes to amend the above-stated rules.
2. The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

"8.58.406C APPLICATION FOR EQUIVALENCY--BROKER

(1) will remain the same.

(2) A salesperson who has been actively engaged as a salesperson for a period of 12 months and has obtained 15 listings and 15 sales in residential real estate or 5 listings and 5 sales in commercial or agricultural real estate, or any appropriate combination, ~~shall~~ may be considered as having equivalent experience under ~~section~~ section 37-51-302, MCA.

(3) A salesperson who has been actively engaged as a salesperson for a period of 36 months and has obtained 5 listings and 5 sales in residential real estate or 3 listings and 3 sales in commercial or agricultural real estate, or any appropriate combination, ~~shall~~ may be considered as having equivalent experience under ~~section~~ section 37-51-302, MCA.

(4) and (5) will remain the same."

Auth: Sec. 37-10-131, 37-51-203, MCA; IMP, Sec. 37-51-202, 37-51-302, MCA

REASON: This amendment is proposed to provide more discretion to the board in evaluating equivalency applications and allow the board to look at qualifications other than listings and sales.

"8.58.419 GROUNDS FOR LICENSE DISCIPLINE - GENERAL PROVISIONS - UNPROFESSIONAL CONDUCT (1) through (2) will remain the same.

(3)(a) In all transactions, the licensee shall either be full agent of the seller or buyer; dual agent as provided by subsection (3)(b) of this rule; or shall be deemed the limited agent of the buyer as provided by this part. A licensee who enters into a listing agreement with a prospective seller of property shall be considered to be the full agent of the seller and shall owe to the seller full fiduciary obligations. A licensee who accepts an offer of subagency from a listing

agent shall be considered to be the sub-agent of the seller and shall owe to the seller full fiduciary obligations. A licensee who enters into an agreement with a prospective buyer of property, giving the licensee or other licensees affiliated with the licensee the exclusive right to represent the buyer for a stated period of time shall be considered to be the full agent of the buyer and shall owe to the buyer full fiduciary obligations. A licensee who shows property to a prospective buyer of property without entering into an exclusive agency agreement with that buyer and further without acting as a listing agent or sub-agent, shall be considered to be the limited agent of the buyer, as to the property shown such buyer. The limited agent shall owe to such buyer the following duties:

(i) To the extent requested by buyer, licensee shall seek a property at a price and terms acceptable to the buyer; provided, however, that the licensee shall not be obligated to seek other properties for the buyer while the buyer is a party to a contract to purchase property, unless so requested by such buyer;

(ii) Licensee shall timely present all offers to and from the buyer, which he or she has received, even when the buyer is party to a contract to purchase a property;

(iii) Licensee shall disclose to the buyer material facts of which he or she has actual knowledge concerning the transaction and further concerning the property as is required by other provisions of this regulation;

(iv) Licensee shall advise the buyer to obtain expert advice as to material matters which are beyond the expertise of the licensee as is required by other provisions of this regulation;

(v) Licensee shall timely account for all monies and properties received in which the buyer has or may have an interest;

(vi) Licensee shall exercise reasonable skill and care; and

(vii) Licensee shall comply with all requirements of these rules and all applicable statutes and regulations including but not limited to fair housing and civil rights statutes.

(b) Licensees may act as the agent of more than one principal in the same transaction if the licensee reasonably believes that the duties owed to one principal will not directly conflict with the duties owed to the other in such fashion that adverse consequences are likely to result, and unless such principal consents after full disclosure by the licensee.

(c) Licensees shall disclose in writing to each principal to the transaction or his or her agents the nature of their relationship to that principal no later than when an offer is prepared in the transaction.

(3) will remain the same but will be renumbered (4).

(a) Licensees may act as the agent of more than one principal in the same transaction if the licensee reasonably believes that the duties owed to one principal will not directly conflict with the duties owed to the other in such

~~fashion that adverse consequences are likely to result, and unless such principal consents after full disclosure by the licensee.~~

~~(b) Licensees shall disclose in writing to parties to the transaction the existence and nature of the existing agency relationship no later than when an offer is prepared in a transaction.~~

(c) through (ah) will remain the same but will be renumbered (a) through (af).

(4) and (5) will remain the same but will be renumbered (5) and (6)."

Auth: Sec. 37-1-131, 37-1-136, 37-51-203, 37-51-321, MCA; IMP, Sec. 37-51-201, 37-51-202, 37-51-321, MCA

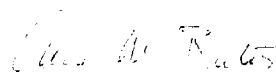
REASON: This amendment is being proposed to provide licensees with guidance on the issue of agency, to establish a means of "facilitating" a transaction, and ties all the agency regulations into one part of the rule. It also clarifies what is required by way of disclosures.

3. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Realty Regulation, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., May 12, 1994.

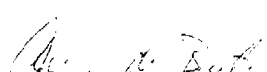
4. If a person who is directly affected by the proposed amendments wishes to present his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit the request along with any comments he has to the Board of Realty Regulation, Lower Level, Arcade Building, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, to be received no later than 5:00 p.m., May 12, 1994.

5. If the Board receives requests for a public hearing on the proposed amendments from either 10 percent 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 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 510 based on the 5100 licensees in Montana.

BOARD OF REALTY REGULATION
JACK MOORE, CHAIRMAN


ANNIE M. BARTOS
RULE REVIEWER

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, April 4, 1994.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the)
amendment of a rule pertaining)
to Transportation - Bus Body)

NOTICE OF PROPOSED
AMENDMENT OF ARM
10.64.355 BUS BODY

NO PUBLIC HEARING
CONTEMPLATED

TO: All Interested Persons.

1. On May 26, 1994, the Board of Public Education proposes to amend 10.64.355 Bus Body.

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

10.64.355 BUS BODY (1) through (1)(g)(i) remains the same.

(h) Aisle

(i) Amend paragraph 1. to: "All emergency doors shall be accessible by a 12-inch minimum aisle."

(2) Remains the same.

AUTH: Sec. 20-2-121

IMP: Sec. 20-10-111

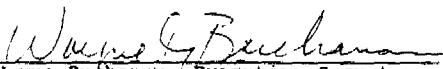
3. The board is proposing the amendment to reconcile a conflict that will exist between the existing standard and the revised federal motor vehicle safety (fmvss) standard 217, Bus Emergency Exits and Window Retention and Release, which will take effect May 2, 1994. Without this amendment, buses sold in Montana will have more emergency exit opportunity than intended by either standard and will additionally result in a lower student capacity than buses sold in other states. The amendment will allow the use of flip-up seats next to side emergency exit doors as defined in fmvs 217.

4. Interested parties may submit their data, views or arguments in writing to John Kinna, Chairperson of the Board of Public Education, 2500 Broadway, Helena, MT 59620, no later than May 16, 1994.

5. If a person who is directly affected by the proposed amendment wishes to express their data, views or arguments orally or in writing at a public hearing, they must make written request for a hearing along with any written comments they have to John Kinna, Chairman of the Board of Public Education, 2500 Broadway, Helena, MT 59620, no later than May 16, 1994.

6. If the board receives request for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; 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 the those directly affected has been determined to be 51 as there are 514 active school districts in Montana.


Wayne Buchanan, Executive Secretary
Board of Public Education

Certified to the Secretary of State on 4/4/94.

In the matter of the) NOTICE OF PUBLIC HEARING
amendment and repeal of)
rules pertaining to teacher)
certification)

1. On May 27, 1994 at 10:00 a.m., or as soon thereafter as it may be heard, a public hearing will be held at the Board of Public Education offices, 2500 Broadway, Helena in the matter of the amendments of ARM 10.58.102 Process leading to approval of teacher education programs, 10.58.103 Visitations, 10.58.104 Approved programs, 10.58.206 Faculty, 10.58.208 Facilities and instructional materials, 10.58.209 School-institution relations 10.58.301 Curriculum planning and development, 10.58.302 General education, 10.58.303 Professional education, 10.58.401 Fields of specialization, 10.58.403 Statement of purpose and objectives, 10.58.404 Statement of skills, 10.58.405 Program of study, 10.58.406 Program evaluation, 10.58.501 General requirements, 10.58.502 Agricultural education, 10.58.503 Art K-12, 10.58.505 Business education, 10.58.506 Distributive education/marketing education, 10.58.507 Drama, 10.58.508 Elementary, 10.58.509 English/language arts, 10.58.510 Exceptional children K-12, 10.58.511 Second languages, 10.58.512 Guidance and counseling K-12, 10.58.513 Health, 10.58.514 Home economics, 10.58.515 Industrial arts/technology education, 10.58.516 Journalism, 10.58.517 Library media K-12, 10.58.518 Mathematics, 10.58.519 Music K-12, 10.58.520 Physical education and health K-12, 10.58.521 Reading specialists K-12, 10.58.523 Social science, 10.58.524 Speech, 10.58.525 Trades and industry, 10.58.526 Traffic education, 10.58.528 Computer science, 10.58.601 Program planning and development, 10.58.701 Supervisors, 10.58.704 School principals and superintendents, 10.58.707 School psychologists, and the repeal of ARM 10.58.527 Teaching areas: additional fields.

10.58.102 PROCESS LEADING TO APPROVAL OF TEACHER
EDUCATION PROGRAMS (1) will remain the same.

(2) The process leading to approval of teacher education programs shall be carried out by visiting teams appointed by the board of public education, with the assistance of the office of public instruction. These teams shall be broadly representative of the educational community.

(a) Visiting team members shall be appointed from a listing of qualified and instructed members of the education community.

(i) Trainees shall be recommended from higher education and public schools by administrators, supervisors, professional organizations and educational boards and agencies.

(ii) Those accepted as trainees shall have a minimum of

five years of teaching or professional education experience.

(b) Preparation of educators for serving on visiting teams shall be administered by the office of public instruction and shall involve instruction to include constitutional and statutory authority of the board of public education, basis for state approval and national accreditation, origin and content of state program standards, practical experience at interpreting and applying standards and information on visiting team review procedures.

(c) Performance of team members shall be evaluated by the team chairperson, in conjunction with the office of public instruction coordinator, and shall be used in determination of future participation as members of visitation teams.

(d) Team chairs or members shall not be assigned to serve in the review of institutions where a conflict of interest may interfere with the integrity of the review.

(3) Members of the board of public education shall be invited to participate as observers at unit reviews.

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

10.58.103 VISITATIONS (1) All teacher education programs shall be visited for approval every five years or an adjusted schedule based upon coordination with national accreditation or upon request of an institution.

(2) will remain the same.

(3) A review by the National Council for Accreditation of Teacher Education (NCATE) of the same material covered in Sub-Chapters 2, 3, and 4 and 6 may be accepted in lieu of the state review.

(4) Institutions are required to engage in an ongoing self-study of teacher education programs.

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

10.58.206 FACULTY (1) and (2) will remain the same.

(3) The institution shall provide evidence of faculty experience and participation in professional activities such as curriculum improvement, research, writing, and travel for educational purposes. ~~The institution shall also provide evidence that faculty members are growing professionally through these experiences, as well as through participation in activities closely related to their instructional assignments.~~

(4) and (5) will remain the same.

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

10.58.208 FACILITIES AND INSTRUCTIONAL MATERIALS
(1) An institution shall have a physical plant designed to serve its defined purposes and objectives for teacher education. The ~~physical~~ facilities shall also provide for the safety, health, cultural, social, and recreational needs of students and faculty.

(2) will remain the same.

(3) The institution shall provide laboratories and laboratory supplies and equipment needed for instructional purposes for each teacher education program offered, ~~such as shops and shop equipment, resource materials for multicultural education, specialized equipment for the biological, earth, and physical sciences, specialized equipment for psychological, sociological, and child development sciences, specialized furniture, equipment, and supplies for music and art, gymnasiums and outdoor areas for physical education, equipment for business education, facilities, equipment, and supplies for home economics, and demonstration laboratories and classrooms for agriculture.~~ Space and equipment shall be available for conducting and recording experiences such as micro-teaching, role-playing, and other simulated activities.

(4) through (6) will remain the same.

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

10.28.209 SCHOOL-INSTITUTION RELATIONS (1) will remain the same.

(2) ~~Cooperatively developed student teaching agreements with through cooperative programs in selected schools shall have assure well-planned curricula, the necessary teaching materials, professional staff, supervision and provisions for supervision by the institutional faculty. The programs Agreements shall cover both academic subject and education areas and shall offer assure any special preparation needed by supervisors from the school or institution.~~

(3) will remain the same.

(4) In addition to their specific instructional and supervisory functions, all institutions and schools that provide laboratory experiences for prospective teachers shall establish adequate channels and offices for efficient operation and communication. Each school and institution shall have an identifiable coordinator(s) who coordinates all student teaching contacts, operations, and activities for his/her institution, both prior to and during the lab experiences, student teaching, internships, or apprenticeships.

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

10.58.301 CURRICULUM PLANNING AND DEVELOPMENT

(1) will remain the same.

(2) will remain the same.

(a) the public schools;

(b) college and university teachers faculty in fields related to the area of public school specialization;

(c) the office of public instruction;

(d) professional associations;

(e) professional committees and commissions; and

(f) teacher education students.

(3) will remain the same.

(a) will remain the same.

(b) appropriate content and experience in the

~~specialization areas~~ areas of specialization that relate to and give background for teaching service in public schools; and

(c) the sequence in basic professional education designed to prepare students for roles as public school teachers; and

(d) the use of appropriate technologies.

(4) and (5) will remain the same.

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

10.58.302 GENERAL EDUCATION (1) ~~General education refers to studies known as basic skills, multicultural education and liberal arts. Liberal arts are those studies that embrace the broad areas of the humanities, mathematics, the biological and physical sciences, and the social and behavioral sciences.~~

~~(a) The elements of the institution's general education program shall:~~

~~(i) stimulate scholarship that promotes understanding of concepts not now extant and helps prepare people for rapid adjustment to change;~~

~~(ii) foster individual fulfillment and nurture the development of free, rational, and responsible adults;~~

~~(iii) cultivate appreciation for the values associated with life in a free society and with responsible citizenship;~~

~~(iv) develop intellectually competent, imaginative, and vigorous leaders;~~

~~(v) contribute to and give direction for the use of professional knowledge;~~

~~(vi) encourage discernment in the examination of the values inherent in the variety of American ethnic cultures and in foreign cultures to the end that a clearer understanding of other peoples will reduce local, national, and international tensions; and~~

~~(vii) include instruction in the contributions and status of minorities with specific emphasis on Native Americans in Montana and North America and instruction in the nature of prejudice.~~

~~(b) General education shall be emphasized in the first two years of higher education, extended throughout the baccalaureate program, and continued in diminishing proportions into graduate study.~~

~~(c) A sequential general education program shall help the student attain an understanding and appreciation of:~~

~~(i) language skills (see ARM 10.58.521) as essential tools in communication;~~

~~(ii) world literature with emphasis on, but not limited to, the writings of English and American authors;~~

~~(iii) aesthetic values in human experience expressed through the fine arts (see ARM 10.58.503, 10.58.507, 10.58.519);~~

~~(iv) social, geographic, political, and economic conditions and their impacts on current national and world problems;~~

~~(v) contemporary world culture;~~

~~(vi) America's pluralistic culture and heritage;~~

~~(vii) growth and development of the United States as a nation and its place in world affairs;~~

~~(viii) principles of physical and mental health as they apply to the individual and to the community;~~

~~(ix) the application of mathematical concepts to a variety of both common and complex real world problems; and~~

~~(x) the use of emerging technologies in the dynamic growth and change in mathematics and their impact on the role of mathematics in real world decision-making.~~

~~(2) All teaching areas shall include content and experiences that contribute to knowledge and behavior in the specific teaching areas as well as an understanding of the variety of developments made by different cultural groups within and outside the United States.~~

~~(3) All teaching areas shall include subject matter preparation substantially beyond that which a teacher may be expected to teach.~~

(1) A program of general education shall be developed by the faculty.

(a) The general education program shall reflect an understanding of gender equity and multiculturalism of a local, national and global perspective.

(b) This program shall be a well planned sequence of courses including both theoretical and practical knowledge including studies in communications, mathematics, the sciences, the social sciences, humanities and the arts.

(c) Evidence shall be provided of an understanding of the role of general education in the teacher education program and shall demonstrate the integration of general education throughout the teacher education program.

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

10.58.303 PROFESSIONAL EDUCATION

(1) will remain the same. (a) Each institution school, college or department of education shall have a clear set of objectives for the professional education component of its teacher education program.

(b) will remain the same.

~~(i) knowledge of safety and first aid including CPR as well as basic health principles as they apply to adolescents including information on stress, nutrition, substance use and abuse, exercise and peer pressure in addition to the etiology of disease including AIDS and other sexually transmitted diseases;~~

(i) knowledge of health and safety of children and adolescents;

(ii) knowledge of the process of human growth, development, and learning, and the ability to apply this knowledge to the teaching of all students, including atypical children; all students;

(iii) will remain the same.

(A) task analysis, planning and adoption of various teaching methods to suit individual needs;

(B) identification and use of a variety of resource materials to develop concepts; resource media and materials for instruction;

(C) familiarity with standardized tests and measures;

~~alternative assessment procedures and evaluation procedures including follow-up studies; formal and informal assessment and evaluation procedures; and~~

(D) awareness of curriculum development procedures including role and scope; and

~~(E) a variety of media and technology appropriate to teaching and pupil development;~~

(iv) and (v) will remain the same.

(vi) the ability to work ethically and constructively;

~~(vii) and the ability to communicate effectively with parents including through the following:~~

(A) and (B) will remain the same.

~~(C) gathering information from parents to better gain insights into meeting their children's needs;~~

~~(e) (D) articulating the student's identified needs; and~~

~~(B) (E) assessing methods of addressing those needs;~~

~~(F) understanding the processes necessary for meeting the needs of all children; and~~

~~(viii) (viii) understanding of the foundations underlying the development and organization of education in the United States;~~

~~(ix) (ix) understanding of all education aspects of the school, including its purposes, administrative organization, finance aspects, board functions, and operations;~~

~~(x) (x) ability and willingness to analyze teaching so that teaching skills continually improve;~~

~~(xi) (xi) ability to teach thinking, listening, speaking, reading, and writing skills appropriate to the student level and the content of the field(s) of specialization, including:~~

(A) through (D) will remain the same.

~~(xii) (xii) knowledge of the following areas: the legal aspects of teaching in Montana schools including identifying and reporting child abuse; professional ethics, conduct, rights and responsibilities; and the structure and financial basis of the Montana school system;~~

~~(xiii) (xiii) practical knowledge of the legal, practical and philosophical basis of education equity and opportunity in Montana schools;~~

~~(xiv) (xiv) knowledge of and skill in a variety of effective methods of discipline and classroom management including the ability to structure environments to promote appropriate social and learning interactions;~~

(c) will remain the same.

(i) through (iii) will remain the same.

(iv) knowledge, humanness, and sensitivity which reduce conflict and tension and promote constructive interactions among people of differing economic, social, racial, ethnic, gender and religious background; and

(v) will remain the same.

(d) The professional education component shall include a comprehensive program of carefully designed ~~basic experiences in a variety of relevant settings. These experiences shall include a wide range of~~ laboratory, clinical, and practicum experiences with school-age youth that begin early in the program.

(e) Student teaching or other major practicums shall be designed both as ~~growth~~ experiences and as opportunities to evaluate a student's potential for teaching, including his or her commitment to teaching, skill in guiding learning in interpersonal relations, and growth as a professional in teaching.

(f) will remain the same.

(i) will remain the same.

(ii) Student teaching shall be a comprehensive experience with expanding responsibilities in the full range of teacher activities in a school situation. ~~K-12 programs must include student teaching at both elementary and secondary levels. If the student teaching is only at one level, the intern experience must be at the other level and be of a period of 10 weeks unless specific exception is formally made by the appropriate student teaching committee time long enough to demonstrate that the student understands the maturation and instructional needs of the pupils at that level. K-12 programs must include field experiences/student teaching at elementary and secondary levels.~~

(iii) through (v) will remain the same.

(vi) The institution shall ensure ~~have a written policy ensuring~~ adequate supervision of student teachers, ~~and this policy shall be in writing.~~

(vii) and (viii) will remain the same.

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

10.58.401 FIELDS OF SPECIALIZATION (1) All programs that prepare teachers in fields of specialization shall be designed to meet general standards identified by the institution's faculty- ~~and shall include subject matter preparation substantially beyond that which a teacher may be expected to teach.~~

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

10.58.403 STATEMENT OF PURPOSE AND OBJECTIVES (1) Each teaching area or field of specialization shall be built upon a statement of the ~~purpose~~ purposes and objectives ~~of teaching in an area of the public school curriculum.~~ That statement shall:

(a) include a well-formulated statement of the ~~nature of relationship of the academic program to the public school schools; program needed to accomplish the purpose and objectives;~~

(b) through (d) will remain the same.

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

10.58.404 STATEMENT OF SKILLS COMPETENCIES (1) Each teaching area or field of specialization shall be built on a statement of the ~~skills~~ competencies that teachers need in that area of the public school curriculum. That statement shall:

(a) include the attitudes, knowledge, ~~understandings,~~ ~~abilities,~~ skills and degree of expertise required for a beginning teacher;

(b) and (c) will remain the same.

AUTH: Sec. 20-2-115, MCA; IMP, Sec. 20-2-121, MCA

10.58.405 PROGRAM OF STUDY (1) will remain the same.

(a) and (b) will remain the same.

(c) take into account the sequential nature of the attitudes, knowledge and skills needed to assure maximum continuity in the achievement of the program's objectives;

(d) through (f) will remain the same.

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

10.58.406 PROGRAM EVALUATION (1) Each teaching area or field of specialization shall have a system of evaluation procedures that determine the degree of the student's attainment of teaching attitudes, knowledge and skills. These evaluation procedures shall serve as the basis for recommending the teacher candidate for the appropriate certificate.

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

10.58.501 GENERAL REQUIREMENTS (1) Each teaching area or field of specialization shall consist of a carefully planned program of courses and experiences. The program shall be designed to produce the skills ~~the faculty identifies~~ experienced practitioners identify as necessary for successful teaching at the appropriate grade levels (elementary, secondary, or K-12).

AUTH: Sec. 20-1-114 MCA; IMP, Sec. 20-2-121 MCA

10.58.502 AGRICULTURAL EDUCATION For the prospective teacher the program shall provide the competencies, skills, knowledge and abilities to:

(1) ~~assure that practical farm or other agricultural experience is part of the program requirements leading to certification provide study of the biological, physical and applied science as they relate to practical solutions and problem solving in agriculture;~~

(2) ~~provide study of the biological, physical, and applied sciences as they relate to practical solutions of agricultural problems provide environmental, natural, and resource management planning and development;~~

(3) ~~provide study of the essentials of production agriculture and the breadth of the technical agricultural industry assure that practical farm or other agriculturally related experience is a part of the program by documenting one year of work experience~~ (2000

hours) within five years;

(4) provide basic knowledge in areas such as:

(a) ~~plant science and technology~~

(b) ~~animal science and technology~~

(c) ~~agricultural business management and technology~~

(d) ~~agricultural mechanics science and technology;~~

(e) ~~computer application in agriculture; and technical experience in plant science, animal science, horticulture, forestry, agricultural business management, agricultural~~

business.

analysis, agricultural equipment and supplies, agricultural sales and service, agricultural production, marketing, agricultural mechanics and technology and computer application in agriculture;

(5) provide study of the following occupational areas:

(a) agricultural production and marketing

(b) agricultural equipment and supplies

(c) agricultural products

(d) natural resources management

(e) environmental development; use agricultural student organizations to teach leadership, citizenship, personal development, goal setting, parliamentary procedure and cooperative group efforts;

(6) enable the preparing teacher to use agricultural youth organizations as a means to teach leadership skills through speech, parliamentary procedures, and cooperative group efforts; and teach about careers available in the agriculture industry;

(7) provide studies and experiences which enable the preparing teacher to perform the appropriate occupational skills while working with pupils and adults in agricultural instructional areas; provide knowledge and experiences in working with students and adults in supervised agricultural experience programs; and

(8) teach about agricultural professional organizations.

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

10.58.503 ART K-12 For the prospective teacher the program shall:

(1) develop skills competence and a working vocabulary in the following:

(a) art production: the ability to produce original, expressive works of art in a variety of media present ideas and feelings by creating expressive images in one or more of the visual art forms;

(b) art history: the perception of art within the ethnographic and chronological context of society as part of our cultural legacy ability to understand and appreciate works of art from different cultures, places, and times;

(c) art criticism: the ability to understand and respond to works of art in both form and content analyze and evaluate the structure, meaning, and significance of works of art and to make reasoned interpretations and judgments about them;

(d) aesthetic awareness aesthetics: the ability to exercise, refine, and discriminate sensory intake, and to

~~develop a sensitive awareness of things encountered in daily life inquire into understanding the nature, beauty, and experience of art, which allows one to formulate opinions about art and to articulate them using appropriate vocabulary;~~

(2) ~~develop in the studio setting the ability to produce original and expressive art forms in a variety of media, to which may include but not be limited to drawing, painting, printmaking, graphics communication, sculpture, photography, multimedia, and established creative craft areas of woodworking, fibers, metalwork, jewelry, and ceramics, etc;~~

(3) ~~develop the ability to perceive, describe, interpret, and evaluate one's own work and the work of others provide the understanding of and the ability to develop sequential visual arts curriculum with a scope and sequence articulated K-12 that assures pupil development and competence in a variety of media;~~

(4) ~~develop abilities as an artist, with emphasis on creative thinking, critical analysis using the elements and principles of design, and aesthetic awareness develop an understanding of the health and safety aspects of studio work, including materials, tools, equipment, classroom design and procedures;~~

(5) ~~develop the knowledge, understanding, and appreciation of art in contemporary and past cultures, and the relationship of art to the culture in which it was produced develop the understanding and ability needed to make use of new and emerging~~

~~technologies in relationship to the study and making of art;~~

(6) ~~develop a working understanding of philosophical, social, and aesthetic aspects of art and the contributions art makes to individuals and society develop an understanding of and ability to develop and use appropriate strategies for assessing student progress and accomplishments in learning the visual arts, such as, portfolio review, critical analyses, interviews, group and individual performance tasks, research exercises, and essays about aesthetics and art history;~~

(7) ~~provide an understanding of and the ability to develop sequential visual arts curriculum with a scope and sequence articulated K-12 that assures pupil development and competence in a variety of media develop an understanding of and ability to place knowledge from the discipline of art into the larger~~

context of concepts about the world as described by other disciplines such as the sciences, history, and language arts, as well as the performing arts and humanities; and

(8) develop an understanding of the technological and health and safety aspects of studio work, including materials, tools,

equipment, classroom design and procedures; develop the understanding and ability necessary to advise and encourage students about higher education and career opportunities related to the study and production of art and art related fields.

(9) develop, through basic and current literature, skills as a resource person for educational and vocational counseling in art- and related fields, including training in portfolio development and photographing art work; and

(10) develop an understanding and appreciation of related fine art areas of dance, film, music, literature, theater and the applied arts and of their relationship to the visual arts.

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

10.58.505 BUSINESS EDUCATION WITH SHORTHAND--SECRETARIAL OCCUPATIONS The business education program shall provide the prospective teacher with the ability to:

(1) present and apply the principles and procedures of information processing including word processing, data bases, electronic spreadsheets, integrated software applications, telecommunications, desktop publishing/graphics, and other current technologies used by business;

(2) present and apply the principles and procedures of multi-media;

(3) present and apply the principles and procedures of operating systems management and network management;

(4)(4) understand and present the fundamental concepts of accounting;

(5)(5) present proper keyboarding techniques and develop student keyboarding skills

(6)(6) understand, use, and present the basic concepts of effective oral and written communications including development of effective listening skills and selection of proper media for business communications;

(7)(7) understand and present the legal framework for personal, business, and social interactions;

(8)(8) identify and present the elements of the business document cycle for electronic office systems;

~~(6)~~(9) understand and present effective techniques for managing employee work stations, personnel relations, and the budgeting of time and resources;

~~(7)~~(10) identify the economic events and issues that impact businesses and individuals on a national and international level;

~~(8)~~(11) use and present a symbolic, outline, or alphabetic note taking system, and develop student note taking skills using

these systems;

~~(9)~~ ~~apply and present the concepts and techniques of the data processing cycle and a fully integrated automated business office-~~

~~system, including use of word processing, automated data bases, spreadsheet accounting, telecommunications, graphics, reprographics, and other technologies used by businesses;~~

~~(10)~~(12) understand, use, and present the elements of digital operating systems and techniques for evaluating systems of business hardware and software;

~~(11)~~(13) identify and present opportunities in marketing, and the basic marketing concepts of exchange, distribution, and facilitation merchandising, and management;

~~(12)~~(14) understand and present the basic organizational, operational, and integration styles in basics of a free enterprise system;

~~(13)~~(15) understand the philosophy and objectives of vocational education and occupational technology, and apply them in classroom activities;

~~(14)~~(16) understand and use the process for developing, adopting, adapting, and revising vocational programs and curricula, including the use of advisory committees, business partnerships and classroom management techniques;

~~(15)~~(17) plan and administer a cooperative education program;

~~(16)~~(18) organize and advise a vocational student organization;

~~(17)~~(19) identify careers and opportunities in business and related occupational fields, and assess the interests, aptitudes, personal qualities, and other information necessary for students to make informed career choices;

~~(18)~~(20) identify and present the skills needed to successfully obtain and maintain employment;

~~(19)~~(21) conduct studies of the occupational outcomes of former students which provide current occupational information for

classroom use obtained from follow-up studies; and

~~(20)~~(22) complete or augment an appropriately successful related occupational experience or internship-;

(23) understand and present effective techniques for

business
problem solving; and

(24) understand and present the basic concept of personal finance and consumer skills.

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

10.58.506 DISTRIBUTIVE EDUCATION/ MARKETING EDUCATION In

addition to providing the elements of section 10.58.505 - business education, the marketing education program shall provide the prospective teacher with the ability to educate students concerning business survival in a changing business climate. This includes:

(1) identify and present the primary types of business ownership and the elements needed for a successful business venture, including the use and purpose of marketing research, the activities of a retail business, the role of managerial accounting and finance, and the impact of marketplace economics on business

practice application of marketing concepts to beginning and continuing a business venture to include price, product, promotion and place;

(2) understand and present the fundamental methods of promotion and the techniques of salesmanship that facilitate business transactions presentation of and the fundamentals of merchandising through advertising, sales and display;

(3) use and apply basic statistical analysis techniques to business situations application of managerial decision making to achieve predetermined objectives through others; and

(4) understand the use of demographic information in product development, site selection, and marketing products to consumers development and administration of a marketing education program to include vocational student organizations and cooperative education work experience.

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

10.58.507 DRAMA For the prospective teacher the program

shall:

(1) provide a knowledge of theater as a social and aesthetic experience and a reflection of culture, including a broad view of the history of theater and acquaintance with representative plays of past and present; Provide a structural framework which demonstrates:

(a) explicit goals, procedures and rationales in an identifiable program for prospective drama teachers;

(b) articulation of program goals, procedures and rationales

to faculty, students, and administrators;

(c) the effort to integrate on-campus content and methods and field experiences throughout the program; and

(d) the modeling of pedagogy and attitudes which reflect current research on the theory and practice of teaching drama.

(2) develop the ability to direct a theatrical production with artistic integrity, including selection, analysis, casting,

rehearsal, performance, supervision, and all other elements of direction; Provide an academic strand which includes:

(a) knowledge of theater as a social and aesthetic experience

and a reflection of culture, including a broad view of the history

of theater and acquaintance with representative plays of past and

present;

(b) knowledge of the relationship between the actor, the literature, and the audience, including the actor's ability to

assess personal growth; and

(c) an understanding of the educational function of theater in the school setting.

(3) provide a knowledge of basic oral communication and acting skills and techniques that promote, stimulate, and guide

the efforts of the individual, as well as the interpreting group, in a

creative dramatic context or in a theatrical production; Provide

experience with performance, in order to develop:

(a) the ability to direct a theatrical production with artistic integrity, including selection, analysis, casting,

rehearsal, performance, and supervision;

(b) the ability to manage the technical requirements of a theatrical production by effectively planning and executing

scenery, lights, make-up, sound, properties, costumes, and special

effects;

(c) the ability to use production or activity evaluations for projecting future goals and objectives; and

(d) the ability to manage, promote and publicize an activity

or production.

(4) develop the ability to manage the technical requirements

of a theatrical production by effectively planning and executing

scenery, lights, make-up, sound, properties, costumes, and special

effects; Develop the ability to interact with the community, in order

to:

(a) serve as a school's resource person in the development of facilities, preparation of classroom projects, assembly programs,

or any activity in which elements of theater are central;

(b) assist planning comprehensive theater and/or other fine arts curriculum;

(c) promote positive attitudes for theater instruction and performances; and

(d) build a commitment to professional growth.

~~(5) develop the ability to evaluate the production or activity and to modify and adapt future goals and objectives in light of achievements as well as deficiencies;~~

~~(6) provide an understanding of the function of theater in the school at all grade levels and the place of theater and drama in everyday life;~~

~~(7) develop the ability to manage, promote and publicize an activity or production;~~

~~(8) develop the ability to serve as a school's resource person in the development of facilities, preparation of classroom projects, assembly programs, or any activity in which elements of theater are central;~~

~~(9) develop the ability to assist in the organization of a progressively planned and comprehensive theater and/or other fine arts curriculum which includes experiences in music, film, literature, art, dance, and theater as they relate to elementary through high school students; and~~

~~(10) develop the ability to disseminate accurate information and to be a resource for educational, vocational, and a vocational counseling in theater arts and related fields.~~

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

10.58.508 ELEMENTARY For the prospective teacher the program shall:

(1) provide knowledge and theories of early intervention prepare teacher candidates to understand the role of elementary school teachers, the various elementary school programs and organizations, and the role of parents and all members of the community in the school program;

(2) provide knowledge of child growth and development to include:

~~(a) prenatal development;~~
~~(b) normal development sequences during the first five years which include motor, language, cognitive, perceptual, sensory, psychological and social;~~

~~(c) variability in human development including the full range of normal variations and types of developmental delays; include study and experiences throughout the professional studies sequence which link human development, from prenatal through adult years with an emphasis on the school years, to the elementary school curriculum and instruction. Teacher candidates shall:~~

~~(a) understand the integration of physical, social, emotional, cognitive and health characteristics and needs from prenatal through adult stages;~~

~~(b) study student development through direct, guided observation; focused inquiry through data collection and systematic analysis, self-study of interaction with children, etc.; and~~

~~(c) study the full range of variations in physical, environmental and cognitive development and acquire a knowledge for meeting students' individual needs;~~

~~(3) provide knowledge of the social, emotional, physical and health characteristics and needs of children at the preprimary, primary, intermediate, and middle school/junior high school levels to include:~~

~~(a) the affective needs of the young child; and~~

~~(b) the role of play in child development;~~

~~include studies and experiences in the sociological and the behavioral sciences which emphasize the interaction of children with their environment and the roles of parents and families to include:~~

~~(a) knowledge of parenting styles and the effect of those styles on the child;~~

~~(b) knowledge of a variety of family structures and settings, and possibilities and limitations of parents and teachers; and~~

~~(c) knowledge of family dynamics - functional/dysfunctional models;~~

~~(4) include studies and experiences in the sociological and the behavioral sciences which emphasize the interaction of children with their environment and the roles of parents and families to include:~~

~~(a) knowledge of various ethnic, linguistic and cultural backgrounds and their effect on parenting styles and the effect of~~

~~these styles on the child;~~

~~(b) knowledge of a variety of family structures and settings, and possibilities and limitations of parents and teachers; and~~

~~(c) knowledge of family dynamics functional/dysfunctional models;~~ study curriculum development to:

~~(a) define and assess learner goals and expectations;~~

~~(b) focus on individual learning needs;~~

~~(c) provide sequential and developmental learner goals;~~

~~(d) include content, skills and thinking;~~

~~(e) select materials and resources; and~~

~~(f) develop assessment processes that are consistent with the curricular goals;~~

~~(5) explore alternatives for classroom management and self-discipline;~~ provide opportunities to:

~~(a) organize and effectively manage varied learning groups~~

~~utilizing an interdisciplinary approach which is appropriate to the needs and/or interests of the student and the goals of the lesson;~~

~~(b) select and use various models for teaching about controversial, problematic and value-oriented issues; and~~

~~(c) systematic observation and practice of activities that stimulate reflective and critical thinking, problem-solving and decision-making skills within and across disciplines;~~

~~(6) include opportunities to study, analyze and practice effective models of classroom management in campus and field-based settings and to engage in a gradual increase in responsibility;~~

~~(7) knowledge of a variety of assessment practices to:~~

~~(a) select methods of assessment appropriate to each of the disciplines and to the age, development and characteristics of students;~~

~~(b) interpret and communicate assessment by observing and recording results accurately and ethically; and~~

~~(c) integrate information gained from assessments into instructional plans;~~

~~(8) provide knowledge of ethnic, linguistic and cultural backgrounds and gender biases and their effects on children, families and society;~~

~~(9) provide knowledge of library/media use as essential elements in learning to enable students to:~~

~~(a) read, listen and view critically;~~

~~(b) learn effective ways to find information and motivate;~~

~~(c) organize, analyze and interpret information;~~

~~(d) integrate information across content areas; and~~

~~(e) reach conclusions;~~

~~(6) (10) provide sufficient preparation for competence in the subject in the content/program areas normally found in the~~

elementary and preschool curriculum, including:

(a) art--specifically the ability to:

(i) develop skills, knowledge and a working vocabulary in art production, art history, art criticism and aesthetics; competence and a working vocabulary in art production; the ability to present ideas and feelings by creating expressive images in one or more of the visual art forms;

(ii) acquire an understanding of and the ability to develop sequential visual arts curriculum with scope and sequence; develop competence and a working vocabulary in art history; the ability to understand and appreciate works of art from different cultures, places, and times;

(iii) understand the health and safety aspects of art production including materials, tools and equipment; and develop competence and a working vocabulary in art criticism; the ability to analyze and evaluate the structure, meaning, and significance of works of art and to make reasoned interpretations and judgements about them;

(iv) understand and appreciate related fine arts areas of dance, film, music, literature, theater and the applied arts and their relationship to visual arts; develop competence and a working vocabulary in aesthetics; the ability to inquire into understanding the nature, beauty, and experience of art, which allows one to formulate opinions about art and to articulate them using appropriate vocabulary;

(v) develop an understanding of and the ability to develop sequential visual arts curriculum with scope and sequence articulated K-8 that assures pupil development and competence in a variety of media;

(vi) develop an understanding of the health and safety aspects of studio work, including materials, tools, equipment, classroom design, and procedures;

(vii) develop the ability to identify and expand upon associations among the visual arts and other academic disciplines;

(viii) develop an understanding and appreciation of other fine arts such as, dance, film, music, theater, and literature; and

(ix) develop an understanding and appreciation of the contribution visual arts experiences make to the development of

the whole person and to the total learning experience;

(b) music--specifically the ability to:

(i) ~~develop skills, knowledge and a working vocabulary in music production competence and a working vocabulary in creation and performance,~~ music history, music criticism and aesthetics;

(ii) ~~acquire develop~~ an understanding of and the ability to ~~develop produce~~ a sequential music curriculum with scope and sequence articulated K-12 that assures pupil development and competence in a variety of media;

(iii) develop an understanding of the health and safety aspects of music production, including materials, tools, and equipment, classroom design, and procedures; and

(iv) develop an understanding and appreciation of the contribution musical experiences make to the development of the whole person and to the total learning experience K-8 curriculum, particularly the fine arts;

(c) ~~social studies--specifically, the development of instructional competence in teaching methods and the use of materials that promote effective pupil use of the sequentially developed social studies skills in the areas of history, economics, geography, political science and sociology. Competencies shall include but are not restricted to the following~~ programs should

prepare teacher candidates to translate knowledge and data-gathering processes from history and the social sciences into appropriate and meaningful social studies experiences for students. Programs include study of and experiences with:

(i) knowledge of prerequisite readiness skills at all levels and the ability to assess and teach them the selection, integration, and translation of knowledge and methodology from history and the social science disciplines to knowledge, process and activities appropriate to students. The social science disciplines include anthropology, economics, geography, government, psychology, and sociology;

(ii) ability to apply techniques for teaching basic social studies skills including but not limited to group interaction, decision-making, graphing, mapping, research and study skills strategies for teaching students to use a wide variety of data sources, including direct observation, artifacts, graphics,

literature, art, and multimedia technology;

(iii) ability to use special materials and strategies that assist students to recognize that Native American people and their unique history make a significant impact on Montana and United-

states history democratic processes, including civic participation, and strategies for teaching students about democratic institutions and processes, within the context of a multicultural society;

(iv) ability to use materials and practices that encourage broad-based and independent study of different cultures and their interdependence; and the development of strategies to promote global and multicultural perspectives;

(v) ability to use strategies and materials to educate students in becoming more effective and analytical citizens; strategies for teaching students to recognize the significant contributions of Native American people, their culture, and unique history to Montana and American society and history; and

(vi) guided and independent field experiences such as classroom observations, microteaching, and student teaching, in which elementary school teacher candidates apply general and unique elementary social instructional strategies, including inquiry;

(d) language arts--specifically, the development of instructional competence in teaching methods and the use of materials that promote effective pupil use of the sequentially-developed language arts skills which include thinking, viewing, listening, speaking, reading, and writing. Competencies shall include but are not restricted to the following provide programs in student literacy development designed to help teachers create experiences for their students through the integration of reading, writing, thinking, viewing, listening and speaking. Programs include study, application and experiences with:

(i) knowledge of prerequisite readiness skills at all levels and the ability to assess and teach them emergent literacy concepts;

(ii) ability to apply techniques for teaching basic reading skills in the areas of vocabulary development, comprehension, word attack, and study skills the cognitive and linguistic foundations of literacy development for students at all levels;

(iii) ability to use special materials and strategies that assist students with differing cultural or language backgrounds the writing process;

(iv) ability to use criteria to evaluate and select appropriate materials and strategies for teaching thinking, viewing, listening, speaking, reading, and writing in the content areas ways of promoting vocabulary growth for students;

(v) ability to use materials and practices that encourage independent and broad-based reading through children's literature; and the flexible use of a variety of strategies for recognizing words in print;

(vi) ability to use strategies and materials to educate students in becoming more efficient and analytical viewers teaching the language conventions needed to compose and comprehend oral and written texts (e.g., text structure, punctuation, spelling), in a process which focuses on the communication of ideas;

(vii) provide a comprehensive knowledge of literature appropriate for children in the elementary grades and provide techniques in developing children's sensitivity to and enthusiasm for literature; the strategies readers use to discover meaning from print and to monitor their own comprehension;

(viii) strategies and materials in a variety of formats which enable students to become efficient and analytical consumers of information;

(ix) the relationship of reading, writing, listening, thinking and speaking processes to all areas of the elementary curriculum;

(x) appropriate responses to differences among language learners (e.g., linguistic, sociocultural, intellectual, physical);

(xi) a variety of assessment techniques and instruments to assess the literacy development of students;

(xii) communication to parents of developmentally appropriate language activities which could be used at home to reinforce the school program;

(xiii) speaking and writing which vary in form, subject, purpose, audience, point of view, tone and style;

(xiv) strategies to promote reading, writing and oral language for personal growth, enjoyment, information and lifelong learning; and

(xv) the literature of childhood including:

(A) knowledge and application of a range of books, fiction and non-fiction in all content areas;

(B) knowledge and application of a variety of strategies for sharing literature with students;

(C) knowledge and application of varied strategies to guide students in responding to books in a variety of ways;

(D) knowledge and application of a wide variety of fiction

and non-fiction which represent diverse cultures of Montana, the U.S. and the world; and

(E) knowledge of the importance of reading aloud to all learners;

(xvii) knowledge and application of text and materials to stimulate interest, promote reading growth, foster appreciation of

quality literature and increase the motivation of learners to read widely and independently for information and for pleasure;

(xviii) promotion of creative thinking and expression, through storytelling, drama, choral/oral reading, imaginative writing, etc.; and

(xix) criteria to evaluate and select appropriate materials and strategies for teaching reading, writing, researching, thinking, viewing, listening and speaking in the integrated curriculum;

(e) mathematics - - specifically, the program shall include mathematics substantially beyond the K-8 curriculum and shall provide experiences and studies which develop the skills to include:

(i) ~~integrate appropriate technology including the calculator and the computer in the learning and teaching of mathematics;~~

(ii) ~~integrate problem solving, reasoning, estimation, and manipulatives in the learning and teaching of mathematics;~~

(iii) ~~understand and appreciate the historical and cultural development of the mathematical concepts and principles~~

~~usually taught in K-8 curriculum;~~

(iv) ~~use a variety of problem-solving strategies to investigate, understand, apply and teach mathematical concepts;~~

(v) ~~correctly communicate the use of the language of mathematics through discussion, modeling and writing;~~

(vi) ~~apply inductive and deductive reasoning in developing mathematical concepts;~~

(vii) ~~understand, represent and explain the concepts of,~~

~~operations on, and the relationships among subsets of the real numbers;~~

(viii) ~~understand and apply fundamental number theory concepts;~~

(ix) ~~analyze and explain various procedures and algorithms for computation with real numbers using a variety of models;~~

(x) ~~select, model and use an appropriate method for computing from among mental arithmetic, paper and pencil, calculator, computer and other technology in a variety of settings;~~

(xi) ~~explore, apply and explain estimation strategies;~~

~~recognise when an estimate is appropriate, and determine reasonableness of results;~~

~~(xi) understand and explain measurement, the concept of a unit, the process of measuring and the structure and use of both the customary and metric systems;~~

~~(xiii) model and explain the concepts of perimeter, area and volume through concrete and abstract experience;~~

~~(xiv) identify, describe, construct, compare and classify geometric shapes and figures;~~

~~(xv) visualise and represent spatial relationships of geometric shapes;~~

~~(xvi) understand and apply geometric properties and relations in solving problems and in developing other mathematical concepts appropriate to the K-8 curriculum;~~

~~(xvii) understand, apply and explain coordinate systems;~~

~~(xviii) use formal statistical methods to solve problems and make inferences;~~

~~(xix) understand the concepts of probability, develop simulations and make predictions;~~

~~(xx) represent and analyse relationships using tables,~~

~~rules and graphs, and translate among tabular, symbolic and graphical representations of functions;~~

~~(xxi) understand, apply and explain algebraic concepts to~~

~~examine and solve a variety of real world problems; and~~

~~(xxii) illustrate the connectedness of mathematical concepts;~~

(i) experiences in which they:

(A) become confident in their ability to construct mathematical ideas, exercise mathematical reasoning inductive and deductive;

(B) use various strategies to solve problems;

(C) explore the connections that exist within mathematics and between mathematics and other disciplines;

(D) develop skills in written, visual and oral communication of mathematical concepts and technical information;

(E) construct, interpret, test and revise models used in solving real-world problems;

(F) explore the dynamic nature of mathematics throughout history and its increasingly significant role in social, cultural and economic development;

(G) use multiple means of oral, written and visual assessment that are representative of instructional materials and strategies;

(H) create a learning environment that provides and structures the time necessary to explore sound mathematics.

grapple with significant ideas and problems, and take intellectual risks:

(I) experience and can apply the integrated and hands-on applications of appropriate technology specific to each of the standards areas:

(J) explore definitions, conjectures and theorems which are applications based and example generated:

(iii) nature and use of number experiences in which they:

(A) develop a practical, concrete sense of numbers:

(B) use physical materials and models to explore fundamental properties of number systems (naturals, integers, rational, reals):

(C) analyze and compare features and basic computational techniques in selecting numeration systems in use today and in the past:

(D) use estimation and mental arithmetic, calculators, computers, paper-and-pencil algorithms, and manipulative materials in solving a wide variety of problems:

(E) investigate number sequences, patterns and functional relationships:

(F) develop conjectures and intuitive proofs of properties in number:

(G) learn to use appropriate technology effectively, including dealing with questions of computational efficiency and complexity; and

(H) become familiar with complex numbers:

(iii) geometry, spatial sense and measurement experiences in which they:

(A) use a variety of tools, physical models and appropriate technology to develop an understanding of Euclidean geometric concepts and relationships and their use in describing the world in which we live:

(B) investigate properties and relationships of shape, size and summary in two- and three-dimensional space:

(C) explore concepts of motion geometry in two- and three-dimensional space; and

(D) become familiar with Euclidean and other geometries:

(iv) patterns and functions experiences in which they:

(A) recognize the study of patterns as an underlying fundamental theme in mathematics:

(B) create and use pictures, charts, graphs and appropriate technology to recognize and describe mathematical relationships:

(C) discover and analyze functional relationships which arise from diverse problem situations:

(D) develop the use of variables and other algebraic notation as an efficient and natural way to describe relationships:

(E) use concrete examples to explore selected algebraic structures; and

(F) provide an informal intuitive understanding of sequences and series:

(v) probability and statistics experiences in which they:

(A) collect, organize, display and interpret data;
(B) formulate convincing arguments and make inferences and informed decisions based on statistical methods;

(C) explore empirical probability and relate it to basic theoretical probability;

(D) plan and conduct experiments and simulations;
(E) develop counting and other techniques useful in determining theoretical probabilities; and

(F) analyze and critique the inappropriate use of statistics;

(f) physical education and health health enhancement (physical education and health)--specifically, the ability to:

(i) implement methods and materials that promote healthy behaviors enhancement via movement experiences and health concepts

which include but are not limited to:

(A) will remain the same.

(B) accident prevention and safety education;

(C) through (E) will remain the same.

(F) family life education, and human sexuality;

(G) stress-management coping skills;

(ii) will remain the same.

(iii) select and use appropriate techniques to assess the effectiveness of the health enhancement program; and

(iv) understand traffic and safety education including

bicycle, passenger, and pedestrian safety, disaster preparedness,

fire safety and water, home and recreational safety.

(g) science--specifically, the program shall:

(i) through (iv) will remain the same.

(v) provide background in the integration of science with other content to illustrate the combinations of knowledge needed to understand and deal positively with our environment;

(h) traffic and safety education--specifically, the ability--

to provide programs including bicycle and pedestrian safety, passenger and pupil transportation safety, basic first aid,

disaster preparedness, fire safety principles and exit drills, and

water, home and recreational safety. These programs include the

study of and experiences with:

(i) provide a comprehensive knowledge of traffic and safety education, including bicycle and pedestrian safety,

passenger and pupil transportation safety, basic first aid, disaster preparedness, fire safety principles and exit drills,

and water, home, and recreational safety. the most common child behaviors/characteristics that lead to injury;

(iii) the most common accident types (conflict areas) that children are involved with;

- (iii) the countermeasures to eliminate or reduce the incident of accidents (conflict): education, engineering/ environmental changes and enforcement/policy activities;
 - (iv) developing and implementing prevention action plans;
 - (v) current literature which includes studies of injury statistics;
 - (vi) promoting healthy decision-making skills;
 - (vii) ways to communicate with parents concerning the risk of injury; and
 - (viii) the liability issues related to student injury.
- AUTH: Sec. 20-2-114 MCA; IMP, Sec. 20-2-121 MCA;

10.58.509 ENGLISH/LANGUAGE ARTS For the prospective

English/language arts teacher the program shall:

- ~~(1) provide knowledge of language including:~~
 - ~~(a) the structure, history, dialect, grammatical system, nonverbal system, and semantic system of the English language;~~
 - ~~(b) the developmental processes by which individuals acquire, understand, and use language;~~
 - ~~(c) the influence of social, regional, economic, and cultural factors on language variations and use;~~
 - ~~(d) how speaking, listening, writing, reading, thinking, and nonverbal communication are interrelated; and~~
 - ~~(e) how language is used to influence the thinking of others;~~
- (1) Provide a structural framework which demonstrates:
 - (a) explicit goals, procedures and rationales in an identifiable program;
 - (b) articulation of program goals, procedures and rationales to faculty, students and administrators;
 - (c) program-wide integration of content and methods on-campus and in field experiences; and
 - (d) modeling by both English and education instructors of effective pedagogy and attitudes and use of classroom methods which reflect and apply knowledge of current research regarding the theory and practice of teaching English/language arts.
- ~~(2) provide knowledge of composition including:~~
 - ~~(a) the stages involved in the composing process (i.e., prewriting, writing, revising, editing and evaluating);~~
 - ~~(b) the elements involved in composing oral and written forms (e.g., considerations of subject, purpose, audience, point-of-view, mode, tone and style);~~
 - ~~(c) the linguistic, rhetorical, and stylistic concepts that influence the substance and structure of oral and written discourse;~~
 - ~~(d) the processes and criteria by which oral, written and nonverbal discourse can be evaluated (e.g., observation,~~

~~holistic-
scoring, analytic scoring in writing and individual
conferences);~~

~~(e) the development of individuals' oral and written
language abilities;~~

~~(f) processes and strategies for writing across the
curriculum;~~

~~(g) the major grammatical theories;~~

~~(h) the latest research on effective strategies for
teaching
the composing process;~~

(2) Provide understandings of English/language arts
content,
including:

(a) language, acquired through knowledge and application
of:

(i) the developmental processes by which individuals
acquire, understand and use language;

(ii) the history, structure and purpose, as well as
the
nonverbal, symbolic and semantic systems of language;

(iii) the linguistic, rhetorical and stylistic concepts
that influence the substance and structure of oral and written
discourse;

(iv) the concept of grammar as the paradigm of varying
linguistic schools of thought; e.g., structuralism,
transformational/generative grammar, cognitive linguistics;

(v) dialects and levels of usage; i.e., the influence
of social, regional, economic, and cultural factors on language
variations and use; and

(b) literature, acquired through knowledge and application
of:

(i) varied approaches to stimulating student
responses
to literature, including nonprint media, through speaking,
writing, acting, and producing visual arts, film and print media
(such as posters, dioramas, videotapes, hypercard stacks);

(ii) a broad selection of multi-cultural contemporary
and traditional literature which includes adolescent literature,
literature of various genres, minority literature, literature by

women and nonprint media; and

(iii) varied approaches to critical literary theory,
including classical and contemporary ways to respond to,
discuss,
understand and evaluate literature, including nonprint media;

(c) the reading process, acquired through knowledge and
application of:

(i) ways readers adjust strategy to purpose,
including

reading for pleasure, for information and for insight into values

and conflicts:

(ii) strategies readers can use to discover meaning and monitor their own comprehension, the role of prior knowledge, the various modes of thought; i.e., metacognition:

(iii) linguistic and cognitive bases of reading:

(iv) levels of comprehension, such as literal, interpretive, creative;

(v) direct instruction, modeling and functional reading; and

(d) the writing process, acquired through knowledge and application of:

(i) ways writers select a topic, generate and organize

ideas and choose language appropriate to the writing purpose;

(ii) direct instruction, modeling and conferencing;

(iii) various formats for a variety of purposes and audiences;

(iv) the linguistic, rhetorical and stylistic concepts that influence the substance and structure of written discourse;

and

(v) ways writers revise, edit and publish their own and others' writing;

(e) different forms of oral discourse, acquired through knowledge and application of:

(i) the composing process to practice, model and help students speak in various situations, including platform speaking,

small group communication and media communication (e.g., teleconferencing, taping, broadcasting);

(ii) the linguistic, rhetorical and stylistic concepts that influence the substance and structure of spoken discourse;

(iii) practicing, demonstrating, and helping students prepare for argumentation, persuasion and oral interpretation;

(iv) the listening process, including sensing, interpreting, evaluating, and reacting for various purposes;

(v) strategies for dealing with external and internal

barriers to effective listening; and

(vi) nonverbal communication;

(f) nonprint media, acquired through knowledge and application of:

(i) the nature, function and structure of nonprint and

nonverbal media and their relationships to print media; and

(ii) the composing process in various media and for various purposes and audiences through modeling and helping

students:

(a) thinking skills, acquired through knowledge and application of:

- (i) methods of gathering, analyzing and presenting information;
(ii) logical and creative thinking and problem solving

skills for a variety of situations:

- (iii) the decision making and reasoning processes; and
(iv) writing as a generative process.

(3) provide knowledge of an extensive body of literature, including:

(a) American, English, and world, including nonwestern, mythology, contemporary literature, literature by women and multicultural groups, and literature for children and adolescents;

(b) approaches to literary analysis and criticism as well as varied ways to respond to, discuss, understand and evaluate literature, including:

- (i) knowledge of genres; and
(ii) sensitivity to literature as a means for examining human problems, achievements, values and conflicts;

(c) approaches to appreciating literature and reading as a life-long source of learning as well as pleasure;

(3) Provide a pedagogy for English/language arts, which includes:

(a) instructional planning and delivery, with practice in:
(i) selecting, designing, organizing and employing objectives, strategies and materials for the English/language arts program;

(ii) incorporating research findings into the instructional program and curriculum;

(iii) communicating the philosophy and goals of the English/language arts curriculum to students, parents, lay audiences and other educators;

(iv) formulating questions and learning to help students formulate questions at varying levels of abstraction to elicit personal responses as well as facts and inferences;

(v) organizing students for effective whole class, small group and individual work; and

(vi) using a variety of instructional strategies, materials, and technology appropriate to students' cultures, gender and learning styles;

(b) knowledge of and experience with assessment, including

practice in:

- (i) designing or selecting assessment methods appropriate for instructional and curricular decisions;
(ii) preparing and using varied assessment methods and

procedures appropriately to match curriculum and levels of thinking;

(iii) communicating assessment results to students, parents, lay audiences and other educators; and

(iv) learning how to help students develop self-assessment methods;

(4) provide knowledge of the processes involved in thinking, listening, speaking, reading, writing and viewing for a variety of

purposes and in a variety of formats;

(4) Develop positive attitudes for English/language arts which:

(a) demonstrate a concern for students, including:

(i) a recognition that all students are worthy of a teacher's attention;

(iii) a desire to use the English/language arts curriculum to help students become familiar with and tolerant of diverse

peoples and cultures;

(iii) a respect for the language, dialect and heritage of each student;

(iv) a desire to help students grow by encouraging creative and responsible uses of language;

(v) a willingness to adapt objectives, methods and materials for instruction to match students' needs;

(vi) a willingness to respond critically to different media and to encourage students to do the same; and

(vii) an understanding of and appreciation for freedom of expression, particularly as it affects the rights and responsibilities of students;

(b) demonstrate a commitment to professionalism, including:

(i) continued professional growth in the teaching of English/language arts;

(ii) pride in the teaching of English/language arts;

(iii) dedication to life-long practice in communication;

(iv) recognition of the value of professional collaboration;

(v) willingness to make informed, reflective decisions

on current issues of professional concern;

(vi) sensitivity to the impact that events and developments in the world outside the school may have on teachers,

their colleagues, their students and the English/language arts curriculum; and

(vii) dedication to interaction with colleagues, both in teaching and administration, which reflects an understanding of and compliance with important ethical standards.

~~(5) provide knowledge about the nature, function, and structure of nonprint and nonverbal media and their relationship to print and verbal expression, including:~~

~~(a) how various media influence and communicate different messages, and~~

~~(b) how to evaluate, select and use a variety of instructional media and technology;~~

~~(6) provide knowledge of English language arts curricula including:~~

~~(a) the development, implementation, and evaluation of curricula;~~

~~(b) the procedures used to design English language arts curricula for students of different ages, abilities, linguistic, cultural and community backgrounds;~~

~~(c) the selection, evaluation, and use of instructional resources and materials, including nonprint media and computer software;~~

~~(d) the communication of curriculum objectives to colleagues, parents, and the public; and~~

~~(e) an awareness of the language, subject matter, and teaching strategies which evoke criticisms by special interest groups as well as strategies and legal information for coping with the criticism;~~

~~(7) develop the ability to identify, assess, evaluate, and interpret student progress in thinking, listening, speaking, reading, writing and viewing in a variety of communicative contexts and purposes;~~

~~(8) develop the ability to help students improve their skills in using and responding to language, including:~~

~~(a) designing contexts in which students have a purpose for creating, improving, and evaluating their own and others' oral and written discourse;~~

~~(b) responding specifically and constructively to a student's oral and written discourse;~~

~~(c) helping students distinguish between effective and ineffective discourse in relation to audience, purpose, context, and other relevant criteria;~~

~~(d) helping students identify and weigh facts, inferences, implications, and judgments in oral and written discourse;~~

~~(e) helping students recognize and practice the language options available and appropriate in various social, regional, and cultural environments and communicative contexts; and~~

~~(f) helping students recognize the ever-changing nature of language;~~

~~(9) develop the ability to help students learn and read~~

effectively for information, understanding, and pleasure;

~~(10) develop the ability to help students respond to, discuss, understand, analyze and evaluate all forms of print, nonprint, and nonverbal media and communications;~~

~~(11) develop the ability to help students ask questions that elicit facts, opinions, generalizations, and judgements that are~~

~~appropriate to the subject and occasion; and~~

~~(12) develop the ability to design instruction that engages the intellect, imagination, and emotions of students in their thinking, listening, speaking, reading, writing, and viewing.~~

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

10.58.510 EXCEPTIONAL CHILDREN STUDENTS WITH DISABILITIES

~~K-12 (1) Common standards applicable to all areas of special education are followed by specific standards for areas of specialization. Programs leading to K-12 certification for teachers of exceptional children shall meet the common standards and have an emphasis in at least two of the special areas.~~

~~(2) Common standards: For the prospective teacher the program shall provide:~~

~~(a) an understanding of the types of exceptionalities among preschool children, children and youth and their educational relevance;~~

~~(b) experiences in individual and group classroom management procedures appropriate to exceptional children, such as:~~

~~(i) use of diagnostic procedures to identify the exceptional child's learning difficulties and specialized needs;~~

~~(ii) ability to develop and implement prescriptive programs based on diagnostic findings; and~~

~~(iii) knowledge of the techniques used in behavioral control;~~

~~(iv) sufficient preparation to address the following for developing appropriate programming and program evaluation:~~

~~(A) knowledge and skills in devising appropriate early childhood developmental activities in all areas of learning; and~~

~~(B) ability to set up and use a system of continuous program evaluation (e.g., consumer satisfaction and child progress including IEPs);~~

~~(c) opportunities to observe institutions and facilities concerned with the education, health, and welfare of all types of exceptional children;~~

~~(d) early opportunities for supervised laboratory experiences with exceptional children as one means of determining the candidate's maturity for work with exceptional children;~~

~~(e) encouragement of student affiliation with professional groups, and an awareness of the referral agencies available for aid to exceptional children;~~

~~(f) a specific understanding of federal and state rules and regulations related to educating exceptional children;~~

~~(g) opportunities to work with groups of children and individuals within groups who have different educational needs; and~~

~~(h) opportunities to work with children who have difficult handicapping conditions.~~

~~(3) Specialized standards: The program shall require in-depth study and experience which develop competence in at least two of the following areas of concentration:~~

~~(a) Emotionally Disturbed: For the prospective teacher the program shall provide:~~

~~(i) the theoretical bases of counseling and psychotherapy with in-depth studies in emotional and social problems;~~

~~(ii) specific techniques for the diagnosis and remedy of learning problems caused by maldevelopment of personality as manifested by a variety of symptoms and problems, such as adjustment reactions of childhood, conduct disorders, neuroses, character disorders, and psychoses;~~

~~(iii) an awareness of the significant role of parents and the influence of the total environment of the pupil; and~~

~~(iv) knowledge of the results of research in closely allied fields as well as the specific discipline.~~

~~(b) Hearing Impaired: For the prospective teacher the program shall provide:~~

~~(i) skills in managing pupils with speech and hearing disorders, including diagnosis and evaluation, therapeutic methods and materials;~~

~~(ii) study in audiometry and hearing rehabilitation, including studies in hearing problems and hearing tests;~~

~~(iii) skills in auditory training and speech reading, speech for the acoustically handicapped, sign language, and working with the deaf;~~

~~(iv) opportunities to observe procedures of diagnosis and case management by qualified clinicians;~~

~~(v) therapeutic skills and judgments and provide opportunities to perform therapeutic services under supervision; and-~~

~~(vi) study of the anatomy and physiology of the auditory system and knowledge of the symptoms and diagnosis of hard of hearing and deafness.~~

~~(c) Mentally Retarded: For the prospective teacher the program shall provide:~~

~~(i) knowledge related to the needs of the mentally retarded, knowledge of programs and procedures for working with the mentally retarded, and professional laboratory experiences with mentally retarded children;~~

~~(ii) studies and experiences which give the prospective teachers knowledge of the following:~~

~~(A) etiology of mental retardation;~~

~~(B) characteristics of the mentally retarded and classification and diagnosis of mental retardation;~~

~~(C) social control and adjustment of the mentally retarded;~~

- ~~(D) information about the educational processes of the mildly, moderately, and severely mentally retarded;~~
- ~~(E) interpretation of psychological tests;~~
- ~~(F) screening and selection of children for class placement;~~
- ~~(G) curriculum development, methods, materials, and special teaching techniques; and~~
- ~~(H) problems related to integration of mentally retarded students into general school organization;~~
- ~~(iii) knowledge of all levels of mental retardation and allow for emphasis in one or more of these levels.~~
- ~~(d) Orthopedically Impaired: For the prospective teacher the program shall provide:~~
 - ~~(i) knowledge of learning environments for children who are medically defined as physically handicapped, have other health problems, or have central system disorders that place them within a definition of chronic conditions;~~
 - ~~(ii) understanding and knowledge of the special problems and processes of assessing the physically handicapped, with emphasis on the effects of the physical handicap on the learning processes and the diagnostic procedures to be used in the teaching role; and~~
 - ~~(iii) experiences to develop skills in curriculum development and special methodologies relative to children who may be multiply handicapped.~~
- ~~(e) Visually Impaired: For the prospective teacher the program shall provide:~~
 - ~~(i) study of the anatomy and physiology of the eye and knowledge of the symptoms and diagnosis of partial vision and total loss of sight;~~
 - ~~(ii) knowledge of local, state, and national facilities for serving the visually impaired and the blind and knowledge of the provisions available for the partially seeing child;~~
 - ~~(iii) knowledge of common plans of organization and current facilities for serving partially seeing children, and the principles of preparation, selection, and effective use of appropriate instructional materials;~~
 - ~~(iv) skills to solve the problems of adaptation of school environments to meet the needs of partially seeing children; and~~
 - ~~(v) skills in using teaching methods and testing programs and interpretations applied to the special needs and capabilities of partially seeing and blind children.~~
- ~~(f) Specific Learning Disabilities: For the prospective teacher the program shall provide:~~
 - ~~(i) knowledge of learning theory as well as educational psychology, orientation in psychological testing, and diagnosis and correction of learning disabilities;~~
 - ~~(ii) experience in the education of those with learning disabilities (such as dyslexia, perceptual handicaps, brain injury, minimal brain dysfunction, and developmental aphasia); remedial work in basic skills, reading, and in curriculum development for teaching students with learning disabilities; and~~
 - ~~(iii), an adequate understanding of group dynamics;~~

interviewing, and counseling and for knowledge of community resources.

~~(g) Preschool Handicapped Child: For the prospective teacher, the program shall provide:~~

~~(i) knowledge of prenatal development, normal developmental sequences, and theoretical foundations for contemporary developmental theories, with emphasis on the following:~~

~~(A) prenatal care and the birth process;~~
~~(B) birth defects and genetic syndromes;~~
~~(C) play and its role in development;~~
~~(D) motor, perceptual, sensory, language, psychological, cognitive, and social developmental sequences;~~

~~(E) variations in human development including both normal variations and developmental delays; and~~

~~(F) the child as a whole person, with consideration for the special needs (physical, emotional/affective, moral/spiritual, etc.) imposed by handicapping conditions;~~

~~(ii) knowledge of the young child within the context of the family and the demographic and socioeconomic factors impinging on the family, with special emphasis on the following:~~

~~(A) bonding and separation, and their reciprocal effects;~~
~~(B) family dynamics with respect to functional and dysfunctional family relationships;~~

~~(C) various ethnic, linguistic, and cultural backgrounds and their effect on parenting style and impact on children;~~

~~(D) the variety of family structures and settings;~~
~~(E) the unique, personal needs of parents and siblings of disabled children; and~~

~~(F) the potentials and limitations of parents as teachers of their disabled children;~~

~~(iii) skills in programming issues related to:~~

~~(A) assessing (e.g., using evaluation techniques and performing criterion referenced and culturally fair testing, estimating family needs and capabilities, and measuring the child's social integration);~~

~~(B) planning (e.g., integrating assessment and observational data, using assessment data to develop curricula and activities, developing strategic individual education or family service plans);~~

~~(C) programming for families (e.g., encouraging parents to participate and support educational programs, assisting parents to work effectively with their children on developmental skills, working with parents to identify and advocate for services in the most normal and least restrictive settings, individualizing intervention tactics to meet unique handicapping conditions, developing practical listening and communication skills, and providing counseling to the family);~~

~~(D) programming for children (e.g., devising appropriate developmental activities, demonstrating effective techniques in line with the child's strengths, enabling young children to make choices and decisions, preparing children for the transition from the home to preschool or school, demonstrating skills in task analysis and adaptation, and displaying effective methods~~

~~of classroom management and discipline); and~~

~~(E) evaluating outcomes of activities (e.g., setting up and using continuous program evaluation systems such as child progress measures and consumer satisfaction ratings, ensuring that all program elements meet child and family needs, making data-based decisions to modify program objectives, and sharing evaluative information appropriately);~~

~~(iv) skills in designing, organizing, and implementing learning environments and intervention models, specifically:~~

~~(A) directing the activities of paraprofessionals and parent volunteers;~~

~~(B) operating in various settings, (e.g., home-based, center-based, consultative, itinerant resources, etc.); and~~

~~(C) relating to various administrative or organizational structures, (e.g., public schools, special education cooperatives, nonprofit corporations, etc.);~~

~~(v) skills in multidisciplinary processes, specifically:~~

~~(A) sharing and exchanging information with parents, professionals from other disciplines, and support personnel;~~

~~(B) functioning as case manager to coordinate team processes and resolve conflicts between team members; and~~

~~(C) knowing the scope and function of service and support systems, including financial resources, which assist in the care and education of young children and their families;~~

~~(vi) knowledge and skills with respect to the following topics:~~

~~(A) history, philosophy, and theory of special education and early intervention; and~~

~~(B) federal, state, and local laws, regulations, and policies that affect early intervention.~~

The following standard pertains to programs for preparing teachers of students with disabilities--early intervention through

grade 12. This standard, applicable to all areas of special education, is designed to prepare an individual to provide a range of educational services for students with disabilities. This

standard refers to students who have cognitive delay, hearing impairment, deafness, speech/language impairment, visual impairment, emotional disturbance, orthopedic impairment, other health impairments, learning disability, deaf-blindness, pre-school with disability, autism, and/or traumatic brain injury. The standard represents a common set of expectations across all areas for the preparation of teachers serving students with disabilities. The program shall require demonstrated:

(1) competence in reviewing current research and knowledge in describing the characteristics of exceptionality and its effect on

how students learn;

(2) competence in an understanding of national, state, and local laws, policies, and procedures affecting persons with disabilities;

(3) competence in the development, selection,

administration, and interpretation of formal and informal screening and assessment techniques and instruments to assess a student's educational development (academic, cognitive, communicative, emotional, behavioral, physical, career/vocational, and social), to include accomplishment and documentation of pre-referral interventions;

(4) knowledge of the child within the context of the family and the cultural, socioeconomic, linguistic and environmental factors impacting the family;

(5) competence in converting assessment information into functional long-term goals and short-term objectives (Individual Education Plan--IEP) designed to meet the needs of a student with

a specific disability including recommendations relating to placement in the appropriate, least restrictive environment;

(6) competence in developing, implementing and evaluating the IEP using appropriate curriculum, instructional techniques/methods, selecting and applying appropriate ongoing measurement techniques,

media/materials, and supportive personnel;

(7) competence in the development, implementation, and evaluation of a variety of logically ordered instructional approaches to learning for students with disabilities that address

their academic, communication, social, cognitive, behavioral, career/vocational, life skill, leisure skill, play skill and physical needs including the effects of medication;

(8) competence in identifying, selecting, adapting, and using commercially and teacher-made media and materials including the most current technology for improving and strengthening programs

for students with disabilities;

(9) competence in making appropriate adaptations in the environment, equipment, and/or devices needed to organize a variety of individual and small group learning activities;

(10) competence in individual and group management techniques using a variety of techniques based upon behavioral, cognitive, and humanistic psychological theories;

(11) competence in the ability to work ethically and constructively with pupils, professional peers, teachers, parents/families, administrators and other concerned persons and organizations, and to work cooperatively and collaboratively with

professional peers within various teaching environments;

(12) competence in identifying, selecting, and using school and community resources;

(13) competence in working with groups of students and individuals within groups and in field experiences and student

teaching practicum with students with special needs; and
(14) competence in supporting effective transitions from
early intervention programs into local education agencies (LEAs)
from elementary into secondary programs and from LEAs into post-
secondary situations.

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

10.58.511 SECOND LANGUAGES For the prospective teacher
seeking endorsement to teach any second language, preparation
shall be in a specific language program leading to
teacher preparation and the program shall provide:

(1) study in phonology, grammar and composition,
linguistics
(applied to the specific language or applied to ~~foreign~~
~~languages~~
second language study as a whole), literature, and culture;

(2) will remain the same.

(3) ~~the speaking ability~~ oral proficiency to satisfy most
work requirements, and show some ability to communicate on
concrete topics relating to particular interests and special
fields of
competence;

(4) the ability to read with comprehension factual
information in ~~nontechnical~~ non-technical prose, as well as
concrete topics related to special interests; read for
information
and description; follow a sequence of events and react to that
information; and separate main ideas and details in material
written for the general public;

(5) will remain the same.

(6) a working social and professional competence in
cultural
skills, including the ability to: participate in social
situations
and those within one's vocation; handle unfamiliar situations
with ease and sensitivity, including those involving common
taboos
or other controversial subjects; and comprehend most nonverbal
responses, including some culture-related humor;

(a) for the acquisition of such skills the program must
provide the opportunity for the prospective teacher to contact
native cultures either on the campus or in an organized period
of
study in the native culture of the second (target) language;

(7) an awareness of language as an essential element of
culture, an understanding of the principle ways in which the
~~foreign~~ target language culture differs from ~~our own~~ the first
language culture, first-hand knowledge of literary masterpieces,

and acquaintance with the geography, history, art, and social
customs of major lands in which the language is dominant;

(8) an understanding of the differences between the sound
systems, forms, and structures of the ~~foreign~~ second language
and

English and the ability to apply this understanding to modern ~~foreign second~~ language teaching;

(9) a knowledge of the present-day objectives of ~~foreign second~~ language teaching as communication, and an understanding of the methods and techniques for attaining these objectives;

(10) a knowledge of the use of special techniques, such as educational media, the relation of ~~foreign second~~ language study to other curricular areas, and the ability to evaluate the professional literature of ~~foreign second~~ language teaching;

(11) preparation of teachers of classical languages through

adherence to the preceding standards, with additional emphasis on appreciation of the language and gaining control of its sounds, structure, and vocabulary rather than on conversational objectives; and

(12) for certification to teach English as a second language.

the program shall require two years or the equivalent experience learning a second language to include knowledge of the linguistic structure of the language and features of a culture which uses the language.

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

10.58.512 GUIDANCE AND COUNSELING K-12 For the prospective counselor the program shall provide:

(1) the completion of a master's degree in counseling or equivalent;

(1)(2) evidence that careful screening throughout the program is employed to assure that only persons who have the potential for developing effective relationships have demonstrated competence as student advocates in consulting with students, teachers, administrators, and parents and agencies are accepted as candidates;

(2)(3) opportunities to understanding the philosophy, theories, organization, time management, and professional activities related to the practice of school counseling K-12;

(3)(4) knowledge of referral agencies and other services outside the school setting opportunities to demonstrate competence

in developing relationships with community, public, private, medical and educational agencies and other services for referral and collaborative service delivery;

(4)(5) opportunities to understanding individual growth and development, within family and social environments including the

dynamics of human behavior and of human development theory and research;

~~(5)(6) the extension of the pre-counselor's understanding of opportunities to understand basic educational philosophies, and school curriculum development patterns K-12, and school organization and management;~~

~~(6)(7) opportunities to understand of and appreciate societal forces and cultural changes, diversity with particular reference to such as socio-economic, religious, ethnic, and racial groups;~~

~~(7)(8) opportunities to demonstrate competence in both elementary, middle and secondary guidance and counseling in the following areas:~~

~~(a) administration and interpretation of intelligence, aptitude and interest, achievement, and personality assessment;~~

~~(b) individual and group guidance;~~

~~(c) individual and group counseling;~~

~~(d) assisting students in developing personal, social, educational, and career/life planning decision-making skills;~~

~~(e) placement and follow-up;~~

~~(f) planning, implementation, administration, and evaluation of guidance and counseling programs;~~

~~(g) performance, interpretation, and use of educational research;~~

~~(h) drug and alcohol prevention/intervention programs, suicide, eating disorders, child abuse (physical and sexual), teenage pregnancy, human sexuality, family relations, grief, separation, and loss; and~~

~~(i) consultation with families and professional staff;~~

~~(a) planning, implementation, administration, and evaluation of counseling curricula and programs;~~

~~(b) principles of appraisal and interpretation of interviews, history taking, observations, and formal assessments (intelligence, aptitude and interest, achievement, and personality tests);~~

~~(c) assisting students in developing personal, social, educational, and life career planning and decision-making skills;~~

~~(d) individual, family and group counseling including the design, implementation and application of developmental, preventive, remedial and adjustment strategies and services;~~

~~(e) consultation with families and others regarding assessment and intervention to enhance students' academic, social, cognitive, psychological and physical functionings;~~

~~(f) drug and alcohol prevention/intervention programs, suicide, eating disorders, child abuse and neglect, teenage pregnancy, human sexuality, family relations, grief/separation/~~

loss, student drop-outs, gender-equity, and crisis intervention
i

(g) performance, evaluation, and use of educational
research;

(8)(9) functional opportunities to gain knowledge of
special education rules and regulations and other state and
federal laws as they pertain to guidance and counseling
demonstrated
competence in the knowledge of special needs and developmental
issues of exceptional students and their families;

(10) opportunities to gain knowledge of state and federal
laws, and school accreditation standards, including those laws
and
regulations that affect student placement, follow-up and program
planning;

(11) opportunities to demonstrate competence in the
knowledge of legal and ethical issues of school counseling;

(9)(12) an understanding of opportunities to demonstrate
competence in career development theories and processes
counseling, including career development theories, written
materials,
technologically-assisted information, assessment and decision-
making methods; and

(10)(13) supervised laboratory and practicum experiences
in-
a school setting, opportunities to complete a supervised
counseling practicum and internship experience including
observation,
practice, and performance of counseling and the other of the
duties of a school counselor with the following requirements:

(a) the counseling practicum must total a minimum of 100
hours, including 40 hours of direct client contact offering
counseling services;

(b) the counseling practicum must be supervised a minimum
of
one hour per week in an individual session and one and one-half
hours per week in a group session by graduate program faculty;

(c) the internship must consist of a minimum of 600 hours
in
a school or school-related setting;

(d) the internship must include 240 hours of direct client
contact offering counseling services; and

(e) the internship must be supervised a minimum of one
hour
per week in an individual session and one and one-half hours per
week in group sessions by a master's degree school counselor or
graduate program faculty.

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

10.58.513 HEALTH For the prospective teacher the program

shall provide a broad understanding of the health enhancement program and shall further provide:

(1) the ability to plan, organize, assess and implement a comprehensive school health program including:

(a) school health curriculum, including goals and objectives, planned learner activities and integratedion with related disciplines, to include:

(i) will remain the same.

(ii) ~~accident~~ prevention and safety education;

(iii) through (v) will remain the same.

(vi) family life education/ and human sexuality;

(vii) will remain the same.

(viii) ~~use and abuse of substances~~ alcohol, tobacco and

other drugs;

(ix) mental and emotional health; and

(x) environmental health; and

(xi) student and program assessment;

(b) school health services, ~~including awareness of health professionals, barriers to learning, health records, and health policies~~ healthy school environment, health promotion for staff,

food services and social climate;

~~(c) healthy school environment, including health promotion~~

~~for staff, food services, sanitation, and social climate;~~

(2) will remain the same.

(3) will remain the same.

(a) and (b) will remain the same.

(c) building self-esteem/ and self-concept;

(d) and (e) will remain the same.

(f) ethical decision making; and

(g) identification of obstacles to learning and referral;

and

(h) risk factors, protective factors and resiliency.

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

10.58.514 HOME ECONOMICS For the prospective teacher the program shall provide:

(1) ~~basic information about child development and the creation and maintenance of an environment in which children and~~

~~families develop and interact as individuals and family members~~ information about the impact of society on family interaction

and child development which includes interpersonal relationships, cultural patterns, and community diversity;

(2) an understanding of the multiplicity of factors involved

in selection, use, and care of clothing and textiles for personal

and family needs;

(3) will remain the same.

(4) knowledge and experience for selecting, planning,

preparing, and serving foods that meet the nutritional, cultural and socio-economic needs of various individuals, and families and groups;

(5) knowledge and experience in individual and family for consumer health and family resource management that meets individual and family goals at the various stages of life;

(6) knowledge in planning, developing, teaching, supervising, and evaluating programs in consumer homemaking and occupational home economics;

(7) will remain the same.

(8) study in the humanities and the social, behavioral, and natural sciences; and

(9) the ability to use home economics youth organizations as a means to teach leadership skills through public speaking, parliamentary procedures, and cooperative group efforts; and

(10) emphasis on career exploration and orientation to work. AUTH: Sec. 20-2-114 MCA; IMP, Sec. 20-2-121 MCA

10.58.515 INDUSTRIAL ARTS/TECHNOLOGY EDUCATION For the prospective teacher the program shall: ~~(1) provide an emphasis on course work in math/science and related subject areas beyond the core requirements;~~

~~(2) provide a fundamental knowledge about the development of industry and technology and its effect on people, the environment and culture, and about industry, its organization, personnel systems, techniques, resources and products and their sociological impact;~~

~~(3) provide instructional content drawn from the following content organizers:~~

~~(a) communication: efficiently using resources to transfer information to extend human potential;~~

~~(b) construction: efficiently using resources to build structures on-site;~~

~~(c) manufacturing: efficiently using resources to extract and convert raw/recycled materials into industrial and consumer goods; and~~

~~(d) transportation: efficiently using resources to save time and to attain and maintain direct physical contact and exchange among individuals and societal units through the movement of materials/goods and people;~~

~~(4) provide skill in the use of tools, instruments and machines;~~

~~(5) assist students in developing insight, understanding and application of technological concepts, processes and systems;~~

~~(6) assist students to apply tools, materials, machines, processes and technical concepts safely and efficiently;~~

~~(7) develop skills, creative abilities, positive self-concepts and individual potentials relating to technology;~~

~~(8) develop student problem solving and decision making abilities involving human and material resources, processes and technological systems;~~

~~(9) provide activities oriented laboratory instruction with students reinforcing abstract concepts with concrete experiences;~~

~~(10) emphasize "know how" and "ability to do" in carrying out technological work;~~

~~(11) develop student attitudes, knowledge and skills regarding the functioning of industrial and technological systems;~~

~~(12) develop the ability to apply technological attitudes, knowledge and skills to understand new or different past present future technology systems;~~

~~(13) develop an understanding of the application of other areas of knowledge (i.e., mathematics, science, history) to technology and the solution of human and social problems; and~~

~~(14) provide courses/experience to enable the graduate to perform the following tasks:~~

~~(a) establish a student association within the industrial arts/technology education program including selection of appropriate organizations, establishing a chapter, conducting activities and assisting in management and evaluation; and~~

~~(b) develop and coordinate an external advisory committee for the program.~~

(1) provide a curriculum that is consistent with current national standards for curricular design:

(a) based on a sound mission statement with stated goals and objectives which reflect the intent of technology education programs, as defined by the national professional organizations for technology education;

(b) based on an organized set of concepts, processes and systems that are technological in nature; and

(c) reflected in curricular design, course outlines, instructional strategies and evaluation of student work;

(2) contain courses in math, science and related areas in the general education component to provide the necessary depth and breadth in content for students to succeed in the technology education program;

(3) require appropriate studies in the area in which the graduate will teach, including:

(a) fundamental knowledge about the development of technology, its effects on people, the environment and society;

(b) information about industry's organization, personnel systems, techniques, resources, products and social impacts;

(c) instructional content drawn from the following content organizers:

(i) communication technology: using resources to transfer information and to extend human potential;

(ii) construction technology: using resources to build

structures or construct work on site:

(iii) manufacturing technology: using resources to extract and convert raw/recycled materials into industrial and consumer goods; and

(iv) transportation technology: using transportation technologies to maintain contact and exchange among individuals and societal units through the movement of material/goods and people;

(d) identification of a level and scope of skills in the use of tools, instruments and machines necessary for successful teaching;

(e) assistance to students in developing insight and understanding in the application of technological concepts, processes and systems;

(f) assistance to students in utilizing tools, materials, machines, processes, and technical concepts, safely and efficiently;

(g) help for students to develop skills, creative abilities, positive self-concepts and individual potentials relating to technology;

(h) problem-solving and decision-making abilities involving human and material resources and technological processes and systems;

(i) activity-oriented laboratory instruction that reinforces abstract concepts with concrete experiences;

(j) emphasis on "know-how" and "ability to do" in carrying out technology activities;

(k) knowledge and skills regarding how technological systems function, and the attitudes to evaluate those systems;

(l) the ability of students to understand past, present or future technological systems by applying knowledge and skills developed in the study of other systems;

(m) the ability to apply other areas of knowledge (e.g., mathematics, science, history) to technology and its use in solving individual and social problems; and

(n) information to students on the relationship between technology education and vocational education and its role in providing middle and high school students with career awareness and exploratory activities that enhance success in advanced specialized courses;

(4) provide courses/experiences so that the graduate can perform the following tasks in developing, managing, and evaluating a technology education program in schools:

(a) develop a strategic plan that includes a mission statement, rationale for updating, goals and objectives, action steps, and a program evaluation strategy;

(b) base the program on the goals and objectives within the

four content organizers (construction technology, manufacturing technology, communication technology, and transportation technology):

(c) structure an educational environment in the classroom and laboratory that enhances student learning;

(d) select appropriate instructional strategies for individual and group instruction;

(e) successfully provide all elements of laboratory management (e.g., maintaining inventory, filing, requisitioning equipment and materials, maintenance, budgeting);

(f) develop lesson plans, organize materials and present psychomotor, affective, and cognitive instruction;

(g) establish student expectations and develop/implement a behavior policy;

(h) establish and maintain a student association within the program;

(i) promote and articulate technology education to internal and external publics;

(j) develop and coordinate an external advisory committee for the program;

(k) establish a professional development plan for continued personal growth;

(l) identify program standards, with reference to state and national norms, and use the standards to evaluate and improve the program;

(m) function as a committed participant in professional activities both as a contributor and recipient; and

(n) gain access to services and financial resources available from state and federal agencies, and operate within applicable laws and regulations governing education.

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

10.58.516 JOURNALISM The program shall enable the prospective teacher to For the prospective teacher the program shall:

(1) communicate through effective writing by providing experiences in the basic skills and mechanics of the journalism profession; Provide a structural framework which demonstrates:

(a) explicit goals, procedures and rationales in an identifiable program for prospective journalism teachers;

(b) articulation of program goals, procedures and rationales

to faculty, students, and administrators;

(c) the effort to integrate on-campus content and methods and field experiences throughout the program; and

(d) the modeling of pedagogy and attitudes which reflect and apply knowledge of current research on the theory and practice

of teaching journalism.

(2) demonstrate different journalistic styles; Provide understanding of journalism as a subject, including:

(a) press law, particularly as it affects the rights and responsibilities of student journalists;

(b) the history, technological development and impacts of the mass media;

(c) the functions of the news media in a democratic society;

(d) the organizational structure of the news media;

(e) styles and purposes of journalistic forms, including news, features, columns and editorials; and

(f) the concepts of accuracy, fairness, objectivity and comprehensiveness in news reporting.

(3) interview and conduct research; Provide opportunities in both print and nonprint formats for the prospective teacher to practice, model, and help students to use a composition process which involves:

(a) precomposition strategies, including generating sources,

determining angle, interviewing, and researching;

(b) multiple drafts, using conferences and self-assessment as guides for revision and editing; and

(c) a variety of publishing/production methods.

(4) stress the necessity for accuracy; Provide opportunities in both print and nonprint formats for the prospective teacher to practice, model, and help students to:

(a) evaluate the effectiveness of a variety of journalistic forms, including advertisements;

(b) organize staffs and demonstrate skills in leadership and group dynamics; and

(c) use sound business practices for advertising, sales, consumer relations, bookkeeping and circulation.

(5) develop knowledge and skills in the technical methods and tools used in journalism, such as grammar, copy reading, editing,

headline writing, production process, photography, advertising copy, and design; Provide a pedagogy for journalism which includes practice in:

(a) instructional planning and delivery, including:

(i) selecting, designing, organizing and employing objectives, strategies, and materials for journalism programs;

(ii) organizing students for effective whole class, small group, and individual work; and

(iii) using a variety of instructional strategies, materials and technology appropriate to the breadth of journalism

content and the individual needs of students.

(b) selecting, preparing, using and evaluating varied

assessment methods and procedures; and

(c) communicating all components of curriculum and instruction to students, parents, lay audiences, and other educators.

(6) analyse the organizational structure of the news media, showing how and why this structure has changed; Develop positive attitudes for teaching journalism, including:

(a) a concern for students, as demonstrated by:

(i) a respect for the heritages and goals of all students;

(ii) a desire to use the journalism curriculum to encourage students to be well-informed, critical consumers and citizens;

(iii) a desire to help students develop the ability to use language creatively and responsibly; and,

(iv) a willingness to match objectives, methods and materials to individual student needs.

(b) a commitment to professionalism, as demonstrated by:

(i) continued professional growth in the teaching of journalism;

(ii) a willingness to respond critically to all the different media and to encourage students to respond critically;

(iii) an understanding of and an appreciation for freedom of expression, particularly as it affects the rights and responsibilities of students;

(iv) collaboration with other journalists and other teachers; and,

(v) awareness of career opportunities in journalism and the preparation required for such careers.

(7) develop an understanding of the functions of the American economic system as it relates to mass media (advertising, media sales, circulation, and distribution);

(8) possess a knowledge of the history and development of mass media, illustrating their technological developments and impact upon society;

(9) develop knowledge of the social responsibilities, laws, and ethics of mass media and illustrate the effects of the news media upon law and the effects of law upon the news media;

(10) develop an understanding of an appreciation for the free flow of information and the role of the news media in a democratic society;

(11) convey the news media's responsibility for comprehensive reporting of diverse economic and environments;

(12) work effectively with public relations between the school and the community served by the school; and

~~(13) develop an awareness of career opportunities in journalism and the preparation required for such careers.~~
AUTH: Sec. 20-2-112 MCA; IMP, Sec. 20-2-121 MCA

10.58.517 LIBRARY MEDIA K-12 For the prospective library media specialist ~~The program designed to produce an information specialist, teacher and instructional consultant develop skills in shall provide:~~

(1) ~~organization and administration of the library media center including skills in instructional services including:~~

(a) ~~assessing needs teaching information, media, reference, research, literature and production skills;~~

(b) ~~setting goals, objectives, and priorities integrating library and information skills into the curriculum;~~

(c) ~~interpreting the program through public relations participating with teachers and administrators in design and development of the curriculum;~~

(d) ~~establishing policies and procedures working collaboratively with teachers to develop and implement programs and units;~~

(e) ~~planning use of facilities and equipment assisting in selection and use of appropriate media to achieve specific instructional objectives and learner outcomes; and~~

(f) ~~using computers/technology for library media center management applying instructional design principles in producing and adapting materials;~~

(g) ~~formulating the budget and developing funding proposals;~~

(h) ~~supervising and training personnel;~~

(i) ~~developing job descriptions;~~

(j) ~~evaluating programs and procedures according to state, regional, and national guidelines; and~~

(k) ~~participating in a supervised practicum experience;~~

(2) ~~selection, acquisition, and organization of resources/media including skills in organization and administration of the library media center including:~~

(a) ~~evaluating and selecting resources (knowledge of evaluative selection aids print, nonprint, and equipment and of review sources, standard and current evaluating programs and procedures according to state, regional and national guidelines;~~

(b) ~~acquiring resources (publishers, jobbers, producers, vendors, ordering procedures) formulating the budget and developing funding proposals;~~

(c) ~~organizing resources (knowledge of cataloging, indexing, processing, filing, and records management assessing needs;~~

(d) ~~maintaining resources (knowledge of inventory, shelving, weeding, storage, and maintaining security setting goals, objectives and priorities;~~

(e) ~~establishing policies and procedures;~~

(f) ~~interpreting and advocating the program through public relations;~~

(g) ~~supervising and training personnel;~~

- (h) developing job descriptions; and
 - (i) participating in a supervised practicum experience;
- (3) knowledge of information sources and services
including:
 - (a) acquiring knowledge of reference works and uses;
 - (b) acquiring knowledge of literature for children and young adults literature;
 - (c) acquiring knowledge of community resources, networks, and resource sharing; and
 - (d) acquiring knowledge of data bases to locate and retrieve information;
 - (4) instructional services including skills in selection, acquisition and organization of resources and media including:
 - (a) participating in design and development of the curriculum evaluative selection aids for print/nonprint media and equipment, plus standard and current review sources;
 - (b) assisting in selection and use of appropriate media to achieve specific instructional objectives and learner outcomes acquisition resources such as publishers, jobbers, producers, vendors, along with ordering procedures;
 - (c) teaching media, reference, research, literature, and production skills standardized library procedures to include cataloging, indexing, processing, filing and records management;
 - (d) producing basic nonprint media collection development and maintenance including library policies, accession, deselection, inventory, shelving, storage, and security; and
 - (e) applying instructional design principles in the production and adapting of materials development of local and state networking for the purpose of resource sharing to include interlibrary loans, cooperative collections and catalog development, plus electronic resources and networks;
 - (f) integrating library media skills into the curriculum;
 - (g) using computers and technology in the instructional program; and
 - (h) operating common audio, projection, video, and computer equipment;
 - (5) practical skills in the management of all information formats including:
 - (a) using computers and other technology in the instructional programs;
 - (b) operating common audio, projection, video and computer equipment;
 - (c) producing basic nonprint media;
 - (d) planning use of facilities and equipment; and
 - (e) using computers and other technology for the library media center;
 - (6) instruction in:
 - (a) professional development to including:
 - (i) being aware of the role and function of professional organizations and state and federal agencies; and keeping

current

with curricular and technological advances:

- (ii) understanding the role and function of professional organizations and state and federal agencies; and
- (b) the ethics of library management, to include:
 - (i) adhering to the Librarian's Code of Ethics;
 - (b)(ii) being familiar with laws and regulations pertinent to library media programs such as those concerning copyright and confidentiality.

AUTH: Sec. 20-2-114 MCA; IMR, Sec. 20-2-121 MCA

10.58.518 MATHEMATICS For the prospective teacher the program shall:

- ~~(1) include content studies and methods experiences relevant to mathematics curricula grades 5-12;~~
- ~~(2) include hands-on laboratory experiences that develop competence to teach mathematics in grades 5-12;~~
- ~~(3) include experiences that develop competence to teach applications of mathematics from the concrete to abstract levels in a variety of real world situations;~~
- ~~(4) include problem solving as a method of learning and teaching mathematics;~~
- ~~(5) include the principles of inductive and deductive reasoning;~~
- ~~(6) develop an understanding of the interrelationship of different branches of mathematics, including the historical, cultural and philosophical significance of mathematical principles;~~
- ~~(7) include current trends in mathematics and the impact of technology in changing both content and methods of teaching mathematics;~~
- ~~(8) include experiences with current technology (calculator, software, programming, etc.) and mental arithmetic and estimation, and stress appropriate uses of each in the learning and teaching of mathematics;~~
- ~~(9) include the identification, selection, adaptation, evaluation and the use of a variety of resource materials to develop concepts and generate enthusiasm for mathematics;~~
- ~~(10) develop an understanding of:~~
 - ~~(a) the structure of the real and complex number systems;~~
 - ~~(b) number theory;~~
 - ~~(c) the general properties and behavior of algebraic and transcendental functions, including real world and theoretical applications;~~
 - ~~(d) the principles of differential and integral calculus;~~
 - ~~(e) linear algebra with applications to different disciplines;~~
 - ~~(f) spatial geometric relationships;~~
 - ~~(g) Euclidean and non-Euclidean geometries by comparing their axiomatic systems and applying the geometric principles involved to real world situations;~~
 - ~~(h) experimental probability, theoretical probability, probability distributions and simulation methods as appropriate, to represent situations and to make predictions involving~~

~~uncertainty;~~

~~(i) statistical methods, inference and hypothesis testing to solve problems;~~

~~(j) discrete as well as continuous mathematical systems; and~~

~~(k) the appropriate use of technology in the process of learning and teaching mathematics.~~

(1) include experiences in which they:

(a) become confident in their ability to construct mathematical ideas, exercise mathematical reasoning inductive and deductive;

(b) use various strategies to solve problems;

(c) explore the connections that exist within mathematics and between mathematics and other disciplines;

(d) develop skills in written, visual and oral communication of mathematical concepts and technical information;

(e) construct, interpret, test and revise models used in solving real-world problems;

(f) explore the dynamic nature of mathematics throughout history and its increasingly significant role in social, cultural and economic development;

(g) use multiple means of oral, written and visual assessment that are representative of instructional materials and strategies;

(h) create a learning environment that provides and structures the time necessary to explore sound mathematics, grapple with significant ideas and problems, and take intellectual risks;

(i) experience and can apply the integrated and hands-on applications of appropriate technology specific to each of the standards areas.

(j) explore definitions, conjectures and theorems which are applications based and example generated;

(2) include number concepts and properties experiences in which they:

(a) explore and discuss the properties, relations, and applications, real and complex numbers in diverse settings;

(b) study development of the major concepts of number-theory ideas and their applications;

(c) use physical materials and models to explore fundamental properties of number systems (naturals, integers, rational, reals); and

(d) use estimation and mental arithmetic, calculators, computers, paper-and-pencil algorithms and manipulative materials in solving a wide variety of problems;

(3) include geometry experiences in which they:

(a) explore the development and properties of euclidean, transformational and non-euclidean geometries;

(b) develop geometric concepts, both synthetically and algebraically;

(c) compare different axiomatic systems;

(d) explore spatial relationships; and

(e) make conjectures supported by exploration;

(4) include functions utilizing appropriate technology in which they:

(a) use the concept and language of function in the study of mathematics and the sciences to describe and model change;

(b) represent functions as symbolic expressions, verbal descriptions, tables and graphs and move from one representation to another;

(c) investigate and discuss a variety of functions in areas such as mathematics, business and the physical, biological, behavioral and social sciences;

(d) compare properties of discrete and piece-wise continuous functions;

(e) use concrete examples to explore algebraic structures; and

(f) recognize the study of patterns as an underlying fundamental theme in mathematics;

(5) provide probability, statistics and data analysis experiences in which they:

(a) collect, display, analyze and interpret sample data in a variety of real world contexts;

(b) use experimental and theoretical probabilities as appropriate to formulate and solve problems involving uncertainty;

(c) explore and investigate the role of estimation and probability in statistical analysis;

(d) analyze and critique the inappropriate use of statistics; and

(e) formulate convincing arguments and make inferences and informed decisions based on statistical methods;

(6) provide continuous process experiences in which they:

(a) use properties and techniques of calculus to model phenomena in diverse settings;

(b) investigate the phenomenon of change as a limiting process;

(c) explore both intuitively and in depth the concepts of limit, continuity, differentiation, integration and other continuous processes; and

(d) become familiar with the use of calculators with graphics capabilities and computer algebra systems both in the study and the applications of calculus;

(7) provide discrete processes experiences in which they:

(a) investigate a variety of real world problem contexts which lead to diverse discrete mathematical models;

(b) develop and use a variety of counting techniques and counting arguments and their applications;

(c) gain experience in algorithmic and recursive thinking and develop skills in using algorithms and iterative and recursive techniques in solving problems;

(d) deal with issues of computational efficiency and complexity; and

(e) construct concrete examples of finite sequences and extend the ideas to infinite sequences and series;

(8) provide mathematical structures experiences in which they:

(a) use and investigate mathematical structures which arise in the mathematical modeling of problems from real world context to explore and solve the problems;

(b) investigate different observed patterns and properties that can be represented by the same mathematical structures; and
(c) explore the processes involved in building new structures from given structures.

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

10.58.519 MUSIC K-12 For the prospective teacher the program shall develop:

(1) a functional comprehensive knowledge of musical notation and language;

(2) aural perception ~~in dealing with~~ to distinguish tonal and temporal relationships;

(3) an understanding of the ~~function and interaction of the elements materials~~ of music, (including ~~duration, frequency, intensity, timbre, texture, and form~~ melody, harmony, rhythm, tempo, dynamics, form, style and notation);

(4) the ability to use the ~~common elements of music in both materials of music~~ in aural and visual analysis;

(5) comprehensive knowledge and skills in conducting, ~~for choral and instrumental ensembles, score reading, rehearsal, and motivation techniques~~ score reading and rehearsal techniques for choral and instrumental ensembles;

(6) the ability to use, arrange, transpose, and adapt ~~music from a variety of sources to meet the needs and ability levels of school performing groups and classroom situations~~ knowledge to select and adapt (arrange and/or transpose) music from a variety of sources to meet the needs and proficiencies of school performing ensembles and classroom situations;

(7) the ability to guide elementary and secondary students into creative and/or improvisational experiences and performances ~~at both the elementary and secondary levels;~~

(8) ~~functional proficiency on keyboard and fretted-instruments sufficiently advanced to use the instruments for demonstration and accompaniment~~ develop an understanding of and the ability to develop sequential music curriculum with a scope and sequence articulated K-12 that assures pupil development and competence;

(9) ~~individual performance ability to accurately and expressively perform standard solo literature~~ develop an

understanding and ability to develop and use appropriate strategies for assessing student progress and accomplishments in learning music, such as, performance portfolio, reviews, critical analyses,

group and individual performance tasks and research exercises;

(10) the ability to perform in both vocal and instrumental ensembles proficiency on keyboard and fretted instruments in order to use the instruments for demonstration and accompaniment;

(11) the ability to perform in a variety of small ensembles in their primary performance area individual performance ability to perform solo and small to large ensemble repertoire at a high artistic level;

(12) the knowledge, understanding, and appreciation of music in contemporary and past cultures, including multicultural and world music the ability to stylistically identify and place music in an historical period;

(13) knowledge of the relationship of music to other arts and humanities in contemporary and past cultures the ability to perform in both vocal and instrumental ensembles;

(14) the ability to identify compositions as to historic and stylistic perspective knowledge and appreciation of past and present world music cultures;

(15) an understanding of the philosophical, psychological, and aesthetic aspects of music knowledge of the historical relationship of music to other performing and visual arts;

(16) the ability to formulate a comprehensive music program, including curricula for a school or district which is based upon a sound philosophy of aesthetic education an understanding of the

aesthetic, philosophical and psychological aspects of music, and music's contribution to the individual and society;

(17) performance ability on wind, string, and percussion instruments as well as the singing voice for the purpose of developing the knowledge and skill necessary to conduct instrumental and choral ensembles an ability to formulate a philosophy of music education which may serve as a basis for implementing a K-12 music program;

(18) skills for teaching various vocal/choral classes, such as chorus and general music, and various types of instrumental groups through laboratory experiences demonstrate competence in performing and teaching not only in voice but also winds, string and percussion instruments in order to conduct choral and instrumental ensembles;

(19) an awareness of new or recent trends and technologies

~~in-~~
~~music education~~ the ability to plan music performances and productions;

(20) ~~knowledge of current music methods and materials for elementary education and appropriate supplementary materials~~ skills for guiding various vocal and instrumental laboratory experiences;

(21) ~~a knowledge of the techniques of selecting music literature (solo/ensemble) appropriate for general music, vocal/choral music (considering range, tessitura, and the growing and changing voice), and instrumental music at the elementary and secondary levels~~ an awareness of and appreciation for the role technology plays in contemporary music education;

(22) ~~skill to promote and publicize music education programs~~
~~to gain appreciation and support from the school and community~~

knowledge of current methods and materials appropriate for elementary music education;

(23) ~~a knowledge of and skills to disseminate music career information~~ the ability to develop and use the child's singing voice in elementary music education;

(24) ~~the ability to plan and program musical performances and productions~~ knowledge to select appropriate solo/ensemble literature to be used in general music, vocal/choral and instrumental classes at the elementary and secondary levels;

(25) ~~the ability to use the singing voice in teaching young children, and~~ an awareness of skill in the use of current and diverse music technologies and an understanding of acoustics and the physics of sound;

(26) ~~the ability to assist young children in the development of their singing voices.~~ skills to effectively use promotion, publicity and public relations to develop community understanding

and confidence in the music education program; and
(27) develop an understanding and ability to advise and encourage students about higher education and career opportunities related to the study and performance of music and music related fields.

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

10.58.520 PHYSICAL EDUCATION AND HEALTH K-12 For the prospective teacher the program shall provide a broad understanding of the health enhancement program and further shall:

(1) will remain the same.

(a) will remain the same.

(i) will remain the same.
(ii) the physical, social and emotional ~~hazards~~
dimensions of drugs, alcohol and tobacco and
other drugs;

(iii) will remain the same.
(iv) chronic and communicable diseases including STDs,
body defenses, and immunisation programs and disease prevention;
(v) will remain the same.
(vi) the study of human anatomy and physiology, exercise
physiology, kinesiology, and body chemistry and movement
analysis;

(vii) will remain the same.
(viii) training and conditioning methods and techniques,
including weight strength training, applying the overload
principle as it they relates to physical growth and maturation;
and

(ix) will remain the same.
(b) will remain the same.
(i) will remain the same.
(ii) chronic and communicable diseases, including STDs
and immunisation programs and disease prevention;
(iii) will remain the same.
(iv) will remain the same.
(2) provide knowledge and skills to teach prevention and
intervention strategies, including risk and protective factors
and
the building of self-esteem and resiliency:

(a) basic communication and counseling skills;
(b) assertiveness;
(c) building self-esteem/self-concept;
(d) stress management;
(e) conflict resolution;
(f) ethical decision making; and
(g) identification of obstacles to learning and referral;
(3) provide an understanding of the skills used to
observe,
analyse, prescribe and manage student learning in a wide variety
of activities exposure to activities in the psychomotor domain
including:

(a) through (h) will remain the same.
(4) will remain the same.
(a) will remain the same.
(b) maintenance of facilities, including the selection,
purchase and care of equipment and supplies;
(c) will remain the same.
(d) will remain the same.
(e) aspects of liability potential and insurance or other
forms of risk sharing or pooling; and
(f) student and program assessment;
(5) provide competence in working with exceptional students

with disabilities including:

- (a) will remain the same.
(b) identification of common physical and mental

~~exceptionalities disabilities~~; and

(c) prescription of adapted programs specific to individual

~~exceptionalities disabilities~~;

(6) will remain the same.

(7) will remain the same.

(a) first aid and emergency care including required ~~advanced-~~

~~Red-Cross certification in first aid, and CPR training~~; and

(b) safety education, including outdoor, water, home and traffic.

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

10.58.521 READING SPECIALISTS K-12 For the prospective reading specialist the program shall provide knowledge and application of:

(1) a planned sequence of study, ~~including to include~~ but not limited to: ~~general background (psychology of the reading process,~~

~~nature and scope of reading program), reading skills leading to comprehension (readiness for reading at any level, word recognition skills, vocabulary development), accommodation for experiential and cultural background, diagnostic and remedial teaching, organization of the reading program (classroom organization, varied approaches to reading instruction), selection and use of materials, and the~~

~~application of reading skills;~~

(a) a philosophy of reading instruction which recognizes the importance of teaching reading and writing as processes rather than discrete series of skills or unrelated activities/exercises (i.e.,

a dynamic interaction between reader's existing knowledge, the text and the context of the reading/writing situation);

(b) sensitivity to individual differences and the information the reader brings to the reading experience (i.e., prior knowledge, metacognitive abilities, aptitudes, attitudes, self-concept,

language development and motivation);

(c) recognition of the need to plan instruction based on the reading and literacy strengths of individual learners rather than

on emphasizing weaknesses; and

(d) a wide variety of genre integrated into the curriculum,

including quality literature and a diversity of expository materials appropriate to the age and developmental levels of learners;

(2) ~~understanding of the nature of the learner and the learning process with specific application to reading that:~~

(a) recognizes the importance of embedding effective reading

instruction within a meaningful context (i.e., the development of content and knowledge) for the purposes of completing specific authentic tasks, for personal growth and for pleasure;

(b) recognizes the developmental process of reading acquisition including:

(i) emerging literacy (knowledge of association of oral language to written language);

(ii) knowledge of textual conventions (i.e., phonic knowledge, story structure, etc.);

(iii) fluent integration of text information and reader knowledge; and

(iv) strategic reading (i.e. how to control reading purposes and personal strategies such as metacognition, reflection, critical literacy);

(3) ~~knowledge of the techniques and materials used in reading instruction and skills to diagnose reading problems that include:~~

(a) knowledge of current perspectives about the nature and purposes of reading and research-based approaches to reading instruction;

(b) understanding and sensitivity to individual differences among learners and how these differences influence reading (e.g., prior knowledge and experience, cultural and ethnic diversity, different opportunities for learning);

(c) assisting students to self-reflect, to monitor, and to gradually assume greater responsibility of their reading;

(d) understanding the interactive nature and multiple causes of reading difficulties in learning;

(e) strategies to help students monitor, apply and comprehend word recognition strategies; learn and apply reading comprehension strategies in the content area; and

(f) providing services in effective settings to students in reading/learning disability, special education or local, state or federal compensatory programs;

(4) ~~skills to diagnose reading problems and design appropriate instruction for all students instructional materials that:~~

(a) are designed, selected, modified and evaluated to reflect established curriculum goals and learner outcomes, current research, the interest, motivation and needs of individual learners; and

(b) incorporate appropriate educational technology;

(5) a supervised practicum with children and youth

elementary and secondary school learners in developmental, corrective and accelerated reading instruction that provides:

(a) knowledge of instructional techniques which facilitate direct instruction and model the "what, when, why, where and how"

to use reading strategies with narrative and expository texts; and

(b) modeling teacher questioning strategies, and modeling teacher and student initiated questions;

(6) will remain the same.

(a) development of oral and written language creating a literate environment that fosters interest and growth in all aspects of literacy, including reading, writing, listening, speaking and thinking;

(b) communication skills, including vocabulary and concept development the value of reading aloud to learners;

(c) effect of dialects student opportunities to understand various purposes and functions for reading/writing, to view reading/writing as relevant to themselves, to write and have their writing responded to in a positive way;

(d) relationship of writing and spelling to reading an understanding of environmental factors that can influence student performance on measures of reading achievement; and

(e) relationship of listening to reading recognition and appreciation of the role and value of language and dialect in the reading and learning process; and

(f) parent involvement in cooperative efforts to help students with reading development;

(7) knowledge and competence in the organization, management, and evaluation of staff development programs which:

(a) developing staff understanding and support of the reading program, and include ongoing training, assisting teachers with instruction, promoting and modeling flexible application of effective instructional strategies;

(b) organizing, managing, and evaluating a reading program for all children engender collegiality with other literacy professionals through regular conversations, discussions and consultations about learners, literacy theory and instruction; and

(c) promote and facilitate teacher- and classroom-based research;

(8) understanding of the relationship of reading to all other subject areas, with an understanding of tactics for increasing students' reading abilities in these subject areas development.

management and evaluation of literature-based holistic approaches that:

(a) recognize the importance of implementing literacy programs designed to meet the needs of readers and writers;

(b) involve parents in cooperative efforts to help students with reading development;

(c) help students use technology, print and non-print media effectively;

(d) recognize the importance of time for the reading of extended text for authentic purposes;

(e) encourage higher-order skills through activities that encourage reflective and critical thinking, problem-solving and decision-making which are integrated across the curriculum;

(f) provide alternative instructional opportunities based on student needs, learning styles, rates of progress, interests and strategies for effective instruction;

(g) include a variety of assessment practices to improve student learning and motivation; and

(h) provide opportunities for creative responses to text;

(9) the integration of the reading/writing process with all content areas through collaboration with teachers, other specialists, administrators, support personnel, parents and others by:

(a) providing leadership in the area of reading and literacy in cooperation with professionals;

(b) serving as a resource in the area of reading and literacy education for teachers, administrators, parents and the community;

(c) involving parents in cooperative efforts to help students with reading and literacy development; and

(d) communicating information about programs and data about

reading to the media, policy makers and the general public;

(10) on-going assessment practices that:

(a) reflect the complex nature of reading, writing, language and thinking;

(b) include high-quality text, a variety of genre and a range of authentic literacy tasks;

(c) involve multiple indicators of learner progress which align instruction and learning and assess learner attitudes;

(d) include appropriate applications of research-based and innovative assessment approaches; and

(e) provide for teacher and student self-reflection;

(11) professional literacy organizations which provide information and resources to the reading professional (i.e., International Reading Association, state and local reading organizations).

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

10.58.523 SOCIAL SCIENCE STUDIES (1) The social science studies program may follow the subject-major/minor pattern or the comprehensive major pattern. ~~The comprehensive major shall embrace a broad base of social science disciplines including anthropology, history, sociology, government, economics, psychology, and geography. The comprehensive major shall include a concentration in one of the endorseeable disciplines that is coupled with balanced study in three other endorseeable social science disciplines. Social science disciplines selected shall adhere to a scope and sequence approach which ensures a thorough grounding in the basic philosophy, theory, concepts and skills associated with the discipline. Curricula leading to a certificate in a discrete subject (history, political science, et al.) must meet 10.58.523(2) and the provisions of (3) through (8) of that section.~~ Subject-major/minor endorsement programs include economics, geography, government, history, psychology and sociology. The comprehensive major program leads toward a "broadfield" social studies endorsement and may include courses in any of the above endorsement programs plus anthropology.

(2) (1) Common Standards: ~~For the prospective teacher the program shall:~~ Instruction is provided in each of the following areas of professional study:

(a) ~~develop the ability to organize learning experiences which facilitate growth in group processes and human relations skills, including:~~

- ~~(i) the ability to relate to and feel for others;~~
- ~~(ii) the ability to understand one's self and develop positive self-awareness;~~
- ~~(iii) the ability to address and recognize individual differences; and~~

~~(iv) the ability to work with others;~~

social studies teaching methods that:

(i) prepare teacher candidates to select, integrate and translate knowledge and methodology from social studies disciplines appropriate to the school level;

(ii) include experiences in curriculum design for different settings; and

(iii) address the multicultural aspects of social studies teaching;

~~(b) develop the ability to organize content into teaching/learning sequences that:~~

- ~~(i) address basic factual information;~~
- ~~(ii) arrange major concepts and data into learning sequences that help one ascertain relationships between facts, concepts, and generalizations; and~~

~~(iii) organize teaching/learning strategies that proceed from factual information to development of and subsequent application of theories;~~

communication skills required in social studies to include:

- (i) reading, writing, listening, speaking; and
- (ii) use of technology;
- (c) provide for study of scientific processes,
early systematic school experiences in a range of school
settings and with a variety of students of varying cultural,
socioeconomic, racial, religious, and/or ethnic backgrounds,
including students with special needs;
- (d) develop the ability to organize material in ways that
afford students opportunities to:
 - (i) use all one's senses for data collection, perceiving
problems, observing environments and classifying objects and
events;
 - (ii) evaluate and judge data, make inferences, form and test
hypotheses; and
 - (iii) make reliable predictions based on learning,
observations, classification, evaluation judgement, and tests of
hypothesis;
- cross-cultural perspectives and gender studies; and
- (e) provide knowledge of a variety of processes used in
examining controversial and value-related issues, including
those
that permit examination of both affective and cognitive input;
problem solving, critical thinking, and application skills.
- (f) develop and demonstrate the ability to think
critically
and make decisions through:
 - (i) application of social science disciplines by
constructing support materials such as charts, maps and graphs;
 - (ii) use of research skills and applying information
gleaned
from varied local, regional, state and national sources; and
 - (iii) questioning effectively to generate student
response;
- (g) provide, develop and employ simulation and game
techniques to generate direct student experience with different
social science discipline concepts.

(2) Program options;

(a) Comprehensive major: The comprehensive major leads to
a "broadfield" social studies endorsement and shall
include a concentration in at least one of the endorsable
disciplines that is coupled with balanced study in three other
endorsable social studies disciplines. This option may include
courses in any of the endorsement programs plus anthropology.
The comprehensive major shall include coursework in the
following disciplines:

- (i) history (American history, Western civilization,
world history, and non-Western history);
- (ii) government;
- (iii) geography, world geography, and cultures;
- (iv) economics; and
- (v) behavioral sciences: anthropology, psychology, or

sociology:

(b) Specific major or minor: Curricula leading to a teaching endorsement in a discrete social studies discipline (economics, geography, government, history, psychology and sociology) must meet (1) and the appropriate sub-standards (3) through (8).

(3) Economics: For the prospective teacher the program shall

provide The program shall require demonstrated competence in:

(a) knowledge of economic principles, systems, history, patterns, effects and applications; and

the understanding of basic economic problems confronting societies and the examination of the ways in which economic systems seek to resolve the three basic economic problems of choice

(determining what, how, and for whom to produce) created by scarcity and environmental impact;

(b) study of such concepts as:

(i) production, consumption and distribution;

(ii) unlimited wants and limited resources;

(iii) exchange of goods and services; and

(iv) societies, cultures, environments and governments. the nature of comparative economic systems;

(c) the analysis of basic economic goals for society (such as freedom of choice, ethics, efficiency, equity, full employment,

price stability, growth and security);

(d) the nature of international economic system including:

(i) the organization and importance of the international economic system;

(ii) the distribution of wealth and resources on a global scale;

(iii) the struggle of the "developing nations" to attain economic independence and a better standard of living for their citizens;

(iv) the role of the transnational corporation in changing rules of exchange; and

(v) the influence of political events on the international economic order.

(4) Geography: For the prospective teacher the program shall provide The program shall require demonstrated competence in:

(a) knowledge of the physical, social, historical and economic theories of geography; and

biophysical geography (such as solid earth, atmosphere, oceans, landforms, soils, biogeography), human geography (such as cultural, social, historical, political and economic) and familiarity with maps and other tools of geographical investigation or presentation; and

(b) study of such issues and concepts as:

(i) influence of geography on human development;

(ii) difference of physical resources in various geographic

areas;

~~(iii) impact of human use and development of geographic areas; and~~

~~(iv) impact of geological time.~~

the following themes:

(i) location (absolute and relative);

(ii) place (biophysical and human characteristics);

(iii) human-environment interactions (relationships within places);

(iv) movement (mobility of people, goods and ideas);

and
(v) regions (how they form and change).

(5) Government: ~~For the prospective teacher the program shall provide~~ The program shall require demonstrated competence in:

~~(a) knowledge of the evolution and development of government, systems of government, and sources of power and authority; and~~

the nature of political power and authority;

~~(b) study of such political science concepts and issues as:~~

~~(i) interdependence of individuals and groups within a society;~~

~~(ii) influence of social values, beliefs and traditions on government;~~

~~(iii) sources of political power and authority;~~

~~(iv) forms of governmental structures and institutions; and~~

~~(v) impact of interest groups, pressure groups and lobbies.~~

the understanding of American democracy not only as a tri-partite form of government, but as a philosophy based on moral principles and values:

(c) the organization, powers, and practices of the national, state, tribal and local units of American government;

(d) the impact of public opinion, elections, interest groups and political parties on policy making;

(e) the American political system compared with other forms of government; and

(f) the nature of international relations and the principles and organizations that are used to mediate multinational conflict and achieve multinational order.

(6) History: ~~For the prospective teacher the program shall provide~~ The program shall require demonstrated competence in:

~~(a) knowledge of United States, European, Non-Western history and historiography; and~~

the knowledge of the origin and historical development of world cultures to include United States, Western and non-Western

and Third World cultures;

(i) chronological study that provides comprehensive coverage of a particular area;

(ii) regional study that examines the history of a single country; and

(iii) topical courses that focus on a specialized theme, e.g., American Indians and major world religions; and

(b) study of such historical concerns as:

(i) that the past is studied to understand the possibilities of the future;

(ii) that continuous and unrelenting change has been a universal condition of humans;

(iii) that each generation creates and interprets history according to its needs, aspirations and points of view;

(iv) that the record of the past is fragmentary, selective and biased;

(v) that interrelated social, cultural, political, geographical, and intellectual factors have shaped history; and

(vi) that Native American people and their unique history make a significant impact on Montana and United States history;

economic, political and social background of contemporary American life in a world setting.

(7) Psychology: For the prospective teacher the program shall provide The program shall require demonstrated competence in:

(a) knowledge of human and animal behavior and investigative

and scientific methods used in psychology; and

the understanding of basic psychological theories including

developmental, personality, learning, motivation, cognition, biological/physiological, social behavior and psychological disorders;

(b) study of such psychological concerns as:

(i) effects of stimuli on behavior;

(ii) influence of culture on behavior; and

(iii) existence of deviant behavior.

applying the processes of scientific inquiry and descriptive statistics to questions concerning human behavior;

(c) identifying and reflecting on behaviors which are most

effective in coping with stresses in life and in improving interpersonal relationships;

(d) understanding human development in terms of physiological, social, and environmental influences throughout the lifespan; and

(e) identifying and applying theories and factors which contribute to psychological dysfunction of individuals and families.

(8) Sociology: For the prospective teacher the program shall provide The program shall require demonstrated competence in:

- (a) ~~knowledge of social systems and institutions and how they evolved throughout the world; and~~
the knowledge of diverse peoples and behavior;
(b) ~~study of such social concepts as:~~
(i) ~~most humans live in groups;~~
(ii) ~~humans exist in diverse and similar patterns;~~
(iii) ~~societies develop systems of roles, norms, values and sanctions to guide individual behavior; and~~
(iv) ~~culture is adapted to serve human needs and humans adapt to cultural conditions.~~
the influence of behavior of peoples and the influence of environmental factors on their cultural values; and
(c) the nature and history of the world's social systems.
AUTH: Sec. 20-2-114 MCA; IMP, Sec. 20-2-121 MCA

10.58.524

SPEECH COMMUNICATION

For the prospective

teacher educator in the field of interpersonal (or speech) communication, the program shall:

(1) develop skills and knowledge in public speaking, persuasion and argumentation, oral interpretation, interpersonal, group, and mass communication, listening, communication theory, nonverbal communication, drama, and parliamentary procedure; Provide a structural framework which demonstrates:

(a) explicit goals, procedures and rationales in an identifiable program for prospective communication teachers;

(b) articulation of program goals, procedures and rationales

to faculty, students, and administrators;

(c) the effort to integrate on-campus content and methods and field experiences throughout the program; and

(d) the modeling of pedagogy and attitudes which reflect and apply knowledge of current research on the theory and practice of teaching communication.

(2) develop and allow for demonstration of personal proficiency in various aspects of oral communication; Provide understandings of and performance proficiency with interpersonal

communication environment. Content to include:

(a) the composing process, including research, organization, and context development;

(b) human communication which shall include the following:

- (i) symbolic development;
- (ii) transference of meaning, both cognitively and affectively;
- (iii) platform speaking;
- (iv) persuasion;

- (v) argumentation;
- (vi) oral interpretation;
- (vii) small group communication;
- (viii) media communication;
- (ix) listening; and
- (x) nonverbal communication;
- (c) diagnostic techniques, progress assessment, and prescriptions for improving students' formal and informal verbal communication skills, as appropriate to situations, purposes, audiences, forms, and styles;
- (d) various personal, social and communication purposes of language, such as cultural language differences;
- (e) special language characteristics and speech patterns.
- (3) provide knowledge of the various personal, social and communication purposes of language, such as:
 - (a) social and regional language variation and
 - (b) manipulative uses of language, such as the rhetoric of advertising and politics;
- Provide a pedagogy for interpersonal communication, which includes:
 - (a) selecting, designing, organizing and employing objectives, effective instructional strategies, and resources for a communication program;
 - (b) the ability to organize, develop, and administer co-curricular programs which direct student experiences in performance events; and
 - (c) designing or selecting appropriate assessment methods and helping student assess others and themselves.
- (4) provide knowledge of the nature of nonprint and nonverbal expression and their relationship to verbal expression; Develop
- positive attitudes for teaching communication, including:
 - (a) a concern for students;
 - (b) the commitment to professional growth, and
 - (c) enhance pupil awareness of the various social and cultural backgrounds affecting symbolic cognition.
- (5) provide knowledge of the processes individuals employ to acquire, understand, and use their language;
- (6) provide knowledge of the special language characteristics and speech patterns of children from infancy through grade 12;
- (7) provide knowledge of diagnostic techniques, progress assessment, and prescriptions for improving pupils' formal and informal verbal communication skills, as appropriate to situations, purposes, audiences, forms, and styles;
- (8) provide knowledge to design effective instructional strategies in speech communication;
- (9) develop the ability to enhance pupil awareness of the various social and cultural backgrounds and purposes of language

use; and

~~(10) develop an understanding and respect for responsible communication as outlined in the First Amendment of the U.S. Constitution.~~

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

10.58.525

TRADES AND INDUSTRY

For the prospective

teacher the program shall provide:

~~(1) academic training resulting in at least a bachelor's degree academic preparation in the appropriate technologies and skills and in methods of instruction to meet the needs of students at the levels taught;~~

~~(2) specific training in the safe use of equipment and industrial safety, in general;~~

~~(3) (1) an awareness of the rules and regulations dealing with vocational certification, education and funding; and~~

~~(3) (4) skills necessary for the use of trades and industry youth organizations as a means of promoting positive personal traits and teaching leadership skills through speech, parliamentary procedures, and cooperative group efforts.~~

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

10.58.526 TRAFFIC EDUCATION

For the prospective teacher

the

program shall:

~~(1) require that the candidate for the traffic education certificate possess a standard teacher's certificate in another area of certification provide an understanding of the state requirements to be eligible as an approved teacher of traffic education;~~

~~(2) will remain the same.~~

~~(3) develop an understanding of the basic principles of motor vehicle systems, dynamics, purchase, maintenance, insurance and operation;~~

~~(4) develop an understanding of all elements the safe interaction of all elements of the highway transportation system, including vehicle occupant safety, alcohol safety, pedestrian safety, bicycle safety, driver education, the vehicle, driver and roadway i.e., pedestrians, bicyclists, passengers, motorcyclists, drivers, vehicles and roadways;~~

~~(5) provide opportunities for professionally supervised student teaching experiences in theory classes classroom and behind-the-wheel situations, and provide for the demonstration of skill in motor vehicle operations and on-street instruction under the direct supervision of a qualified teacher;~~

~~(6) provide for study of due processes in the application of~~

laws develop an understanding of the uniform vehicle code, motor vehicle laws of Montana and due process;

(7) provide for the study of the physiological and psychological influences of alcohol and other drugs abuse as they relate to motor vehicle operation use of the highway transportation system;

(8) provide for the study of the frequency, severity, nature, and trends of accident prevention which occur to particular age groups during various life activities accident facts, causations and current injury prevention strategies;

(9) provide a current listing of appropriate agencies involved with traffic safety and develop an ability to communicate effectively with them information on appropriate resources and how to establish an effective support network;

(10) develop an awareness of the importance of necessity to provide pupils with positive attitudes toward safe driving as well as the required skills for safe driving;

(11) provide skills needed for giving emergency medical care and CPR to the sick and injured develop skills for giving emergency medical care, including first aid and CPR certification;

(12) will remain the same.

(13) will remain the same.

(14) develop the ability to identify, assess current trends

and provide information about current materials and innovative methods in traffic materials education including vehicle occupant safety, alcohol safety, pedestrian safety, bicycle safety, and driver education and implement teaching trends, materials and methods which will help assure continued program enhancement;

(15) develop the ability to structure and implement driver education learning experiences and to identify and develop support materials related to:

(a) regular classroom

(b) multi-media

(c) driving simulation

(d) off-street multiple car driving range

(e) on-street driving

(f) parent involvement

(15) provide the study of visual perceptual skill development, i.e., IPDE process, Smith System and defensive driving principles;

~~(16) develop an awareness of the necessity to help students learn proper visual perception skills, vehicle handling and defensive driving skills and the ability to handle adverse conditions and emergency situations; and~~

~~(17) (16) develop an awareness of the need to provide a variety of appropriate driving experiences and situations through an assortment of teaching and learning methods and activities.~~

~~(17) provide opportunities to demonstrate their personal skills in the safe operation of motor vehicles under a wide variety of traffic situations and environments;~~

~~(18) provide opportunities to experience and develop an understanding of driving skills required to successfully handle adverse and emergency situations;~~

~~(19) develop an understanding of, and provide tools for, student and program assessment;~~

~~(20) develop an understanding of techniques and strategies to integrate traffic education into the K-12 curriculum;~~

~~(21) develop skills and techniques, and provide potential equipment, to assist learning for students with special needs; and~~

~~(22) encourage professional growth through continuing education and involvement in appropriate professional organizations.~~

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

10.58.527 TEACHING AREAS: ADDITIONAL FIELDS IS HEREBY REPEALED. ~~(1) Programs designed for teachers who hold a regular teaching certificate and desire skills in a different teaching field shall:~~

~~(a) meet the standards for the teaching fields outlined above; and~~

~~(b) when necessary, have laboratory experiences under the jurisdiction of the preparing institution.~~

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

10.58.528 COMPUTER SCIENCE ~~The program shall prepare the prospective teacher in two areas; core computer science and application and instructional use of computers. Computer science teachers must be prepared to teach computer science, programming, and literacy courses and be prepared to adapt to the rapid changes in the field of computing, therefore, for the prospective teacher the program shall:~~

~~(1) For the prospective teacher the core computer science area shall:~~

~~(a) (1) include computer science prerequisite to, consistent with, and substantially beyond that which the teacher may be~~

expected to teach;

~~(b) develop a competence in programming that will prepare the teacher to be able to program and to teach advanced placement~~

~~computer science courses; topics covered shall include:~~

(2) include algorithm design, algorithm analysis, algorithm implementation in a programming language, and data structures, covering:

(i) (a) problem solving techniques and strategies, (as in divide and conquer) in depth;

(ii) (b) modern algorithm design methodologies, (such as top-down) in depth;

(iii) (c) algorithm analysis in terms of time and space complexity, algorithm verification techniques to include pre-conditions, post-conditions, and loop invariant assertions;

(iv) (d) algorithm verification techniques, algorithm analysis (as in time and space complexity) in depth;

(v) (e) competence in at least two programming languages widely used in secondary education settings, and data structures

and abstract data types (such as stacks, graphs, hash tables, etc.) in depth;

(f) at least two programming languages, such as Pascal and C, in depth; and

(vi) (g) program testing, as in applying a program to data sets to establish correctness on those data sets;

(e) (3) provide a basic cohesive introduction to the major

subject areas of the discipline of computer science, including: algorithms and data structures, programming languages, architecture and machine-dependent programming, numerical and symbolic

computing, operating systems, software methodology and engineering, database and information retrieval, artificial intelligence and

robotics, and human computer communication;

(a) algorithms and data structures;

(b) programming languages;

(c) architecture and machine-dependent programming;

(d) numerical and symbolic computing;

(e) operating systems and networks;

(f) software methodology and engineering;

(g) database and information retrieval;

(h) artificial intelligence and robotics; and

(i) human-computer interaction;

(d) provide a basic introduction to computer science theory—

including computability and intractable problems;

(4) introduce the theoretical foundations of computer science, including:

(a) computability;

(b) intractability; and

(c) tractability:

~~(a) include the history, current trends, career opportunities, and future directions of computing and computer science; and~~

~~(f) include the impact of computers on society and the ethical and moral obligations inherent in the use of computer hardware and software.~~

~~(2) For the prospective teacher in applications and instructional uses of computers the program shall:~~

~~(a) develop the competence to use and teach common software packages, including:~~

~~(i) database;~~

~~(ii) graphics;~~

~~(iii) networking/telecommunications;~~

~~(iv) spreadsheet;~~

~~(v) word processing; and~~

~~(vi) operating systems and utilities;~~

(5) develop a functional awareness of computing issues, including:

(a) the history of computing;

(b) current trends and future directions in computing;

(c) career opportunities in computing;

(d) ethical and moral obligations in the use of computer hardware and software;

(e) impacts of computing on society;

(f) practical, hands-on experience with widespread software applications, including:

(i) database;

(ii) communications (networking);

(iii) spreadsheet;

(iv) word processing; and

(v) operating systems software;

~~(b) include content studies and experiences relevant to the computer sciences curricula grades 5-12;~~

~~(c) provide competence in the use of computers for classroom management;~~

~~(d) include a study of effective pedagogical uses of computers and software in the instructional process;~~

~~(e) develop and awareness of resource materials such as journals, sources of computers and software, computer conferences, and professional organizations;~~

~~(f) provide competence in proper keyboarding technique;~~

~~(g) develop competence in basic trouble shooting and maintenance of the kinds of computer equipment commonly found in an educational setting; and~~

~~(h) provide a basis for evaluating, selecting and purchasing classroom hardware and software.~~

(6) equip teachers to deal with computing issues unique to

the classroom, including:

(a) computer hardware and software management such as hardware setup, software installation, and user-level hardware and software trouble-shooting and maintenance;

(b) hands-on experience with classroom management software;

(c) available resources such as journals, sources of computer hardware and software, relevant conference titles, and professional organizations;

(d) a study of effective pedagogical uses of computers;

(e) hands-on use of both hardware and operating systems common in schools, such as Macintosh, IBM-PC and compatible, DOS,

OS/2, Windows, and other current systems;

(f) advanced placement (AP) course development;

(g) trends in computing curricula (example: the ACM model high school curriculum recommendations).

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

10.58.601 PROGRAM PLANNING AND DEVELOPMENT

(1) will remain the same.

(a) and (b) will remain the same.

(c) make clear provisions for communication, cooperation, and coordination ~~among~~ within institutions operating several programs;

(d) and (e) will remain the same.

(2) and (3) will remain the same.

~~(4) The board of public education is responsible for stimulating the development of program objectives and for evolving and carrying out appropriate procedures for teacher certification.~~

~~(5)~~(4) All advanced programs shall include the following:

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

~~(6)~~(5) The institutions's operating controls shall guarantee the integrity of each program and shall include:

(a) will remain the same.

(b) selective admission and retention procedures to maintain a quality of students in each program;

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

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

10.58.701 SUPERVISORS For the prospective supervisor the program shall provide:

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

(4) skill in understanding principles and practices in curriculum and assessment development and interpreting them to others;

(5) through (7) will remain the same.

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

10.58.704 SCHOOL PRINCIPALS AND SUPERINTENDENTS For the prospective administrator the program shall assure knowledge and

skills of:

- (1) will remain the same.
- (a) through (f) will remain the same.
- (g) gender, multi-cultural and ethnic understanding; and
- (h) will remain the same.
- (2) will remain the same.
- (a) school/ and community public relations, coalition building, and related public service activities;
- (b) and (c) will remain the same.
- (d) lobbying, negotiating, collective bargaining power, policy development, and policy maintenance skills to assure successful educational programs;
- (e) through (g) will remain the same.
- (3) will remain the same.
- (a) will remain the same.
- (b) taxonomies of instructional objectives and validation procedures for curriculum units/ and sequences;
- (c) theories of cognitive development and the sequencing/ and structuring of curricula;
- (d) development/ and application of valid and reliable performance indicators for instructional outcomes;
- (e) will remain the same.
- (f) development/ and use of available cultural resources.
- (4) will remain the same.
- (a) through (d) will remain the same.
- (e) applications of computer management to the instructional programs and administrative aids;
- (f) and (g) will remain the same.
- (5) will remain the same.
- (a) through (c) will remain the same.
- (d) using clinical effective supervision models as a staff

improvement and evaluation strategy; and

- (e) will remain the same.
- (6) will remain the same.
- (a) through (c) will remain the same.
- (d) pupil personnel services and categorical programs;
- (e) legal concepts, regulations, and codes for school operation; and
- (f) analytical techniques of management, a working understanding of the federal government and effective use of federal education programs; and
- (g) discovering grant opportunities and developing effective grant writing skills.
- (7) will remain the same.
- (8) Understanding special education and students with disabilities programs and the processes necessary for the management of such programs. The competency shall include:
 - (a) intervention programming;
 - (b) referral procedures;
 - (c) child study teams (CSTs);

- (d) individual education plans (IEPs);
- (e) parental involvement; and
- (f) 504 of the physical disabilities act.

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

10.58.707 SCHOOL PSYCHOLOGISTS

For the prospective

school psychologist the advanced program shall:

- ~~(1) apply specific criteria requiring subjective and objective data for admission to the school psychology program;~~
- ~~(2) provide specific criteria for evaluation of candidates to ensure that they possess the personal characteristics and academic competencies appropriate to the requirements of their future roles as practicing school psychologists;~~
- ~~(3) implement a well-defined plan for evaluating the school psychologists it prepares and use the results in its program;~~
- ~~(4) provide full-time faculty who have a doctorate degree in psychology or education or related disciplines or have training and experience deemed equivalent. At least one faculty member shall possess a doctorate in school psychology and experience as a school psychologist. Part-time faculty shall meet the requirements for full-time faculty and shall be employed only when they can make special contributions to the school psychology program;~~
- ~~(5) ensure that faculty members who teach laboratory and clinical practicums and supervise school psychologist interns shall have ongoing involvement with elementary and secondary schools;~~
- ~~(6) ensure that the department responsible for the school psychologist training program has a cooperative relationship with other departments in the educational and behavioral sciences;~~
- ~~(7) include specific school psychologist certification requirements for Montana;~~
- ~~(8) allow students to develop appropriate knowledge of the organization, administration, and operation of the elementary and secondary schools, the major roles of public school personnel, and curriculum development at all grade levels;~~
- ~~(9) allow training school psychologists to develop competencies in consultation, counseling, psychoeducational assessment, report writing, individual and group prescriptive procedures, and the use of applied research techniques and ethical decision-making; and~~
- ~~(10) provide substantial participation in laboratory and clinical practicums. A significant portion of the practicum experiences shall be in schools.~~
- (1) include program requirements which:
 - (a) consist of a minimum of three years of full-time academic study or the equivalent beyond the baccalaureate degree, including at least 60 graduate semester hours or the equivalent, and shall culminate in institutional documentation;

(b) limit the number of credit hours acquired through courses, seminars and other learning experiences not open exclusively to graduate students to no more than one-third of the student's program;

(c) exclude credit for undergraduate study, study which is remedial, or study which is designed to remove deficiencies in meeting requirements for program admission;

(d) include at least one academic year of supervised internship experience consisting of a minimum of 1200 clock hours, at least 600 hours of which must be in a school setting;

(e) have no more than 12 graduate semester hours awarded as credit for the supervised internship experience counted toward the required minimum of 60 graduate semester hours;

(f) includes full-time continuous residency or an alternate planned experience required for all candidates (programs allowing alternate planned experiences as a substitute for full-time residency must demonstrate how those experiences are equivalent to those commonly associated with residency requirements for the degree);

(2) include content in school psychology which:

(a) shall be based on explicitly specified objectives that reflect the program's conception of the professional roles for which the school psychology trainee is being prepared;

(i) There shall be a direct and obvious relationship between those objectives and the components of the curriculum (foundation areas in which all school psychology trainees must be prepared are presented in (2)(d));

(ii) The curriculum shall differentiate the level of preparation for doctoral study as being advanced in breadth and/or depth beyond that for master's, postmaster's and specialist study;

(b) promotes understanding of, respect for, and responsiveness to cultural diversity through multicultural education for all school psychology trainees;

(c) promotes understanding of and responsiveness to the special needs of exceptional persons in all school psychology trainees;

(d) insures the substantial preparation of all school psychology trainees in each of the following areas through courses, course content or other appropriate means:

(i) psychological foundations;

- (ii) biological bases of behavior;
- (iii) cultural diversity;
- (iv) child and adolescent development (normal and abnormal);
- (v) human exceptionalities;
- (vi) human learning;
- (vii) social bases of behavior;
- (viii) educational foundations;
- (ix) education of exceptional learners;
- (x) instructional and remedial techniques;
- (xi) organization and operation of schools;
- (xii) assessment;
- (xiii) interventions (direct and indirect);
- (xiv) consultation;
- (xv) counseling;
- (xvi) behavior management;
- (xvii) statistics and research design;
- (xviii) professional school psychology;
- (xix) history and foundations of school psychology;
- (xx) legal and ethical issues;
- (xxi) professional issues and standards; and
- (xxii) roles and functions of the school psychologist;
- (3) include orientation to the educational process through:
 - (a) employment of a systematic and reasoned sequential plan to orient school psychology students to the educational institutions they will ultimately serve;
 - (b) providing students with a planned program of directed observations and participation in educational settings;
 - (c) acquainting students with roles, responsibilities, and functions of other pupil service personnel, including the operation of interdisciplinary teams;
 - (d) familiarization of students with available school and community resources;
 - (4) include practica experiences which:
 - (a) are distinct from and occur prior to the internship;
 - (b) occur at the time(s) appropriate to the specific training objectives of the program;
 - (c) shall be of sufficient length of time to be appropriate to the specific training objectives of the program;
 - (d) shall show a direct and obvious relationship between the practica experiences and the objectives for which the practica are intended;
 - (e) shall occur under conditions of supervision appropriate to the specific training objectives of the program;
 - (f) shall be provided appropriate recognition through the awarding of academic credit;
 - (g) shall be provided in settings supportive of the

specific

training objectives of the program:

(h) shall occur with university involvement appropriate to

the specific training objectives of the program:

(i) shall be systematically evaluated in a manner
consistent

with the specific training objectives of the program:

(i) shall be conducted in a manner consistent with current

legal-ethical guidelines in the profession:

(5) include internship experiences which:

(a) shall be at or near the end of the formal training
period:

(b) shall occur on a full-time basis over a period of one
academic year, or on a half-time basis over a period of two
consecutive years:

(c) shall be consistent with a written plan and shall meet

the specific training objectives of the program:

(d) shall occur in a setting appropriate to the specific
training objectives of the program:

(e) shall include at least 600 clock hours in a school
setting and shall provide a balanced exposure to regular and
special educational programs:

(f) shall be provided appropriate recognition through the
awarding of academic credit:

(g) shall occur under conditions of appropriate
supervision.

i.e., field-based internship supervisors shall hold a valid
credential as a school psychologist for the portion of the
internship that is in a school setting and that portion of the
internship which appropriately may be in a non-school setting
shall require supervision by an appropriately credentialed
psychologist:

(h) involve internship supervisors having responsibility
for
no more than two interns at any given time and university
supervisors having no more than twelve interns at any given
time:

(i) involve internship supervisors who provide at least
two
hours per week of direct supervision for each intern, and
university internship supervisors who maintain an ongoing
relationship with field-based internship supervisors according
to
planned communications occurring regularly through the
internship
year:

(i) are provided appropriate placement agency support for the
internship experience including:

(i) a written contractual agreement specifying the

period of appointment and terms of compensation:

(ii) a schedule of appointments consistent with that of agency school psychologists, e.g., calendar, participation in inservice meetings, etc.;

(iii) provision for participation in continuing professional development activities;

(iv) expense reimbursement consistent with policies pertaining to agency school psychologists;

(v) an appropriate work environment including adequate supplies, materials, secretarial services, and office space;

(vi) release time for internship supervisors; and

(vii) a commitment to the internship as a training experience;

(k) shall be systematically evaluated in a manner consistent with the specific training objectives of the program;

(l) shall be conducted in a manner consistent with the current legal-ethical standards of the profession;

(6) include an active continuing professional development program for practicing school psychologists; and

(7) include the demonstration of a cooperative relationship

between professionals of other departments in the educational and

behavioral sciences and the department responsible for the school

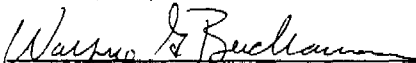
psychology program.

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

3. The board proposes these amendments after an extensive review of the Teacher Education Program Standards required by the board's rule, every 5 years in order to remain current with advances in this area.

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 John Kinna, Chairman of the Board of Public Education, 2500 Broadway, Helena, MT 59620, no later than May 20, 1994.

5. John Kinna, Chairman of the Board of Public Education, 2500 Broadway, Helena, has been designated to preside over and conduct the hearing.


WAYNE BUCHANAN, Executive Secretary
Board of Public Education

Certified to the Secretary of State on 4/4/94.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the) NOTICE OF PUBLIC HEARING ON
amendment of a rule) PROPOSED AMENDMENT OF ARM
pertaining to Teacher) 10.57.301 ENDORSEMENT
Certification) INFORMATION
To: All Interested Persons

1. On May 27, 1994 at 9:30 a.m., or as soon thereafter as it may be heard, a public hearing will be held at the Board of Public Education Offices, 2500 Broadway, Helena, in the matter of the proposed amendment 10.57.301 Endorsement Information.

2. The rule as proposed provides as follows:

10.57.301 ENDORSEMENT INFORMATION (1) Board of public education approval: The only endorsements on Montana teaching, administrative or specialist certificates are those approved by the board of public education. A major or a minor or the equivalent in the endorsement area is required.

(2) will remain the same.

(3) Appropriate teaching areas acceptable for certificate endorsement include: ~~social science, history, economics, sociology, geography, political science, economics sociology, dramatics, journalism, elementary education, library (K-12), speech drama, French, Spanish, German, Russian, Latin, other foreign language, English as second language, mathematics, science, physical science, reading (K-12), physics, chemistry, biology, earth science, agriculture, industrial arts, home economics, distributive education, trade and industry, business education, business education with shorthand, music (K-12), art (K-12), physical education and health (K-12), guidance and counseling (K-12), special education (K-12), psychology, computer science (Effective July 1, 1993, foreign language will be a K-12 endorsement.)~~ agriculture, art K-12, biology, business education, chemistry, computer science, drama, earth science, economics, elementary education, English, English as a second language K-12, French K-12, geography, German K-12, guidance and counseling K-12, health, history, history-political science, home economics, industrial arts, journalism, Latin K-12, library K-12, marketing, mathematics, music K-12, other language K-12, physical education and health K-12, physical science, physics, political science, psychology, reading K-12, Russian K-12, science (broadfield), social studies (broadfield), sociology, Spanish K-12, special education K-12, speech-communication, speech-drama, technology education, trade and industry, traffic education.

(4) will remain the same.

(5) Appropriate specialist areas acceptable for certificate endorsement ~~is~~ are school psychologist and school counselor.

(6) Both elementary and secondary training to include

~~student teaching or appropriate waiver are required for a K-12 endorsement in any approved K-12 endorsement area. After August 31, 1979, no endorsements other than K-12 will be initially given in library, special education, guidance and counseling, art, music and health and physical education.~~

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

~~(8) Special education endorsement is granted on the class 1, class 2, or class 5 teaching certificates for applicants who have completed approved programs in these areas. Such programs must include at least 30 quarter (20 semester) credits; the recommendation of the appropriate official is required.~~

~~(8) Applicants with terminal degrees in an endorsable field of specialization may use experience instructing in relevant higher education courses as credit in a requirement or endorsement area for certification.~~


~~(9) Broadfield endorsements identified in (3), above, must constitute programs of at least 40 semester (60 quarter) credits and have at least three (3) teaching areas within that field which have at least 10 semester credits of preparation specific to that area.~~

AUTH: Sec. 20-4-102 MCA; ~~IME~~, Sec. 20-4-103, 20-4-106 MCA

3. The board proposes these amendments to the rule to bring up-to-date the areas of endorsement and add the endorsement for technology education offered by the universities.

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 John Kinna, Chairman of the Board of Public Education, 2500 Broadway, Helena, MT 59620, no later than May 20, 1994.

5. John Kinna, Chairman of the Board of Public Education, 2500 Broadway, Helena, has been designated to preside over and conduct the hearing.


Wayne Buchanan, Executive Secretary
Board of Public Education

Certified to the Secretary of State on 4/4/94.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PUBLIC HEARING ON
amendment of the Teacher	)	PROPOSED NEW RULE I SURRENDER
Certification	)	OF A TEACHER, SPECIALIST OR
	)	ADMINISTRATOR CERTIFICATE

To: All Interested Persons

1. On May 27, 1994 at 9:00 a.m., or as soon thereafter as it may be heard, a public hearing will be held at the Board of Public Education Offices 2500 Broadway, Helena, in the matter of the proposed new rule Surrender of a teacher, Specialist or Administrator certificate.

2. The rule as proposed provides as follows:

NEW RULE I. SURRENDER OF A TEACHER, SPECIALIST OR ADMINISTRATOR CERTIFICATE

(1) A teacher, specialist or administrator may surrender that certificate to the Superintendent of Public Instruction. The Superintendent of Public Instruction, upon review may accept or reject the certificate surrender.

(2) Surrender of a certificate to the Superintendent of Public Instruction does not relieve the reporting requirements set forth in section 20-4-110(3)(a), MCA.

(3) Upon receipt of a surrendered certificate, the Superintendent of Public Instruction shall notify NASDTEC's Educator Identification Clearinghouse that there has been a surrender of the certificate held by the teacher, specialist or administrator.

(4) The Superintendent of Public Instruction may investigate further following a surrender and shall maintain a record of the circumstances surrounding the surrender of any certificate. The contents of that record shall be available for review by the certifying authority from any other jurisdiction in which the teacher, specialist or administrator seeks certification.

(5) Surrender of a certificate may prejudice the ability of teacher, specialist or administrator to successfully seek recertification in Montana in the same or any other educational endorsement.

(6) The Superintendent of Public Instruction shall provide notice to the Board of Public Education of each surrender of a certificate and of the circumstances surrounding the surrender.

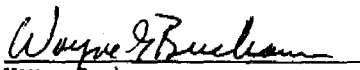
AUTH: Sec. 20-2-114 IMP: Sec. 20-2-121, MCA

3. The board proposes this new rule to allow teachers, specialists and administrators holding a Montana teaching certificate to surrender the certificate and enter the

information on the national clearinghouse register and it also allows Montana to recognize other states that already allow surrendering of certificates.

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 John Kinna, Chairman of the Board of Public Education, 2500 Broadway, Helena, Mt 59620, no later than May 20, 1994.

5. John Kinna Chairman of the Board of Public Education, 2500 Broadway, Helena, MT 59620, has been designated to preside over and conduct the hearing.


Wayne Buchanan,
Executive Secretary
Board of Public Education

Certified to the Secretary of State on 4/4/94.

BEFORE THE DEPARTMENT OF
FAMILY SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment) NOTICE OF PUBLIC HEARING ON
of Rules 11.8.304, 11.8.306,) PROPOSED AMENDMENT OF RULES
11.8.308, and 11.8.310) 11.8.304, 11.8.306,
pertaining to violations of) 11.8.308, AND 11.8.310
aftercare agreements.) PERTAINING TO VIOLATIONS OF
) AFTERCARE AGREEMENTS

TO: All Interested Persons.

1. On May 10, 1994, at 1:30 p.m., a public hearing will be held in the second floor conference room of the Department of Family Services, 48 North Last Chance Gulch, Helena, Montana, to consider the amendment of Rules 11.8.304, 11.8.306, 11.8.308, and 11.8.310 pertaining to violations of aftercare agreements.

The department will make reasonable accommodations to allow participation at the hearing of persons with disabilities. Any person wishing to request an accommodation should contact Randy Koutnik, P.O. Box 8005, Helena, Montana 59604, (406) 444-5900, to advise on what is needed.

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

11.8.304 ON-SITE HEARING FOR AFTERCARE AGREEMENT VIOLATION. INITIAL INVESTIGATION AND INFORMAL SETTLEMENT

(1) In the event that a youth is accused of violating his aftercare agreement, the following procedures must be followed.

(a) Immediately following notification that a youth has been apprehended and is being detained for an alleged violation, the aftercare counselor/parole officer shall informally investigate the incident to determine:

- (i) ~~The~~ exact nature of the alleged violation-;
- (ii) ~~The~~ evidence against the youth-;
- (iii) ~~Whether~~ in fact the alleged act is a violation of the written aftercare agreement-; and
- (iv) ~~If~~ the violation is cause for ~~return~~ placement of the youth ~~to in the institution from which he was released~~ a secure placement facility.

(b) If, on the basis of the above described investigation, the aftercare counselor/parole officer concludes the act was ~~of a minor nature~~ and not a violation of the written terms of the aftercare agreement ~~of the institution~~, the aftercare counselor/parole officer may seek an informal settlement of the matter.

(2) These rules apply to all youth and persons 18 and over who are subject to an aftercare agreement.

(3) "Secure placement facility" means a juvenile correctional facility or other placement deemed appropriate by the youth's aftercare counselor/parole officer.

AUTH: Section 52-5-102, MCA. IMP: Section 52-5-129, MCA.

11.8.306 ON-SITE HEARING FOR AFTERCARE AGREEMENT VIOLATION. FORMAL HEARING PROCEDURE (1) If, on the basis of the investigation, the aftercare counselor/parole officer concludes that the alleged act was a violation of the youth's aftercare agreement and may warrant returning placement of the youth to the institution a secure placement facility, a formal hearing shall be held. The following procedures shall be followed prior to the hearing:

(a) Youth shall be served with a "notice of alleged violation of aftercare agreement" as soon as possible after the alleged violation and pursuant investigation. The notice shall set forth the following details surrounding the alleged violations:

- (i) ~~Incidents;~~
- (ii) ~~Dates;~~
- (iii) ~~Times;~~
- (iv) ~~Places; and~~
- (v) ~~Witnesses.~~

(b) The following rights shall be clearly stated in the notice:

(i) a ~~hearing~~ will be ~~granted~~ scheduled within 10 days of the date of the notice of the alleged aftercare violations allegation was made;

(ii) ~~The~~ purpose of the hearing is to determine whether the alleged violation was committed and whether the violation is cause for return to placement in the institution a secure placement facility;

(iii) ~~the~~ Youth will have an opportunity to be heard in person and to present witnesses and documentary evidence to controvert the evidence, ~~against him.~~

(iv) ~~at the request of the youth, the youth has the power to referee~~ shall issue subpoenas to witnesses;

(v) ~~The youth has the~~ Right to confront and cross-examine adverse witnesses; and

(vi) ~~the youth has the~~ Right to be represented by an attorney.

AUTH: Section 52-5-102, MCA. IMP: Section 52-5-129, MCA.

11.8.308 AFTERCARE VIOLATION HEARING - DETENTION (1) A youth may be detained pending hearing only under the following circumstances:

(a) ~~His~~ detention is necessary to protect ~~himself~~ the youth or his the youth's property or the property of others;

(b) ~~He~~ the youth may abscond; or

(c) ~~He~~ the youth may be removed from the community.

(2) If the youth is detained for any of the above reasons, the hearing must be scheduled and held within ~~72 hours~~ 10 days.

(3) The youth, if detained prior to a hearing, must be detained in one of the following:

(a) ~~A~~ licensed youth foster home or a group home approved by the court;

(b) ~~Aa~~ facility operated by a licensed child welfare agency-;

(c) ~~A district youth guidance home or other youth facility or center which is under the direction or supervision of the court, within public authority or of a public agency approved by the court under home arrest-;~~

(d) ~~Aa short-term detention facility-; or~~

(e) ~~a youth detention facility. Any other suitable place or facility designated or operated by the court-~~

(4) The youth may be detained in a jail or other facility for the detention of adults only ~~if the facilities described in (c) or (d) are not available, the detention is in an area separate and removed from those of adults as provided in 41-5-311, MCA. However, persons 18 and over may be detained in jail.~~

~~++~~ (5) If the youth, on the advice of counsel, requests a continuance of the services and a referee cannot be obtained within the ~~72-hour~~ 10 day period, a continuation of a reasonable length may be made. The youth's request for, or the reasons for, the continuance must be documented and agreed to by the youth and counsel. A copy of the documentation shall be given to the youth.

~~++~~ (6) Rule 6(a) of the Montana Rules of Civil Procedure provides how time is to be computed.

AUTH: Section 52-5-102, MCA. IMP: Sections 52-5-129; 41-5-311, MCA.

11.8.310 AFTERCARE VIOLATION HEARING - HEARING PROC-

DURES (1) The ~~aftercare counselor/parole officer~~ is responsible for locating an impartial third party who is not an employee of the department to act as referee.

(a) The referee will be reimbursed for time actually spent in conducting the hearing and preparing the decision. Reasonable travel and per diem costs also will be reimbursed. Legal fees for research associated with hearing procedures, applicable laws, etc. cannot be reimbursed.

(b) The referee must agree to hold the hearing ~~within 72 hours if the youth is in custody or within 10 days of notice to the youth of the alleged violation if the youth has been released. It is advisable that a~~ decision, which may be oral verbal, shall be rendered immediately after the hearing. The referee shall file a written decision within 3 days following the hearing, a copy of which shall be given to the youth.

(2) The hearing may be held in the ~~aftercare~~ counselor's/~~parole officer's~~ or the referee's office or in any other location accessible to witnesses, the youth and counsel, and the referee. The hearing must be held at or near the site of the alleged violation.

(3) The department or the youth may subpoena witnesses or documentary evidence. The subpoena is to be issued on request of either party by the referee and may be served by the ~~aftercare counselor/parole officer.~~

(4) If the youth is going to appear with counsel and the aftercare counselor/~~parole officer~~ desires legal assistance, he

should contact the county attorney of the county where the hearing is to be held. All records and information available to the aftercare counselor/parole officer can be made available to the county attorney.

(5) The hearing is to be conducted in strict confidentiality. Only the youth, his parents or guardian and counsel, the aftercare counselor/parole officer, other departmental personnel and counsel and the referee should be in attendance. Witnesses may be called as needed.

(6) As soon as the time and date of the hearing is fixed, the youth is to be provided a "notice of hearing", and a written disclosure of the evidence against him or her.

(7) The hearing may be conducted in an informal fashion, however, the referee must establish the following:

(a) Identity of all parties present;

(b) That the youth has been served with a notice of hearing and has been provided a document stating the evidence against him or her;

(c) the youth's plea to the allegation and description in own words of the allegation;

(d) the youth's plea was not made with duress or promises; and

(e) That the youth has had time to consult with counsel.

(8) A tape recording of the full hearing shall be made. On appeal to the district court, a transcript of the hearing shall be made for the court's use.

(9) Within 3 days following the hearing, the referee must present to the youth and the aftercare counselor/parole officer a written decision detailing the basis and reason for the decision reached.

(10) The youth or aftercare counselor/parole officer may appeal the decision to the district court of the county in which the alleged violation occurred by securing and filing a notice of appeal with the court within 10 days of the decision.

AUTH: Section 52-5-102, MCA. IMP: Sections 52-5-129, MCA.

3. Prior to the hearing, the counselor/juvenile parole officer may need to: complete a full investigation of the alleged violation(s); consult and coordinate proceedings with the county attorney; hire an attorney to act as a hearing officer; schedule the hearing; identify, locate and arrange for attendance of witnesses; and transport the youth and the attorneys for necessary interviews and consultation. Witnesses and victims may also require time after notice of the hearing to make arrangements, and officers responsible for cases in different counties need to factor in travel-time.

The current version of ARM 11.8.308 allows for only 72 hours to accomplish these tasks if the youth is detained pending the hearing. An officer lacking adequate time to determine the seriousness of the offense, the effect on the community or victim, and an appropriate disposition (placement), too often recommends that the youth be returned to a correctional

facility. There should be more time to consider alternatives.

Other problems exist. Because a hearing ~~must~~ be held within 72 hours of detaining the youth for an alleged violation, home arrests and detention are not used to allow for appropriate case management assessment and decisions. The rule should allow time for counselors/juvenile parole officers to hold youth accountable, provide for the safety of the community, and design case management which assists the youth in competency development. Holding a youth accountable and providing for the safety of the community may require short term detention (up to 10 days), but may not require a return to a correctional facility.

The 72 hour rule has another major problem. When it is apparent that the department needs more time to prepare, youth leverage concessions.

The applicable statute, Section 52-5-129, MCA, provides for a time period of ten days. The statute also requires that alternative placement recommendations be made and considered by the department. Therefore, the amendments improve implementation of the statute.

By replacing the term "the institution from which he was released" with the term "secure placement facility," (as defined in the new subsection (3) of ARM 11.8.304), placement options are expanded to include facilities more appropriate and possibly less restrictive for youth. Youth determined to have violated their agreement may need a more restrictive placement. However, there may be an appropriate placement which is less restrictive than the institution from which they were released. Others may require placement in a highly secure environment, but the institution may not offer the services or programs appropriate for their current needs.

The language of ARM 11.8.308 (3) (e) on detention with adults is proposed to be changed so that the rule references the applicable statute. The current language repeats a portion of the statute. A reference better implements the requirements.

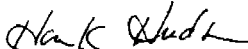
The language added concerning jailing of persons 18 and over, and the new subsection (2) of ARM 11.8.304, are necessary to clarify that both youth and "persons" 18 and over remain subject to the terms of aftercare agreements. The distinction also allows for detention of those 18 and over in jail. Federal and state law generally prohibit mixing adults and youth in detention facilities. Persons 18 and over may remain subject to aftercare agreements, however, they should be considered adults in regard to the place of detention.

Other changes are designed to improve the format and use of language in the current rules.

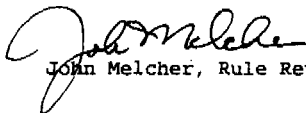
4. Interested persons may submit their data, views or arguments to the proposed amendment either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Office of Legal Affairs, Department of Family Services, 48 North Last Chance Gulch, P.O. Box 8005, Helena, Montana 59604, no later than May 13, 1994.

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

DEPARTMENT OF FAMILY SERVICES



Hank Hudson, Director



John Melcher, Rule Reviewer

Certified to the Secretary of State, April 4, 1994.

BEFORE THE FISH, WILDLIFE, & PARKS COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment)	
of Rule 12.6.901 relating to)	NOTICE OF PUBLIC
the establishment of a no wake)	HEARING ON PROPOSED
speed zone on portions of the)	AMENDMENT OF RULE
Blackfoot and Clark Fork)	12.6.901
Rivers, Missoula County.)	

To: All Interested Persons

1. On May 5, 1994, at 7:00 p.m. the Fish, Wildlife and Parks Commission proposes to hold a public hearing in the conference room of the Missoula regional office, 3201 Spurgin Road, Missoula, Montana, to consider the amendment of rule 12.6.901 concerning the creation of a no wake speed zone on portions of the Blackfoot River and the Clark Fork River near Bonner and Milltown.

2. The proposed amendment provides as follows:

12.6.901 WATER SAFETY REGULATIONS (1) In the interest of public health, safety, or protection of property, the following regulations concerning the public use of certain waters of the state of Montana are hereby adopted and promulgated by the Montana fish and game commission.

(a) through (b) remain the same.

(c) The following waters are limited to a controlled no wake speed. No wake speed is defined as a speed whereby there is no "white" water in the track or path of the vessel or in created waves immediate to the vessel:

Big Horn County through Madison County remain the same.
Missoula County:

- (A) Clearwater River from the outlet of Seeley Lake to the first bridge downstream from Camp Paxson swim dock;
- (B) on Holland Lake: Holland Lake Lodge and the Bay Loop campground within 300 feet or as buoyed;
- (C) The portion of Clearwater River from Boy Scout Road Bridge north of Seeley Lake to the mouth of Clearwater River at the north end of Seeley Lake.
- (D) Blackfoot River downstream from the Stimson Lumber Company chain-link fence, as posted, to and including the Milltown Reservoir, then upstream on the Clark Fork River to the old Milwaukee Railroad bridge pilings.

(d) through (2) remain the same.

AUTH: 87-1-303, 23-1-106(1), MCA

IMP: 87-1-303, 23-1-106(1), MCA

3. Rationale for amendment of Rule 12.6.901: This restriction is being proposed to address two issues. The first involves human safety in the area of the five bridge spans and two old cement pilings which remain under the water surface on the Blackfoot River. This area is used by a variety of recreationists including water skiers, marina operators testing or demonstrating boats, jet skiers (personal water craft), canoeists, rafters, kayakers, bank and boat anglers and swimmers. One head-on collision between jet skiers occurred last summer, but no injuries were reported. Although it is prohibited, individuals continue to jump off the walking bridge into the Blackfoot below and create another hazard.

The Blackfoot and Upper Clark Fork Rivers meet at the Milltown Reservoir, which is formed by Montana Power Company's (MPC) Milltown Dam. Both the department and MPC are concerned about the possibility of a recreationist or water craft being swept into the dam. A safety barrier is stretched across the water in front of the dam during the summer but because of problems with trees, debris and ice, it is not installed until after the spring run-off and is removed before ice forms in the fall.

Water skiers have been using this lower portion of the Clark Fork River, which can only accommodate one boat at a time and requires turns near the front of the dam. This use creates a hazard for other watercraft, and canoeists have trouble navigating the area in the wake of larger boats.

The other issue involves nesting waterfowl in the area. Jet ski and high speed boat are likely to disturb waterfowl nesting in the Milltown Reservoir area.

The area on the Blackfoot River upstream from the chain link fence on Stimson Lumber Company land, and the area upstream from the old Milwaukee Railroad bridge pilings on the Clark Fork would remain available for activities currently practiced in these areas.


4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Beate Galda, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana 59620-0701 no later than May 12, 1994.

5. Beate Galda, Department of Fish, Wildlife and Parks, has been designated to preside over and conduct the hearing.

FISH, WILDLIFE AND PARKS COMMISSION



Robert N. Lane
Rule Reviewer



Patrick J. Graham
Secretary

Certified to the Secretary of State on April 4, 1994.

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

In the matter of the amendment of)	SUPPLEMENTAL NOTICE OF
rules 16.20.603, 616-624, and)	ADDITIONAL PUBLIC
641, concerning surface water)	HEARING AND EXTENDED
quality standards)	PERIOD FOR
)	CONSIDERATION OF
)	COMMENTS ON PROPOSED
)	AMENDMENT OF RULES

(Water Quality)

TO: All Interested Persons

1. On November 24, 1993, the board published notice at page 2737 of the Montana Administrative Register, Issue No. 22, of the proposed amendment of the above-captioned rules. This supplemental notice is being filed to allow the public additional review and comment on the agency's proposed changes to the rules that were published on November 24, 1993. In addition, the agency's statement of reasons for and against changes to the November 24th rules is available upon request from the Department of Health and Environmental Sciences, Water Quality Bureau, Cogswell Building, Helena, Montana; those reasons and the comments to which they respond will be included in the final notice of adoption.

2. The rules, as proposed to be amended in response to comments, appear as follows (new material is underlined; material to be deleted is interlined):

16.20.603 DEFINITIONS In this subchapter the following terms have the meanings indicated below and are supplemental to the definitions given in 75-5-103, MCA:

(1)-(30) Remain the same.

(31) The board hereby adopts and incorporates by reference ~~the department's surface water mixing zone implementation guide~~ [RULES I-X published as MAR 16-2-449 of this issue], which contain criteria to be used to determine the mixing zones appropriate to different sets of conditions. A copy of ~~the implementation guide~~ [RULES I-X published as MAR 16-2-449 of this issue] may be obtained from the ~~department's~~ Water Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620-0902 [phone: (406) 444-2406].

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.616 A-CLOSED CLASSIFICATION Same as proposed.

16.20.617 A-1 CLASSIFICATION (1)-(2) Remain the same.

(3) No person may violate the following specific water quality standards for waters classified A-1:

- (a) Remains the same.
- (b) Dissolved oxygen concentration must not be reduced below the applicable levels given in department circular WQB-7.
- (c)-(g) Remain the same.
- (h)(i) Concentrations of carcinogenic, bioconcentrating, toxic, or harmful parameters which would remain in the water after conventional water treatment may not exceed the maximum applicable levels set forth in department circular WQB-7.
- (ii) Dischargers issued permits under ARM Title 16, chapter 20, subchapter 9, shall conform with ARM Title 16, chapter 20, subchapter 7, the nondegradation rules, and may not cause receiving water concentrations to exceed the maximum applicable levels contained in department circular WQB-7 when stream flows equal or exceed the design flows specified in ARM 16.20.631(4).
- (iii) ~~When levels in department circular WQB-7 are used as the basis for discharge permit limits for waters with a hardness of less than 20 mg/l (as CaCO₃), the limits for metals will be based on a hardness of 20 mg/l. If site-specific criteria are developed as the basis for discharge permit limits, using the procedures given in the Water Quality Standards Handbook (US EPA, Dec. 1983), and provided that other routes of exposure to toxic parameters by aquatic life are addressed, the limits so developed may be used as water quality standards for the affected waters and as the basis for permit limits instead of the applicable levels in department circular WQB-7.~~
- (iv) Remains the same.
- (4) Remains the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.618 B-1 CLASSIFICATION (1) Remains the same.

(2) No person may violate the following specific water quality standards for waters classified B-1:

- (a)-(g) Remain the same.
- (h)(i) Concentrations of carcinogenic, bioconcentrating, toxic or harmful parameters which would remain in the water after conventional water treatment may not exceed the maximum applicable levels set forth in department circular WQB-7.
- (ii) Dischargers issued permits under ARM Title 16, chapter 20, subchapter 9, shall conform with ARM Title 16, chapter 20, subchapter 7, the nondegradation rules, and may not cause receiving water concentrations to exceed the maximum applicable levels specified in department circular WQB-7 when stream flows equal or exceed the design flows specified in ARM 16.20.631(4).
- (iii) ~~When levels specified in department circular WQB-7 are used as the basis for discharge permit limits for waters with a hardness of less than 20 mg/l (as CaCO₃), the limits for metals will be based on a hardness of 20 mg/l. If site-specific criteria are developed as the basis for discharge permit limits, using the procedures given in the Water Quality Standards Handbook (US EPA, Dec. 1983), and provided that other routes of exposure to toxic parameters by aquatic life are~~

addressed, the limits so developed may be used as water quality standards for the affected waters and as the basis for permit limits instead of the applicable levels in department circular WQB-7.

(iv) Remains the same.

(3) The board hereby adopts and incorporates ~~herein~~ by reference the following:

(a) Department circular WQB-7, entitled "Montana Numerical Water Quality Standards" (1993 24 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and other harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.619 B-2 CLASSIFICATION (1) Remains the same.

(2) No person may violate the following specific water quality standards for waters classified B-2:

(a) Remains the same.

(b) Dissolved oxygen concentration must not be reduced below the applicable levels given in department circular WQB-7.

(c)-(g) Remain the same.

(h)(i) Concentrations of carcinogenic, bioconcentrating, toxic or harmful parameters which would remain in the water after conventional water treatment may not exceed the maximum applicable levels set forth in department circular WQB-7.

(ii) Dischargers issued permits under ARM Title 16, chapter 20, subchapter 9, shall conform with ARM Title 16, chapter 20, subchapter 7, the nondegradation rules, and may not cause receiving water concentrations to exceed the maximum applicable levels specified in department circular WQB-7 when stream flows equal or exceed the design flows specified in ARM 16.20.631(4).

~~(iii) When levels in department circular WQB-7 are used as the basis for discharge permit limits for waters with a hardness of less than 20 mg/l (as CaCO₃), the limits for metals will be based on a hardness of 20 mg/l. If site-specific criteria are developed as the basis for discharge permit limits, using the procedures given in the Water Quality Standards Handbook (US EPA, Dec. 1983), and provided that other routes of exposure to toxic parameters by aquatic life are addressed, the limits so developed may be used as water quality standards for the affected waters and as the basis for permit limits instead of the applicable levels in department circular WQB-7.~~

(iv) Remains the same.

(3) The board hereby adopts and incorporates ~~herein~~ by reference the following:

(a) Department circular WQB-7, entitled "Montana Numerical Water Quality Standards" (1993 24 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and other harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.620 B-3 CLASSIFICATION (1) Remains the same.

(2) No person may violate the following specific water

quality standards for waters classified B-3:

(a) Remains the same.
(b) Dissolved oxygen concentration must not be reduced below the applicable levels specified in department circular QWB-7.

(c)-(g) Remain the same.

(h)(i) Concentrations of carcinogenic, bioconcentrating, toxic, or ~~other~~ harmful parameters which would remain in the water after conventional water treatment may not exceed the maximum applicable levels set forth in department circular QWB-7.

(ii) Dischargers issued permits under ARM Title 16, chapter 20, subchapter 9, shall conform with ARM Title 16, chapter 20, subchapter 7, the nondegradation rules, and may not cause receiving water concentrations to exceed the maximum applicable levels specified in department circular QWB-7 when stream flows equal or exceed the design flows specified in ARM 16.20.631(4).

(iii) ~~When levels contained in department circular QWB-7 are used as the basis for discharge permit limits for waters with a hardness of less than 20 mg/l (as CaCO₃), the limits for metals will be based on a hardness of 20 mg/l. If site-specific criteria are developed as the basis for discharge permit limits, using the procedures given in the Water Quality Standards Handbook (US EPA, Dec. 1983), and provided that other routes of exposure to toxic parameters by aquatic life are addressed, the limits so developed may be used as water quality standards for the affected waters and as the basis for permit limits instead of the applicable levels specified in department circular QWB-7.~~

(iv) Remains the same.

(3) The board hereby adopts and incorporates herein by reference the following:

(a) Department circular QWB-7, entitled "Montana Numerical Water Quality Standards" (1993 24 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and ~~other~~ harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.621 C-1 CLASSIFICATION (1) Remains the same.

(2) No person may violate the following specific water quality standards for waters classified C-1:

(a) Remains the same.

(b) Dissolved oxygen concentration must not be reduced below the applicable levels given in department circular QWB-7.

(c)-(g) Remain the same.

(h)(i) Concentrations of carcinogenic, bioconcentrating, toxic, or harmful parameters may not exceed levels which render the waters harmful, detrimental or injurious to public health. Concentrations of toxic parameters also may not exceed the applicable levels specified in department circular QWB-7.

(ii) Dischargers issued permits under ARM Title 16, chapter 20, subchapter 9, shall conform with ARM Title 16, chapter 20, subchapter 7, the nondegradation rules, and may not cause

receiving water concentrations to exceed the maximum applicable levels specified in department circular QWB-7 when stream flows equal or exceed the design flows specified in ARM 16.20.631(4).

(iii) ~~When levels in department circular QWB-7 are used as the basis for discharge permit limits for waters with a hardness of less than 20 mg/l (as CaCO₃), the limits for metals will be based on a hardness of 20 mg/l. If site-specific criteria are developed as the basis for discharge permit limits, using the procedures given in the Water Quality Standards Handbook (US EPA, Dec. 1983), and provided that other routes of exposure to toxic parameters by aquatic life are addressed, the limits so developed may be used as water quality standards for the affected waters and as the basis for permit limits instead of the levels in department circular QWB-7.~~

(iv) Remains the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) Department circular QWB-7, entitled "Montana Numerical Water Quality Standards" (1993 24 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and other harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.622 C-2 CLASSIFICATION (1) Remains the same.

(2) No person may violate the following specific water quality standards for waters classified C-2:

(a)-(g) Remain the same.

(h)(i) Concentrations of carcinogenic, bioconcentrating, toxic, or harmful parameters may not exceed levels which render the waters harmful, detrimental or injurious to public health. Concentrations of toxic parameters also may not exceed the applicable levels specified in department circular QWB-7.

(ii) Dischargers issued permits under ARM Title 16, chapter 20, subchapter 9, shall conform with ARM Title 16, chapter 20, subchapter 7, the nondegradation rules, and may not cause receiving water concentrations to exceed the maximum applicable levels specified in department circular QWB-7 when stream flows equal or exceed the design flows specified in ARM 16.20.631(4).

~~(iii) When levels in department circular QWB-7 are used as the basis for discharge permit limits for waters with a hardness of less than 20 mg/l (as CaCO₃), the limits for metals will be based on a hardness of 20 mg/l. If site-specific criteria are developed as the basis for discharge permit limits, using the procedures given in the Water Quality Standards Handbook (US EPA, Dec. 1983), and provided that other routes of exposure to toxic parameters by aquatic life are addressed, the limits so developed may be used as water quality standards for the affected waters and as the basis for permit limits instead of the applicable levels specified in department circular QWB-7.~~

(iv) Remains the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) Department circular WQB-7, entitled "Montana Numerical Water Quality Standards" (1993 94 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and other harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.623 I CLASSIFICATION (1) Remains the same.

(2) No person may violate the following specific water quality standards for waters classified I:

(a)-(g) Remain the same.

(h)(i)-(ii) Remain the same.

(iii) Beneficial uses are considered supported when the concentrations of toxic, carcinogenic, or harmful parameters in these waters do not exceed the applicable levels specified in department circular WQB-7 when stream flows equal or exceed the flows specified in ARM 16.20.631(4) or, alternatively, for aquatic life when the concentrations do not exceed site-specific criteria are developed using the procedures given in the Water Quality Standards Handbook (US EPA, Dec. 1983), and provided that other routes of exposure to toxic parameters by aquatic life are addressed. The limits so developed may be used as water quality standards for the affected waters and as the basis for permit limits instead of the applicable levels in department circular WQB-7.

(iv) Limits for toxic, carcinogenic, or harmful parameters in new discharge permits issued pursuant to the MPDES rules (ARM Title 16, chapter 20, subchapter 9) are the larger of either the applicable levels specified in department circular WQB-7, site-specific standards, or one-half of the mean in-stream concentrations immediately upstream of the discharge point.

(3) The board hereby adopts and incorporates by reference the following:

(a) Department circular WQB-7, entitled "Montana Numerical Water Quality Standards" (1993 94 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and other harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.624 C-3 CLASSIFICATION (1) Remains the same.

(2) No person may violate the following specific water quality standards for waters classified C-3:

(a) Remains the same.

(b) Dissolved oxygen concentration must not be reduced below the applicable levels specified in department circular WQB-7.

(c)-(g) Remain the same.

(h)(i) Concentrations of carcinogenic, bioconcentrating, toxic, or harmful parameters which would remain in the water after conventional water treatment may not exceed the maximum applicable levels set forth in department circular WQB-7.

(ii) Dischargers issued permits under ARM Title 16, chap-

receiving water concentrations to exceed the maximum applicable levels specified in department circular QWB-7 when stream flows equal or exceed the design flows specified in ARM 16.20.631(4).

~~(iii) When levels in department circular QWB-7 are used as the basis for discharge permit limits for waters with a hardness of less than 20 mg/l (as CaCO₃), the limits for metals will be based on a hardness of 20 mg/l. If site-specific criteria are developed as the basis for discharge permit limits, using the procedures given in the Water Quality Standards Handbook (US EPA, Dec. 1983), and provided that other routes of exposure to toxic parameters by aquatic life are addressed, the limits so developed may be used as water quality standards for the affected waters and as the basis for permit limits instead of the levels in department circular QWB-7.~~

(iv) Remains the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) Department circular QWB-7, entitled "Montana Numerical Water Quality Standards" (1993 24 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and other harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.622 C-2 CLASSIFICATION (1) Remains the same.

(2) No person may violate the following specific water quality standards for waters classified C-2:

(a)-(g) Remain the same.

(h)(i) Concentrations of carcinogenic, bioconcentrating, toxic, or harmful parameters may not exceed levels which render the waters harmful, detrimental or injurious to public health. Concentrations of toxic parameters also may not exceed the applicable levels specified in department circular QWB-7.

(ii) Dischargers issued permits under ARM Title 16, chapter 20, subchapter 9, shall conform with ARM Title 16, chapter 20, subchapter 7, the nondegradation rules, and may not cause receiving water concentrations to exceed the maximum applicable levels specified in department circular QWB-7 when stream flows equal or exceed the design flows specified in ARM 16.20.631(4).

~~(iii) When levels in department circular QWB-7 are used as the basis for discharge permit limits for waters with a hardness of less than 20 mg/l (as CaCO₃), the limits for metals will be based on a hardness of 20 mg/l. If site-specific criteria are developed as the basis for discharge permit limits, using the procedures given in the Water Quality Standards Handbook (US EPA, Dec. 1983), and provided that other routes of exposure to toxic parameters by aquatic life are addressed, the limits so developed may be used as water quality standards for the affected waters and as the basis for permit limits instead of the applicable levels specified in department circular QWB-7.~~

(iv) Remains the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) Department circular WQB-7, entitled "Montana Numerical Water Quality Standards" (1993 24 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and ~~other~~ harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.623 I CLASSIFICATION (1) Remains the same.

(2) No person may violate the following specific water quality standards for waters classified I:

(a)-(g) Remain the same.

(h)(i)-(ii) Remain the same.

(iii) Beneficial uses are considered supported when the concentrations of toxic, carcinogenic, or harmful parameters in these waters do not exceed the applicable levels specified in department circular WQB-7 when stream flows equal or exceed the flows specified in ARM 16.20.631(4) or, alternatively, for aquatic life when ~~the concentrations do not exceed site-specific criteria~~ are developed using the procedures given in the Water Quality Standards Handbook (US EPA, Dec. 1983), and provided that other routes of exposure to toxic parameters by aquatic life are addressed. The limits so developed may be used as water quality standards for the affected waters and as the basis for permit limits instead of the applicable levels in department circular WQB-7.

(iv) Limits for toxic, carcinogenic, or harmful parameters in new discharge permits issued pursuant to the MPDES rules (ARM Title 16, chapter 20, subchapter 9) are the larger of either the applicable levels specified in department circular WQB-7, site-specific standards, or one-half of the mean in-stream concentrations immediately upstream of the discharge point.

(3) The board hereby adopts and incorporates by reference the following:

(a) Department circular WQB-7, entitled "Montana Numerical Water Quality Standards" (1993 24 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and ~~other~~ harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.624 C-3 CLASSIFICATION (1) Remains the same.

(2) No person may violate the following specific water quality standards for waters classified C-3:

(a) Remains the same.

(b) Dissolved oxygen concentration must not be reduced below the applicable levels specified in department circular WQB-7.

(c)-(g) Remain the same.

(h)(i) Concentrations of carcinogenic, bioconcentrating, toxic, or harmful parameters which would remain in the water after conventional water treatment may not exceed the maximum applicable levels set forth in department circular WQB-7.

(ii) Dischargers issued permits under ARM Title 16, chap-

ter 20, subchapter 9, shall conform with ARM Title 16, chapter 20, subchapter 7, the nondegradation rules, and may not cause receiving water concentrations to exceed the maximum applicable levels specified in department circular QWB-7 when stream flows equal or exceed the design flows specified in ARM 16.20.631(4).

(iii) ~~When levels in department circular QWB-7 are used as the basis for discharge permit limits for waters with a hardness of less than 20 mg/l (as CaCO₃), the limits for metals will be based on a hardness of 20 mg/l. If site-specific criteria are developed as the basis for discharge permit limits, using the procedures given in the Water Quality Standards Handbook (US EPA, Dec. 1983), and provided that other routes of exposure to toxic parameters by aquatic life are addressed, the limits so developed may be used as water quality standards for the affected waters and as the basis for permit limits instead of the applicable levels specified in department circular QWB-7.~~

(iv) Remains the same.

(3) The board hereby adopts and incorporates by reference the following:

(a) Department circular QWB-7, entitled "Montana Numerical Water Quality Standards" (1993 24 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and other harmful parameters in water; and

(b)-(c) Remain the same.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.641 RADIOLOGICAL CRITERIA (1) No person may cause radioactive materials in surface waters to exceed the levels specified in department circular QWB-7.

(2) The board hereby adopts and incorporates by reference department circular QWB-7, entitled "Montana Numerical Water Quality Standards" (1993 24 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and other harmful parameters in water. Copies of the circular may be obtained from the Water Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620.

AUTH: 75-5-201, 75-5-301, MCA; IMP: 75-5-301, MCA

3. The board is extending until May 27, 1994, the time for public comment on the proposed amendments and will hold a public hearing on the amendments on May 20, 1994, at 9:00 a.m., or as soon thereafter as it may be heard, in Room C209 of the Cogswell Building, 1400 Broadway. 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 Yolanda Fitzsimmons, Board of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana, no later than May 27, 1994.

4. W.D. Hutchison has been designated to preside over and conduct the hearing.

RAYMOND W. GUSTAFSON, Chairman
BOARD OF HEALTH AND
ENVIRONMENTAL SCIENCES

BY:

William J. Robinson
for ROBERT J. ROBINSON, Director
Department of Health and
Environmental Sciences

Certified to the Secretary of State April 4, 1994.

Reviewed by:

Eleanor A. Parker
Eleanor A. Parker, DHES Counsel

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

In the matter of the adoption of	)	NOTICE OF PUBLIC
new rules I-X concerning the use	)	HEARING FOR THE
of mixing zones.	)	PROPOSED ADOPTION OF
	)	NEW RULES I-X
		(Water Quality)

To: All Interested Persons

1. On May 20, 1994, at 9:00 a.m., or as soon thereafter as it may be heard, the board will hold a public hearing in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the adoption of the above-captioned rules.

2. The rules, as proposed, appear as follows:

RULE I PURPOSE (1) The purpose of this subchapter is to implement 75-5-301(4), MCA, which requires the board to adopt rules governing the granting of mixing zones consistent with the provisions of 75-5-302 through 75-5-307 and 80-15-201, MCA.

AUTH: 75-5-301, MCA; IMP: 75-5-301, MCA

RULE II DEFINITIONS The following definitions, in addition to those in 75-5-103, MCA, and ARM Title 16, chapter 20, subchapters 6 and 7, apply throughout this sub-chapter:

(1) "Acute toxicity" means a condition in which ambient water concentrations exceed the applicable acute aquatic life standards given in department circular WQB-7.

(2) "Chronic toxicity" means a condition in which ambient water concentrations exceed the applicable chronic aquatic life standards given in department circular WQB-7.

(3) "Constructed wetland" means a wetland intentionally designed, constructed and operated for the primary purpose of wastewater or stormwater treatment or environmental remediation.

(4) "Currently available data" means data that is readily available to the department at the time a decision is made. It does not mean new data to be obtained as a result of departmental efforts or required of the applicant.

(5) "Human health standard" means the parameters listed as human health standards in department circular WQB-7.

(6) "Mixing zone" is defined in 75-5-103, MCA, and also means a limited area of a surface water body or a portion of an aquifer, where initial dilution of a discharge takes place and where water quality changes may occur and where certain water quality standards may be exceeded.

(7) "Nearly instantaneous mixing zone" means an area

where dilution of a discharge to water by the receiving water occurs at a nearly instantaneous rate, with the result that its boundaries are either at the point of discharge or are within 2 stream widths down stream of the point of discharge.

(8) "Narrative standards" means those parameters listed as narrative standards in department circular WQB-7.

(9) "Numeric acute standards" means the parameters listed as acute aquatic life standards in department circular WQB-7.

(10) "Numeric chronic standards" means the parameters listed as chronic aquatic life standards in department circular WQB-7.

(11) "Standard mixing zone" means a mixing zone that meets the requirements of [RULES VIII and IX] and involves less data collection and demonstration than required for a nonstandard mixing zone.

(12) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

(13) The board hereby adopts and incorporates by reference department circular WQB-7, entitled "Montana Numeric Water Quality Standards" (1994 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and harmful parameters in water. Copies of the circular are available from the Water Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, MT 59620.

AUTH: 75-5-301, MCA; IMP: 75-5-301, MCA

RULE III GENERAL CONSIDERATIONS FOR MIXING ZONE DESIGNATIONS

(1) After an assessment of information received by the applicant concerning the biological, chemical, and physical characteristics of the receiving water, as specified in [RULE IV] or as requested by the department, the department will determine the applicability of a mixing zone and, if applicable, its size, configuration, and location. In defining a mixing zone, the department will consider the following principles:

(a) Mixing zones may be granted for individual parameters present in a discharge.

(b) For new or increased sources, changes in water quality at the boundary of a mixing zone must be nonsignificant as defined by ARM Title 16, chapter 20, subchapter 7, unless the change in water quality is authorized by the department pursuant to 75-5-303, MCA.

(c) In accordance with 75-5-306, MCA, it is not necessary that industrial wastes, sewage, or other wastes, as defined in 75-5-103, MCA, be treated to a purer condition than the natural condition of the receiving water as long as the minimum treatment requirements are met and provided all reasonable land, soil, and water conservation practices have been applied.

(d) Estimated parameter levels in the mixing zone area will be calculated, unless the department determines that monitoring is necessary due to the potential harm to the impacted water and its beneficial uses.

(e) In granting a mixing zone, the department may impose conditions as necessary to comply with the requirements of this subchapter.

(2) Where the department determines that allowing a mixing zone at a given level for a parameter would unreasonably interfere with or threaten a beneficial use pursuant to this subchapter, discharge limitations will be modified as necessary to prevent the interference with or threat to the beneficial use. If necessary, these modifications may require achieving applicable numeric water quality criteria at the end-of-pipe for the parameter so that no mixing zone will be necessary or granted.

AUTH: 75-5-301, MCA; IMP: 75-5-301, MCA

RULE IV WATER QUALITY ASSESSMENT (1) No mixing zone will be granted if it would cause unreasonable interference with or danger to existing beneficial uses. Before any mixing zone is allowed, the applicant must provide information, as requested by the department, to determine whether a mixing zone will be allowed as well as the conditions which should be applied.

(2) In making its determination, the department will consider the following factors:

(a) Biologically important areas: the presence of fish spawning areas or shallow water nursery areas within the proposed mixing zone or a "shore hugging" effluent plume in an aquatic life segment will support a finding that the mixing zone may be inappropriate during the spawning or nursery periods.

(b) Drinking water or recreational activities: the existence of a drinking water intake, a zone of influence around a drinking water well or a well used for recreational purposes, or a recreational area within or immediately adjacent to the proposed mixing zone will support a finding that a mixing zone is not appropriate. For purposes of these rules, "recreational" refers to swimming, and "recreational area" refers to a public beach or swimming area, including areas adjacent to streams or lakes.

(c) Attraction of aquatic life to the effluent plume: where currently available data support a conclusion that fish or other aquatic life would be attracted to the effluent plume, resulting in adverse effects such as acute or chronic toxicity, it may be appropriate to adjust a given mixing zone for substances believed to cause the toxic effects.

(d) Toxicity/persistence of the substance discharged: where a discharge of a parameter is at a concentration that is both toxic and persistent, it may be appropriate to deny a mixing zone. Toxicity and persistence will be given added weight to deny a mixing zone where the parameter is expected to remain biologically available and where a watershed-based

solution has not been implemented. For ground water, this factor will also be considered in areas where the parameter may remain in the ground water for a period of years after the discharge ceases.

(e) Passage of aquatic organisms (including access to tributaries): where currently available data indicate that a mixing zone would inhibit migration of fish or other aquatic species, no mixing zone may be allowed for the parameters that inhibit migration. In making this determination, the department will consider whether any parameter in the effluent plume will block migration into tributary segments.

(f) Cumulative effects of multiple mixing zones: in some cases, the existence of multiple or overlapping mixing zones may threaten or impair the existing uses of the receiving water, so that any additional mixing zone will be limited or denied for the parameter of concern.

(g) Aquifer characteristics: when currently available data indicate that the movement of ground water or pollutants within the subsurface cannot be accurately predicted, such as the movement of ground water through fractures, and also indicate that this unpredictability might result in adverse impacts due to a particular concentration of a parameter in the mixing zone, it may be appropriate to deny the mixing zone for the parameter of concern.

(h) Ground water discharges to surface water: ground water mixing zones may be modified where the ground water discharges to surface water within a reasonably short time or distance and currently available data indicate that surface water quality standards will be exceeded in the receiving surface water.

(i) Discharges to intermittent and ephemeral streams: the "natural condition" of these waters during periods of no flow will be the average quality that occurs during periods when flow is present. If a proposed discharge occurs when there is no flow, the quality of the discharge must be at or better than this quality. If variations in seasonal stream flow are known and a mixing zone is limited to use during periods when dilution is available, such a mixing zone may be allowed by the department.

AUTH: 75-5-301, MCA; IMP: 75-5-301, MCA

RULE V SPECIFIC RESTRICTIONS FOR SURFACE WATER MIXING ZONES (1) Mixing zones for surface waters are to comply with the following water quality standards:

(a) Narrative water quality standards, numeric acute and chronic standards for aquatic life, and standards based on human health must not be exceeded beyond the boundaries of the surface water mixing zone;

(b) Acute standards for aquatic life for any parameter may not be exceeded in any portion of a mixing zone, unless the department specifically finds that allowing minimal initial dilution will not threaten or impair existing beneficial uses.

(2) Discharges to wetlands (other than constructed.

wetlands) will not be granted a mixing zone for parameters for which the state has adopted numeric acute or chronic standards for aquatic life or for human health in the surface water quality standards, unless the following can be demonstrated to the satisfaction of the department:

(a) The standards referenced in (1) above will not be exceeded beyond the boundaries of the mixing zone;

(b) Existing beneficial uses will not be threatened or harmed; and

(c) The conditions in 75-5-303(3), MCA, are met.

(3) A discharge which contains a parameter that is a carcinogen or that has a bioconcentration factor which exceeds 300 will not be granted a surface water mixing zone for that parameter. For these parameters, discharge limitations must be set at or below the naturally occurring concentration of the receiving water at the point of discharge.

(4) For discharges to surface water that first pass through the ground, such as discharges from infiltration systems or land application areas, the surface water mixing zone begins at the most upstream point of discharge into the receiving surface water. If the discharge continues to occur downstream beyond a distance equal to 10 times the stream width measured at the upstream discharge point at low flow, a standard mixing zone will not be granted.

AUTH: 75-5-301, MCA; IMP: 75-5-301, MCA

RULE VI. SPECIFIC RESTRICTIONS FOR GROUND WATER MIXING ZONES (1) Mixing zones for ground water are to be limited and comply with the following water quality standards:

(a) Human health based ground water standards must not be exceeded beyond the boundaries of the mixing zone;

(b) A discharge which contains a parameter that is a carcinogen will not be granted a ground water mixing zone for that parameter. In this case, discharge limitations must be set at or below the naturally occurring concentration of the receiving water at the point of discharge.

(2) No mixing zone for ground water will be allowed if the zone of influence of an existing drinking water supply well will intercept the mixing zone.

AUTH: 75-5-301, MCA; IMP: 75-5-301, MCA

RULE VII. DEPARTMENT PROCEDURES (1) The department will determine whether a mixing zone is appropriate for a particular discharge during the department's permit, permit renewal, approval, order, or authorization review process pursuant to the rules in this subchapter. The department may determine that:

(a) no mixing zone shall be granted;

(b) the standard mixing zone applied for is appropriate;

(c) the nonstandard mixing zone applied for is appropriate; or

(d) an alternative or modified mixing zone, as defined by the department, is appropriate.

(2) A person applying to the department for a mixing zone must indicate the type of mixing zone applied for and supply sufficient detail for the department to make a determination regarding the authorization of the mixing zone under the rules of this subchapter.

(3) Any nonstandard mixing zone must be approved by the department.

(4) In making a determination of nonsignificance under the rules in ARM Title 20, chapter 16, subchapter 7, a person may use a standard mixing zone without approval from the department or request that the department specifically designate a mixing zone, which may be either a standard or non-standard mixing zone.

(5) Department determinations regarding mixing zones will be accomplished within the time frames required for the underlying permit, approval, or authorization, and the applicant will be notified of that determination according to those same requirements. In all other cases, department determinations will be made and the applicant notified within 30 days after receipt of a complete application.

(6) After receiving notification of the department's determination the applicant may:

(a) accept the department's determination;

(b) modify the proposed mixing zone and reapply; or

(c) appeal the department's decision pursuant to any applicable provision of law.

AUTH: 75-5-301, MCA; IMP: 75-5-301, MCA

RULE VIII STANDARD MIXING ZONES FOR SURFACE WATER

(1) If a discharge to surface water is small in comparison to the volume of the receiving water or if the mixing is nearly instantaneous and the parameter(s) of concern will not threaten or impair existing uses as determined under [Rule IV], a standard mixing zone may be used.

(2) A standard surface water mixing zone will not be granted for a new or increased discharge to a lake or wetland.

(3) Facilities that meet the terms and conditions in (a) and (d) below qualify for a standard mixing zone as follows:

(a) Facilities that discharge a mean annual flow of less than 1 million gallons per day (MGD) to a stream segment with a dilution ratio greater than or equal to 100:1. For purposes of this procedure, the stream dilution ratio is defined as the 7-day, 10-year (7Q10) low flow of the stream segment without the discharge, divided by the mean annual flow of the discharge. In this case discharge limitations will be based on dilution with the 7Q10.

(b) Facilities that discharge a mean annual flow greater than 1 MGD or that discharge to a stream segment with a dilution less than 100:1. In cases where dilution is less than 100:1, discharge limitations will be based on dilution with 25% of the 7Q10.

(c) Facilities that discharge to surface waters through

the ground may qualify for a standard surface water mixing zone provided that acute and chronic standards are not exceeded in the surface water mixing zone.

(d) Facilities whose discharge results in a nearly instantaneous mixing zone. Discharge limitations shall be based on dilution with the 7-day, 10-year low flow of the receiving water except as limited by consideration of the factors listed in [Rule IV]. For surface waters, nearly instantaneous mixing will be assumed when there is an effluent diffuser which extends across the entire stream width (at low flow), or when the mean daily flow of the discharge exceeds the 7-day, 10-year low flow of the receiving water. A discharge may also be considered nearly instantaneous if the discharger so demonstrates in accordance with a study plan approved by the department. For the purposes of this demonstration nearly instantaneous mixing will be assumed when there will be not more than a 10% difference in bank-to-bank concentrations at a downstream distance less than 2 stream/river widths.

(4) The area of a standard mixing zone for flowing surface water, other than a nearly instantaneous mixing zone, must not exceed one-half of the cross-sectional area or extend downstream more than 10 times the stream width, whichever is more restrictive. For purposes of making this determination, the stream width as well as the discharge limitations are considered at the 7Q10 low flow. The recommended calculation to be used to determine the one-half area is described below:

- (a) $A_{1/2} = [0.4(W/2)^2V]/L$, where:
 - (i) $A_{1/2}$ = one-half area;
 - (ii) W = width in feet at the 7Q10;
 - (iii) V = velocity of the stream at the 7Q10 downstream of the discharge (in ft/second);
 - (iv) L = lateral dispersion coefficient for the 7Q10 downstream of the discharge (in ft²/second), where:
 - (b) L = CDU, where:
 - (i) C = channel irregularity factor immediately downstream of the discharge, where:
 - (A) $C = 0.1$ for straight, rectangular streams;
 - (B) $C = 0.3$ for channelized streams;
 - (C) $C = 0.6$ for natural channels with moderate meandering;
 - (D) $C = 1.0$ for streams with significant meandering; and
 - (E) $C = 1.3$ for streams with sharp 90 degree or more bends;
 - (ii) D = average water depth at the 7Q10 downstream of the discharge (in feet);
 - (iii) U = shear velocity (in ft/sec), where:
 - (c) $U = (32.2DS)^{1/2}$, where:
 - (i) 32.2 is the acceleration due to gravity (32.2 ft/sec²);
 - (ii) D = average water depth at the 7Q10 downstream of the discharge (in feet); and

(iii) S = slope of the channel downstream of the discharge (feet/feet).

(5) Monitoring may be required at the downgradient boundary of a surface water mixing zone only when there is a site-specific, impact-related reason to require such monitoring.

(6) A standard surface water mixing zone may be modified by the department on a case-by-case basis depending upon existing uses, flow regime, and the configuration of the stream channel. Where currently available data indicates that modifying a standard mixing zone would threaten or impair existing beneficial uses under [Rule IV], the facility will not qualify for this modification procedure.

AUTH: 75-5-301, MCA; IMP: 75-5-301, MCA

RULE IX STANDARD MIXING ZONES FOR GROUND WATER (1)

The following criteria apply to determine which discharges qualify for a standard ground water mixing zone:

(a) A standard ground water mixing zone is generally applicable in unconfined aquifers, but may not be appropriate for semi-confined or confined aquifers or in aquifers where ground water moves through fractures.

(b) Disposal systems that discharge to ground water through infiltration, drainfields, injection through a disposal well, leakage from an impoundment, seepage from a land application area, or other methods may qualify for a standard mixing zone.

(c) To determine if the discharge qualifies for a standard ground water mixing zone, the person proposing the discharge must estimate the anticipated concentration of pollutants at the downgradient boundary of the mixing zone. If the estimated concentration meets the nonsignificance criteria at the boundary of the mixing zone, as specified in ARM Title 16, chapter 20, subchapter 7, the discharge qualifies for a standard mixing zone.

(d) The estimation required in (1)(c) above, must be based on a calculation of the volume of water moving through a standard cross-section of aquifer. The calculated volume of water moving through the aquifer cross-section is hypothetically mixed with the known volume and concentration of the discharge to determine the resulting concentration at the boundary of the mixing zone. The recommended method to determine the resulting concentration at the boundary of a standard ground water mixing zone is described below:

(i) Computations of the volume of ground water available for mixing are based on the equation: $Q = KIA$, where:

(A) Q = volume of flow;

(B) K = hydraulic conductivity;

(C) I = gradient; and

(D) A = aquifer cross-section area.

(ii) Values for hydraulic conductivity (K) and gradient (I) may be obtained from field observations or estimated from other sources.

(iii) A specific depth and width are necessary to de-

termine the aquifer cross-section area (A) for a standard mixing zone. The aquifer cross-section area prescribed by the following lengths is used as the area (A) in the equation:

(A) The depth of a standard ground water mixing zone extends from the top of the water table beneath the source down to 15 feet below the water table.

(B) The width of a standard mixing zone is equal to the width of the source plus the distance determined by the tangent of 5 degrees times the length of the mixing zone on both sides of the source.

(iv) It is assumed that mixing between the discharge and the receiving ground water is complete at the aquifer cross-section area at the standard distance downgradient from the source.

(v) It is also assumed that pollutants discharged from the source do not change in volume or concentration as they migrate through the unsaturated zone down to the water table.

(vi) The concentration of the parameter in the ground water must be measured to determine the existing load present in the ground water. The calculated volume of ground water with a measured concentration is hypothetically mixed with the known volume and concentration of the discharge using the following procedure:

(A) Volume of ground water times the concentration of the parameter = existing load;

(B) Volume of discharge times the concentration of the parameter = waste load; and

(C) (Existing load + waste load)/total volume = resulting concentration.

(vii) If the resulting concentration does not exceed the nonsignificance criteria specified in [the nondegradation rules contained in MAR notice no. 16-2-451 in MAR issue no. 7] for new or increased sources at the mixing zone boundary, a standard mixing zone may be granted.

(viii) The downgradient boundary of the standard mixing zone extends:

(A) 100 feet for a single family septic system drainfield in towns or subdivisions where individual lots are less than 2 acres in size;

(B) 200 feet for a single family septic system in subdivisions of 5-10 acres where lots are 2 acres in size or larger;

(C) 500 feet for any other source of waste discharging into ground water.

(ix) Monitoring may be required at the downgradient boundary of the mixing zone to measure compliance for a ground water mixing zone established for other than a single family septic system drainfield, if there is an overriding site-specific, impact-related reason to require monitoring and the mixing zone is within 500 feet of surface water, another ground water mixing zone, or a drinking water well, or if there is some other overriding site-specific, impact-related

reason to require monitoring.

AUTH: 75-5-301, MCA; IMP: 75-5-301, MCA

RULE X NONSTANDARD MIXING ZONES (1) If adequate information regarding stream flow or ground water flow is not available or if a standard mixing zone is not applicable or desired by the applicant, an applicant may request a nonstandard mixing zone.

(2) A nonstandard surface or ground water mixing zone will only be granted after the applicant demonstrates to the department that the requested mixing zone will comply with the requirements of [RULE IV and V] and the provisions of 75-5-303, MCA.

(3) For lakes, the area of a mixing zone must not exceed 5% of the area of the lake or extend more than a 200 foot radius from the discharge, whichever is more restrictive.

(4) For other surface waters, mixing zones must not exceed three-fourths of the cross-sectional area or 15 times the stream width, whichever is more restrictive. These area and width calculations must be performed using the procedures in [RULE VIII].

(5) The applicant may also demonstrate through field studies approved by the department that the requirements of 75-5-301(4), MCA, are satisfied. In addition, the applicant shall present a discussion of the mixing zone in the context of the restrictions and general considerations specified in [Rule IV], and information addressing the following items, as applicable:

(a) quantity, toxicity, and persistence of the pollutant;

(b) rate of flow;

(c) volume of flow;

(d) concentration of pollutants within the mixing zone;

(e) length of time pollutants will be present;

(f) proposed boundaries of the mixing zone;

(g) potential impacts to water uses;

(h) potential compliance monitoring;

(i) contingency plan if pollutants migrate beyond the mixing zone at concentrations greater than the allowed limits; and

(j) specific explanation as to why the proposed mixing zone is the smallest practicable size and why it will have a minimum practicable effect on water users.

(6) For nonstandard mixing zones in ground water the applicant shall provide information adequate to demonstrate to the department that the requirements of 75-5-301(4), MCA, are satisfied. In addition, the applicant shall present a discussion of the mixing zone in the context of the restrictions and general considerations specified in [Rule IV], and information addressing the following items, as applicable:

(a) quantity, toxicity, and persistence of the pollutant;

(b) water-bearing characteristics of subsurface materi-

termine the aquifer cross-section area (A) for a standard mixing zone. The aquifer cross-section area prescribed by the following lengths is used as the area (A) in the equation:

(A) The depth of a standard ground water mixing zone extends from the top of the water table beneath the source down to 15 feet below the water table.

(B) The width of a standard mixing zone is equal to the width of the source plus the distance determined by the tangent of 5 degrees times the length of the mixing zone on both sides of the source.

(iv) It is assumed that mixing between the discharge and the receiving ground water is complete at the aquifer cross-section area at the standard distance downgradient from the source.

(v) It is also assumed that pollutants discharged from the source do not change in volume or concentration as they migrate through the unsaturated zone down to the water table.

(vi) The concentration of the parameter in the ground water must be measured to determine the existing load present in the ground water. The calculated volume of ground water with a measured concentration is hypothetically mixed with the known volume and concentration of the discharge using the following procedure:

(A) Volume of ground water times the concentration of the parameter = existing load;

(B) Volume of discharge times the concentration of the parameter = waste load; and

(C) $(\text{Existing load} + \text{waste load}) / \text{total volume} = \text{resulting concentration.}$

(vii) If the resulting concentration does not exceed the nonsignificance criteria specified in [the nondegradation rules contained in MAR notice no. 16-2-451 in MAR issue no. 7] for new or increased sources at the mixing zone boundary, a standard mixing zone may be granted.

(viii) The downgradient boundary of the standard mixing zone extends:

(A) 100 feet for a single family septic system drainfield in towns or subdivisions where individual lots are less than 2 acres in size;

(B) 200 feet for a single family septic system in subdivisions of 5-10 acres where lots are 2 acres in size or larger;

(C) 500 feet for any other source of waste discharging into ground water.

(ix) Monitoring may be required at the downgradient boundary of the mixing zone to measure compliance for a ground water mixing zone established for other than a single family septic system drainfield, if there is an overriding site-specific, impact-related reason to require monitoring and the mixing zone is within 500 feet of surface water, another ground water mixing zone, or a drinking water well, or if there is some other overriding site-specific, impact-related

reason to require monitoring.

AUTH: 75-5-301, MCA; IMP: 75-5-301, MCA

RULE X NONSTANDARD MIXING ZONES (1) If adequate information regarding stream flow or ground water flow is not available or if a standard mixing zone is not applicable or desired by the applicant, an applicant may request a nonstandard mixing zone.

(2) A nonstandard surface or ground water mixing zone will only be granted after the applicant demonstrates to the department that the requested mixing zone will comply with the requirements of [RULE IV and V] and the provisions of 75-5-303, MCA.

(3) For lakes, the area of a mixing zone must not exceed 5% of the area of the lake or extend more than a 200 foot radius from the discharge, whichever is more restrictive.

(4) For other surface waters, mixing zones must not exceed three-fourths of the cross-sectional area or 15 times the stream width, whichever is more restrictive. These area and width calculations must be performed using the procedures in [RULE VIII].

(5) The applicant may also demonstrate through field studies approved by the department that the requirements of 75-5-301(4), MCA, are satisfied. In addition, the applicant shall present a discussion of the mixing zone in the context of the restrictions and general considerations specified in [Rule IV], and information addressing the following items, as applicable:

- (a) quantity, toxicity, and persistence of the pollutant;
- (b) rate of flow;
- (c) volume of flow;
- (d) concentration of pollutants within the mixing zone;
- (e) length of time pollutants will be present;
- (f) proposed boundaries of the mixing zone;
- (g) potential impacts to water uses;
- (h) potential compliance monitoring;
- (i) contingency plan if pollutants migrate beyond the mixing zone at concentrations greater than the allowed limits; and
- (j) specific explanation as to why the proposed mixing zone is the smallest practicable size and why it will have a minimum practicable effect on water users.

(6) For nonstandard mixing zones in ground water the applicant shall provide information adequate to demonstrate to the department that the requirements of 75-5-301(4), MCA, are satisfied. In addition, the applicant shall present a discussion of the mixing zone in the context of the restrictions and general considerations specified in [Rule IV], and information addressing the following items, as applicable:

- (a) quantity, toxicity, and persistence of the pollutant;
- (b) water-bearing characteristics of subsurface materi-

als;

- (c) rate and direction of ground water flow;
- (d) pollutant migration;
- (e) volume of ground water and area available for mixing;

- (f) concentration of pollutants within the mixing zone;
- (g) length of time pollutants will be present;
- (h) proposed boundaries of the mixing zone;
- (i) potential impacts to water uses;
- (j) compliance monitoring;
- (k) contingency plan if pollutants migrate beyond the mixing zone at concentrations greater than the allowed limits; and

(1) specific explanation as to why the proposed mixing zone is the smallest practicable size and why it will have a minimum practicable effect on water users.

AUTH: 75-5-301, MCA; IMP: 75-5-301, MCA

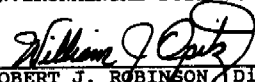
3. The proposed rules establish criteria and procedures for the granting or denial of mixing zones by the department and are undertaken in response to actions taken by the 1993 Legislature (Senate Bill 401). The rules contain criteria for determining the applicability of mixing zones in surface and ground water for various discharges. In addition, the rules establish criteria for determining the mixing zone area as well as establish procedures for department decisions regarding the granting of mixing zones.

These proposed rules are necessary to respond to action taken by the 1993 Legislature, which authorized rules for mixing zones and expressly required rules which would limit the size and impact of the mixing zones.

4. Interested persons may submit their data, views, or arguments concerning the proposed rules, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Yolanda Fitzsimmons, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620, no later than May 27, 1994.

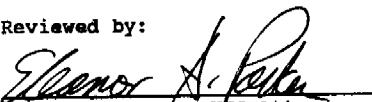
5. W.D. Hutchinson has been designated to preside over and conduct the hearing.

RAYMOND W. GUSTAFSON, Chairman
BOARD OF HEALTH AND
ENVIRONMENTAL SCIENCES


for ROBERT J. ROBINSON, Director

Certified to the Secretary of State April 4, 1994.

Reviewed by:


Eleanor Parker, DHES Attorney

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

In the matter of the amendment of	)	SUPPLEMENTAL NOTICE OF
rules 16.20.1003 and 16.20.1010-	)	ADDITIONAL PUBLIC HEARING
16.20.1011 regarding ground water	)	AND EXTENDED COMMENT
quality standards, mixing zones,	)	PERIOD ON PROPOSED
and water quality nondegradation.	)	AMENDMENT OF RULES

(Water Quality)

To: All Interested Persons

1. On February 10, 1994, the board published notice at page 244 of the Montana Administrative Register, Issue No. 3, of the proposed amendment of the above rules. This supplemental notice is being filed to allow the public additional review and comment on the agency's proposed changes to the rules that were published on February 10, 1994. As part of the changes made in response to those comments, the incorporation by reference of mixing zone rules has been removed from these amended rules. As a result, the mixing zone rules are being published as separate rules concurrently with the publication of these amendments.

2. The rules, as proposed to be amended from the version published February 10, 1994, appear as follows (new material is underlined; material to be deleted is interlined):

16.20.1003 GROUND WATER QUALITY STANDARDS (1)(a) The board hereby adopts and incorporates by reference the following EPA publications:

(i) EPA 600/4-79-020, "Methods for Chemical Analysis of Water and Wastes", (March, 1979);

(ii) EPA 600/4-88-39, "Methods for the Determination of Organic Compounds in Drinking Water" and Supplement 1. (December, 1988);

(iii) EPA 600/4-91-010, "Methods for the Determination of Metals in Environmental Samples", (June, 1991);

(iv) EPA-SW-846, "Test Methods for Evaluating Solid Waste", (November, 1986);

(v) 40 CFR 136, Part VIII, "Guidelines for Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act", (July, 1992);

(b) These publications set forth EPA-approved testing procedures for chemical analysis of water and wastes. Copies of the publications in (i)-(v) above may be obtained from are available at the Water Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620.

(2)-(3) Remain the same.

(4) Concentrations of dissolved substances in Class I and Class II ground water and in Class III ground water which is used

for drinking water supplies ~~shall may~~ not exceed the Montana maximum contaminant levels for drinking water as set forth in ARM 16.20.203, 16.20.204, 16.20.206 and 16.20.207 human health standards listed in department circular WOB-7.

(5) Concentrations of other dissolved or suspended substances must not exceed levels which render the waters harmful, detrimental or injurious to public health. Maximum allowable concentrations of these substances also must not exceed acute or chronic problem levels which would adversely affect existing beneficial uses or the designated beneficial uses of ground water of that classification. The values listed in ~~"Quality Criteria for Water", U.S. Environmental Protection Agency, Washington, D.C., (US EPA 440/5-86-001, Gold Book), July, 1986;~~ Hem, John D., "Study and Interpretation of the Chemical Characteristics of Natural Water," Second Third Edition, USGS Water Supply Paper ~~1473~~ 2254, USGPO, Washington, D.C., ~~1970~~ 1985; McKee, J.E., and Wolf, H.W., "Water Quality Criteria," Second Edition, California State Water Quality Control Board, Publication No. 3-A, 1963; and "Diagnosis and Improvement of Saline and Alkali Soils," Agriculture Handbook No. 60, U.S. Department of Agriculture, February, 1954, shall be used as a guide to determine problem levels unless local conditions make these values inappropriate.

(6)(a) The board hereby adopts and incorporates by reference the following:

~~(i) "Quality Criteria for Water", U.S. Environmental Protection Agency, Washington, D.C., (US EPA Gold Book), July, 1986;~~

~~(ii)(i)~~ Hem, John D., "Study and Interpretation of the Chemical Characteristics of Natural Water," Second Third Edition, USGS Water Supply Paper ~~1473~~ 2254, USGPO, Washington, D.C., ~~1970~~ 1985;

~~(iii)(ii)~~ McKee, J.E., and Wolf, H.W., "Water Quality Criteria," Second Edition, California State Water Quality Control Board, Publication No. 3-A, 1963; and

~~(iv)(iii)~~ "Diagnosis and Improvement of Saline and Alkali Soils," Agriculture Handbook No. 60, U.S. Department of Agriculture, February, 1954; and

~~(iv) Department circular WOB-7, entitled "Montana Numeric Water Quality Standards", (1994 edition).~~

(b) These publications in (a)(i)-(iii) above set forth ~~standards and criteria~~ for ground water quality, and department circular WOB-7 establishes limits for toxic, carcinogenic, bioconcentrating, and harmful parameters in water. Copies of the publications listed in (i)-(iv) above ~~may be obtained from~~ are available at the Water Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620.

AUTH: 75-5-301 MCA; IMP: 75-5-301, MCA

16.20.1010 MIXING ZONE (1) Discharges of pollutants to ground waters may be granted a mixing zone by the department, provided the mixing zone is specifically identified and conforms with the requirements and procedures of ~~department circular WOB-8~~ [new rules I-X published as MAR 16-2-442 in this edition].

(2) The board hereby adopts and incorporates by reference ~~department circular WQB-8, entitled "Montana Mixing Zone Requirements" (January, 1994)~~ new rules I-X published as MAR 16-2-449 in this edition, which establishes requirements and procedures for the granting or denying of mixing zones by the department.

AUTH: 75-5-301, MCA; IMP: 75-5-301, MCA

16.20.1011 NONDEGRADATION Remains the same.

3. The board is extending public comment on the above captioned rules to May 27, 1994 and will hold a public hearing on the amendments on May 20, 1994, at 9:00 a.m., or as soon thereafter as it may be heard, in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the amendment of the above-captioned rules. All comments made on these rules and the board's responses to them will be included in the final notice of adoption.

4. Interested persons may submit their data, views, or arguments concerning the proposed amendments, either orally or in writing, at the hearing. Written data, views, or arguments must be received by Yolanda Fitzsimmons, Board of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620, no later than 5:00 p.m., May 27, 1994.

5. W.D. Hutchison has been designated to preside over and conduct the hearing.

RAYMOND W. GUSTAFSON, Chairman
BOARD OF HEALTH AND ENVIRONMENTAL
SCIENCES

By William J. Robinson
for ROBERT J. ROBINSON, Director

Certified to the Secretary of State April 4, 1994.

Reviewed by:

Eleanor A. Parker
Eleanor Parker, DHES Attorney

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

In the matter of the adoption)	SUPPLEMENTAL NOTICE OF
of new rules I through IX and)	ADDITIONAL PUBLIC HEARING
the repeal of rules 16.20.701)	AND EXTENDED COMMENT
through 16.20.705 regarding)	PERIOD ON PROPOSED
implementation of the Water)	ADOPTION OF NEW RULES AND
Quality Act's nondegradation)	REPEAL OF EXISTING RULES
policy)	

(Water Quality
Nondegradation)

TO: All Interested Persons

1. On November 24, 1993, the board of health and environmental sciences ("board") published notice at page 2723 of the Montana Administrative Register, Issue No. 22, of the proposed adoption of new rules and repeal of the above-captioned existing rules implementing SB 401, passed by the 1993 legislature.

2. Commenters expressed concern that they could not adequately comment on the references to mixing zones in the proposed nondegradation rules because the rules defining mixing zones had not been published simultaneously with the nondegradation rules. The mixing zone rules have since been developed and are being filed concurrently with this supplemental notice to provide the public the opportunity to review and comment on both the nondegradation rules and the mixing zone rules together.

3. Commentors expressed a desire to be able to comment on the proposed changes to the initially published nondegradation rules. In order to provide the public with the opportunity to review and comment on the board's proposed changes to the originally noticed nondegradation rules, the proposed changes are included in this supplemental notice.

4. Public commentors have requested to review the board's response to comments prepared following the comment period after the initial publication of proposed nondegradation rules published on November 24, 1993. Copies of the board's statement of reasons for and against changes to the November 24th rules are available upon request at the Department of Health and Environmental Sciences, Water Quality Bureau, Cogswell Building, Helena, Montana; those reasons and the comments to which they respond will be included in the final notice of adoption.

5. The rules as proposed to be amended from the version published on November 24, 1993, appear as follows (new material is underlined; material to be deleted is interlined):

RULE I PURPOSE (1) The purpose of this subchapter is to prohibit degradation of high quality state waters, except in

certain limited circumstances, by implementing the nondegradation policy set forth in 75-5-303, MCA, and providing criteria and procedures for:

- (a) determining which activities will degrade high quality waters;
 - (b) department review and decision making;
 - (c) determining the required water quality protection practices if degradation is authorized; and
 - (d) public review and appeal of department decisions.
- AUTH: 75-5-301, 75-5-303, MCA; IMP: 75-5-301, MCA

RULE II DEFINITIONS Unless the context clearly states otherwise, the following definitions, in addition to those in 75-5-103, MCA, apply throughout this subchapter (Note: 75-5-103, MCA, includes definitions for "degradation", "existing uses", "high quality waters", and "parameter"):

(1) "Bioconcentrating parameters" means the parameters listed in department circular WQB-7 which have a bioconcentration factor greater than 300.

(2) "Carcinogenic parameters" means the parameters listed as carcinogens in department circular WQB-7.

~~(3) "Detectable" means the ability to detect a change in the value of a parameter in the receiving water with a 99% level of confidence that the change is greater than zero, based on the procedures which will yield the lowest detection level, either those established in 40 CFR Part 136, as it existed on July 1, 1990, or procedures approved by the department.~~

~~(3) "Existence value" means the value of the benefit that people may derive from the existence of a resource, without regard to their use or consumption of it.~~

(4) "Existing water quality" means the quality of the receiving water, including chemical, physical, and biological conditions immediately prior to commencement of the proposed activity or that which can be adequately documented to have existed on or after July 1, 1971, whichever is the highest quality.

(5) "Ground water" means water occupying the voids within a geologic stratum and within the zone of saturation.

(6) "Harmful parameters" means the parameters listed as harmful in department circular WQB-7.

(7) "Highest statutory and regulatory requirements" means all applicable effluent limitations, water quality standards, permit conditions, water quality protection practices, or reasonable land, soil, and water conservation practices. It also means compliance schedules or corrective action plans for the protection of water issued under order of a court, department, or board of competent jurisdiction.

(8) "High quality waters" is defined in 75-5-103(9) and does not include class I surface waters (ARM 16.20.623) or class IV ground waters (ARM 16.20.1002(d)).

~~(9) "Level 2 treatment" means treatment which will remove at least 60% of the nitrogen from the raw state.~~

~~(9)-(10)~~ (9) "Load" means the mass of a parameter per unit of time.

(11) "Management or conservation practice" means a measure to control or minimize pollution of ground and surface waters from a nonpoint source. Examples of such measures include, but are not limited to, revegetation of disturbed soil, grazing management to prevent overgrazing, contour farming, strip farming, protection of riparian areas, drainage control, and impoundments which detain surface runoff or irrigation return water for sediment control.

(12) "Mixing zone" is defined in 75-5-103, MCA, and also means a limited area of a surface water body or a portion of an aquifer, where initial dilution of a discharge takes place and where water quality changes may occur and where certain water quality standards may be exceeded.

~~(10)~~ (13) "Montana pollutant discharge elimination system" or "MPDES" means the permit system developed by the state of Montana for controlling the discharge of pollutants from point sources into state waters, pursuant to ARM Title 16, chapter 20, subchapter 13.

~~(11)~~ (14) "Montana ground water pollution control system" or "MGWPCS" means the permit system developed by the state of Montana for controlling the discharge of pollutants into state ground water, pursuant to ARM Title 16, chapter 20, subchapter 10.

~~(12)~~ (15) "Nutrients" means total inorganic phosphorus and total inorganic nitrogen.

~~(13)~~ (16) "New or increased source" means an activity resulting in a change of existing water quality occurring on or after April 29, 1993. The term does not include the following:

(a) sources from which discharges to state waters have commenced or increased on or after April 29, 1993, provided the discharge is in compliance with the conditions of, and does not exceed the limits established under or determined from, a permit or approval issued by the department prior to April 29, 1993;

(b) nonpoint sources discharging prior to April 29, 1993, ~~where reasonable land, soil, and water conservation practices have been implemented and the discharge does not impact existing or anticipated uses;~~

(c) withdrawals of water pursuant to a valid water right existing prior to April 29, 1993; and

(d) activities or categories of activities causing nonsignificant changes in existing water quality pursuant to [Rule VII], [Rule VIII], or 75-5-301(5)(c), MCA.

~~(14)~~ (17) "Nonpoint source" means a diffuse source of pollutants resulting from the activities of man over a relatively large area, the effects of which normally must be addressed or controlled by a management or conservation practice.

(18) "Opportunity cost" means the value of a resource when used in its highest valued alternate use, regardless of its price or value in its current use.

~~(15)~~ (19) "Outstanding resource waters" or "ORW" means all state waters that are located in national parks, national wilderness or primitive areas. ORW also means state waters

that have been identified as possessing outstanding ecological, recreational or domestic water supply significance and subsequently have been classified as an ORW by the board.

~~(16)~~(20) "Permit" means either an MPDES permit or an MGWPCS permit.

(21) "Reporting values" means the values listed as reporting values in department circular WQB-7, and are the detection levels that must be achieved in reporting ambient or compliance monitoring results to the department unless otherwise specified in a permit, approval or authorization issued by the department.

~~(17)~~(22) "Surface waters" means any water on the earth's surface including, but not limited to, streams, lakes, ponds, and reservoirs and irrigation drainage systems discharging directly into a stream, lake, pond, reservoir or other water on the earth's surface. Water bodies used solely for treating, transporting or impounding pollutants are not considered surface water for the purposes of this subchapter.

~~(18)~~(23) "Toxic parameters" means the parameters listed as toxins in department circular WQB-7 ~~and these parameters for which there are specific numerical limits in the surface water quality standards (ARM 16.20.601 et seq) and the ground water quality standards (ARM 16.20.1001 et seq).~~

(24) "Trigger values" means the values listed as trigger values in department circular WQB-7 for parameters categorized as toxic, and are used to determine if proposed activities will cause degradation.

~~(19)~~(25)(a) The board hereby adopts and incorporates by reference:

(i) Department circular WQB-7, entitled "Montana Numerical Water Quality Standards" (1993 24 edition), which establishes limits for toxic, carcinogenic, bioconcentrating, and other harmful parameters in water; and

(ii) 40 CFR Part 136, as they existed on July, 1992, which contain guidelines establishing test procedures for the analysis of pollutants.

(b) Copies of this material may be obtained from the Water Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620.

AUTH: 75-5-301, 75-5-303, MCA; IMP: 75-5-303, MCA

RULE III NONDEGRADATION POLICY--APPLICABILITY AND LIMITATION (1) The provisions of this subchapter apply to any activity of man resulting in a new or increased source which may cause degradation.

(2) Department review of proposals for new or increased sources will determine the level of protection required for the impacted water as follows:

(a) For all state waters, existing and anticipated uses and the water quality necessary to protect those uses must be maintained and protected.

(b) For high quality waters, degradation may be allowed only according to the procedures in [RULE VI]. These rules

apply to any activity that may cause degradation of high quality waters, for any parameter, unless the changes in existing water quality resulting from the activity are determined to be nonsignificant under [Rules VII or VIII]. If degradation of high quality waters is allowed, the department will assure that within the United States geological survey hydrologic unit upstream of the proposed activity, there have been shall be achieved the highest statutory and regulatory requirements for all point and nonpoint sources.

(c) For outstanding resource waters, no degradation is allowed.

(3) The department will comply with the provisions of the Montana Environmental Policy Act in the implementation of this subchapter.

AUTH: 75-5-301, 75-5-303, MCA; IMP: 75-5-303, MCA

RULE IV INFORMATIONAL REQUIREMENTS FOR NONDEGRADATION SIGNIFICANCE/AUTHORIZATION REVIEW (1) Any person proposing an activity which may cause degradation is responsible for compliance with 75-5-303, MCA, ~~and may either determine for themselves that the proposed activity will not cause significant changes in water quality, after measuring the activity against the standards contained in [Rules VII or VIII], or submit an application to the department, pursuant to (2) below, for the department to make the determination. A person may either:~~

(a) determine for themselves, using the standards contained in [Rules VII and VIII], that the proposed activity will not cause significant changes in water quality as defined in [Rule III]; or

(b) submit an application to the department pursuant to (2) below, for the department to make the determination."

(2) Any person proposing an activity or class of activities which may cause degradation may complete a department "Application for Determination of Significance". Information required on the application includes but is not limited to the following:

(a) quantity and concentration of the parameters expected to change as a result of the proposed activity;

(b) length of time that the water quality is expected to be changed;

(c) character of the discharge;

(d) an analysis of the existing water quality of the receiving water, and any other downstream or downgradient waters which may be reasonably expected to be impacted, including natural variations and fluctuations in the parameter(s) which may change as a result of the proposed activity;

(e) proposed water quality protection practices.

(3) The department will review the application and make a determination whether the proposed change in water quality is nonsignificant according to [RULES VII or VIII] within 60 days of receipt of the completed application.

(4) Whenever the department determines that a proposed activity will not result in degradation, the department may

require monitoring to verify compliance with this subchapter and 75-5-303, MCA.

(5) Whenever the department determines that a proposed activity will result in degradation, the applicant shall complete an application to degrade state waters if the applicant decides to proceed with the proposed activity as planned. The department will not begin review of the application until the required fee has been paid to the department.

(6) In order to provide the information that is required for the department to determine whether or not degradation is necessary because there are no economically, environmentally, and technologically feasible alternatives to the proposed activity that would result in no degradation, an application to degrade state waters shall include, but not be limited to, the following, when applicable:

- (a) a complete description of the proposed activity;
- (b) the proposed effluent or discharge limitation(s);
- (c) a statement of reasons for the proposed effluent or discharge limitation(s);
- (d) an analysis of alternatives to the proposed activity, consistent with accepted engineering principles, demonstrating there are no economically, environmentally, and technologically feasible alternatives that are less-degrading or non-degrading. The analysis must be limited to only those alternatives that would accomplish the proposed activity's purpose;
- (e) an analysis of the existing water quality of the receiving water and any other downstream or downgradient waters which may be impacted, including natural variations and fluctuations in the water quality parameter(s) for which an authorization to degrade is requested;
- (f) the concentration, likely environmental fate, biological effects, and load for each parameter in the discharge likely to degrade existing water quality;
- (g) the distribution of existing flows and their expected frequency;
- (h) an analysis demonstrating the expected surface or ground water quality for all alternatives considered in (d) above;
- (i) an analysis of the ground water flow system, including water-bearing characteristics of subsurface materials, rate and direction of ground water flow, and an evaluation of surface and ground water interaction;
- (j) data concerning cumulative water quality effects of existing and authorized activities;
- (k) a proposed monitoring and reporting plan that will determine the actual water quality changes.

(7)(a) For In order for the department to determine whether or not the proposed activity will result in important economic or social development that exceeds the benefit to society of maintaining existing high-quality waters and exceeds the costs to society of allowing degradation of high-quality waters, the department application shall require include an analysis of the benefits and costs, including external environmental costs of the proposed activity, and including the net

present value to society of the proposed activity as measured by the following:

(i) an analysis demonstrating the extent to which the proposed activity producing lower water quality would result in important economic or social development; and

(ii) an analysis demonstrating the present and future costs to society caused by the proposed lowered water quality.

(i) the present value of the benefits provided to society by the output of the proposed activity over its useful life; minus

(ii) the present value of the direct resource costs of construction and operation of the proposed activity over its useful life; and minus

(iii) the present value of the external environmental resource costs of the proposed activity over its useful life, including costs persisting after the proposed activity has ceased; and

(iv) an analysis of the loss or costs to society resulting from the lower water quality.

(b) Factors which may be considered in the above analyses include, but are not limited to, changes, during and after the activity, in any of the categories listed below:

(i) employment;

(ii) production;

(iii) fiscal balance of the state or local government;

(iv) effects on public health or environment;

(v) housing;

(vi) resource utilization and depletion;

(vii) intrinsic values;

(viii) opportunity values; or

(ix) social or cultural values.

(b) Factors which should be considered in the analyses in (a) above include, but are not limited to, changes in any of the categories listed below:

(i) the value society places on the output to be produced by the proposed activity;

(ii) uncertainty in each of the factors that make up (a) (i) through (iv) above;

(c) Factors which also may be considered in the analyses in (a)(ii) and (iv) above include, but are not limited to, changes in any of the categories listed below:

(i) employment dependent on existing water quality;

(ii) effects on public health and the environment;

(iii) resource utilization and depletion;

(iv) existence values; or

(v) opportunity costs;

(8) To determine whether or not existing and anticipated uses will be fully protected, the department shall require the following information:

(a) a showing that the change will not result in violations of Montana water quality standards outside of a mixing zone; and

(b) an analysis of the impacts of the proposed water quality changes on the existing and anticipated uses of the

impacted state water.

(9) To demonstrate the least degrading water quality protection practices will be fully implemented prior to, during, and after the proposed activity, the applicant shall provide to the department a complete description and schedule for implementation of the water quality protection practices associated with the proposed activity and a viable plan showing the ability to implement the water quality protection practices.

(10) Any application submitted pursuant to this subchapter must comply with the signature and certification requirements of ARM 16.20.1311.

(11) The department shall notify the applicant in writing within 60 days after receipt of an application to degrade state waters that the application does or does not contain all the information necessary for the department's nondegradation review. If the information from the supplemental submittal and any subsequent supplemental submittal is inadequate, the department shall notify the applicant in writing, within 30 days after receipt of the supplemental submittal, what additional information must be submitted. In any review subsequent to the first, the department may not make a determination of incompleteness on the basis of a deficiency which could have been noted in the first review.

(12) The board hereby adopts and incorporates by reference ARM 16.20.1311, which sets forth signature and certification requirements for MPDES permit applications. A copy of ARM 16.20.1311 may be obtained from the Water Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, MT 59620.

AUTH: 75-5-301, 75-5-303, MCA; IMP: 75-5-303, MCA

RULE V. DEPARTMENT PROCEDURES FOR NONDEGRADATION REVIEW

(1) Upon a determination by the department that an application to degrade state waters required under this rule is complete, the department will prepare a preliminary decision either authorizing degradation or denying the application to degrade according to the procedures in [Rule VI].

(2) An application to degrade state waters will be denied unless the applicant has affirmatively demonstrated and the department finds, based on a preponderance of evidence, the proposed activity to be in full compliance with 75-5-303, MCA, using the standards set out in (3)-(6) below. The department shall consider an analysis by the applicant and any substantive relevant information either submitted by the public or otherwise available.

(3) To determine that degradation is necessary because there are no economically, environmentally, and technologically feasible alternatives to the proposed activity that would result in no degradation, the department shall consider the following:

(a) In determining economic feasibility:

(i) any non-degrading or less-degrading alternative water quality protection practices which are less than ~~40~~ 125% of

the present worth of capital and operating costs of the water quality protection practices proposed by the applicant will be rebuttably considered economically feasible without further assessment by the department;

(ii) for any non-degrading or less-degrading alternative water quality protection practices which are equal to or exceed 125% of the present worth of capital and operating costs of the water quality protection practices proposed by the applicant, the department will determine the economic feasibility of the alternative water quality protection practices by considering any relevant factors evaluating the benefits of the additional resulting water quality and the amount of the private net benefits with and without the alternative water quality protection practices.

(b) In order to determine the environmental feasibility of an alternative, the department will consider whether such alternative practices are available and consistent with the protection of the environment and public health and will compare the overall environmental impacts of the various alternatives and the commitment of resources necessary to achieve the alternatives.

(c) In order to determine technological feasibility of an alternative, the department will consider whether such alternative practices are available and consistent with accepted engineering principles.

(4)(a) To determine that the proposed activity will result in important economic or social development that exceeds the benefit to society of maintaining existing high-quality waters and exceeds the costs to society of allowing degradation of high-quality waters, the department shall consider the following must find, based on an analysis of the benefits and costs, including external environmental costs of the proposed activity and of the benefits of the existing water quality:

(i) an analysis of the extent to which the proposed activity would result in important economic or social development, including an analysis of the costs and benefits to society.

(ii) an analysis of the loss or costs to society resulting from the lower water quality.

(i) that the benefits of the proposed activity are reasonably likely to significantly exceed the sum of all its costs, including the costs of lowered water quality;

(ii) that the risk inherent in finding (i) above is reasonable, given the uncertainty in benefits and costs.

(b) Factors which may be considered in the analyses in (a) above include, but are not limited to changes in any of the categories listed below:

(i) employment;

(ii) production;

(iii) fiscal balance of the state or local government;

(iv) effects on public health or environment;

(v) housing;

(vi) resource utilization and depletion;

(vii) intrinsic values;

- ~~(viii) opportunity values; or~~
- ~~(ix) social and cultural values.~~

(b) In making these findings the department shall consider the net present value to society of the proposed activity as measured by:

(i) the present value of the benefits provided to society by the output of the proposed activity over its useful life; minus

(ii) the present value of the direct resource costs of construction and operation of the proposed activity over its useful life; and minus

(iii) the present value of the external environmental resource costs of the proposed activity over its useful life, including costs persisting after the proposed activity has ceased; and

(iv) an analysis of the loss or costs to society resulting from the lower water quality.

(c) Factors which should be considered in the analyses in (a) and (b) above include, but are not limited to, changes in any of the categories listed below:

(i) the value society places on the output to be produced by the proposed activity;

(ii) uncertainty in each of the factors that make up (b) (i) through (iv) above;

(d) Factors which also may be considered in the analyses in (b) (iii) and (iv) above include, but are not limited to, changes in any of the categories listed below:

(i) employment dependent on existing water quality;

(ii) effects on public health and the environment;

(iii) resource utilization and depletion;

(iv) existence values; or

(v) opportunity costs;

(e) In making the finding in (4)(a), the department shall weigh those factors that are reasonably quantifiable, and must find that the magnitudes of the unquantifiable factors are not likely to reverse the finding.

(5) To determine that existing and anticipated uses of the receiving waters will be fully protected and that water quality standards will not be violated as a result of the proposed degradation, the department shall consider all available information.

(6) In order to authorize degradation under this rule, the department must determine that the least degrading water quality protection practices determined by the department to be economically, environmentally, and technologically feasible will be implemented prior to, during, and after the proposed activity until the degradation no longer occurs.

(7) The department shall make its preliminary decision either authorizing degradation or denying the application to degrade within 180 days after receipt of a complete application from the applicant. This time period may be extended upon agreement of the applicant or whenever an environmental impact statement must be prepared pursuant to Title 75, chapter 1, parts 1 and 2, MCA.

(8) To the maximum extent possible, the department will coordinate any application to degrade state waters with the permitting and approval requirements of other laws or programs administered by the department or by any other local, state, or federal agency.

AUTH: 75-5-301, 75-5-303, NCA; IMP: 75-5-303, NCA

RULE VI DEPARTMENT PROCEDURES FOR ISSUING PRELIMINARY AND FINAL DECISIONS REGARDING AUTHORIZATIONS TO DEGRADE (1) A preliminary decision to deny or authorize degradation must be accompanied by a statement of basis for the decision and, if applicable, a detailed statement of conditions imposed upon any authorization to degrade.

(2) The preliminary decision must include the following information, if applicable:

- (a) a description of the proposed activity;
- (b) the level of protection required, e.g. for high-quality waters or ORW;
- (c) a determination that degradation is or is not necessary based on the availability of economically, environmentally and technologically feasible alternatives that will prevent degradation;
- (d) a determination of economic or social importance;
- (e) a determination that all existing and anticipated uses will or will not be fully protected;
- (f) the amount of allowed degradation;
- (g) a description of the required water quality protection practices;
- (h) a description of all monitoring and reporting requirements; and
- (i) a description of any mixing zone the department proposes to allow.

(3) A statement of basis for the decision must be prepared for every preliminary decision. In general, the statement of basis must briefly set forth the principal facts and significant factual, legal, methodological or policy questions considered in preparing the authorization. The statement of basis must include, when applicable:

- (a) a description of the proposed activity which is the subject of the authorization;
- (b) the type and quantity of degradation which will result if the proposed activity is authorized;
- (c) a summary of the basis for the conditions imposed in any preliminary decision, including references to applicable statutory or regulatory provisions;
- (d) a summary and analysis of alternatives to the proposed activity;
- (e) a description of the procedures for reaching a final decision on the draft authorization including:
 - (i) the beginning and ending dates of the comment period and the address where comments will be received;
 - (ii) procedures for requesting a hearing; and
 - (iii) any other procedures by which the public may participate in the final decision;

(f) name and telephone number of a person to contact for additional information; and

(g) reasons supporting the preliminary decision.

(4) The preliminary decision, accompanying statement of basis, and, if applicable, the statement of conditions imposed, must be publicly noticed and made available for public comment for at least 30 days but not more than 60 days prior to a final decision. In providing public notice, the department shall comply with the following:

(a) Procedures for public notice set forth in ARM 16.20.1334; and

(b) Procedures for the distribution of information set forth in ARM 16.20.1021.

(5) During the public comment period any interested person may submit written comments on the preliminary decision and may request a public hearing. A request for a public hearing must be in writing and must state the nature of the issues proposed to be raised in the hearing. The department shall hold a hearing if it determines that there may be a significant degree of public interest in the preliminary decision. Any public hearing conducted under this section is not a contested case hearing under the provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, MCA.

(6) Within 60 days after the close of the public comment period, the department shall issue a final decision accompanied by a statement of basis for the decision and, if applicable, a statement of conditions. The final decision and statement of basis will be prepared according to the requirements of (2) and (3) of this rule. In addition, the statement of basis for a final decision must include the following:

(a) which provisions, if any, of the preliminary decision have been changed in the final decision and the reasons for the change; and

(b) a description and response to all substantive comments on the preliminary decision raised during the public comment period or during any hearing.

(7) Upon issuing a final decision, the department shall notify the applicant and each person who has submitted written comments or requested notice of that decision. The notice must include reference to the procedures for appealing the decision. The final decision is effective upon issuance.

(8) The board hereby adopts and incorporates by reference ARM 16.20.1334, which sets forth procedures for issuing public notices of MPDES permit applications and hearings, and ARM 16.20.1021 which sets forth requirements for distribution and copying of public notices and permit applications. Copies of ARM 16.20.1334 and 16.20.1021 may be obtained from the Water Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620. AUTH: 75-5-301, 75-5-303, MCA; IMP: 75-5-303, MCA

RULE VII. CRITERIA FOR DETERMINING NONSIGNIFICANT CHANGES IN WATER QUALITY (1) The following criteria will be used to determine whether certain activities or classes of activities

will result in nonsignificant changes in existing water quality due to their low potential to affect human health or the environment. These criteria consider the quantity and strength of the pollutant, the length of time the changes will occur, and the character of the pollutant. Except as provided in (2) below, changes in existing surface or ground water quality resulting from the activities that meet all the criteria listed below are nonsignificant, and are not required to undergo review under 75-5-303, MCA:

(a) ~~Activities that would increase or decrease the mean annual monthly flow of a surface water by less than 15% or the 10 year 7-day low flow by 10%;~~

(b) ~~Discharges containing carcinogenic parameters or parameters with a bioconcentration factor greater than 300 at concentrations less than or equal to the concentrations of those parameters in the receiving water;~~

(c) ~~Discharges containing toxic parameters or total inorganic phosphorus nutrients, except as specified in (d) and (e) below, which will not cause detectable increases from the existing water quality changes that equal or exceed the trigger values in department circular WQB-7 outside of a mixing zone designated by the department;~~

(d) ~~Changes in the concentration of nitrogen in ground water which will not impair existing or anticipated beneficial uses, where water quality protection practices approved by the department, referenced as level 2 treatment in Table I below, have been fully implemented, and where the sum of the resulting concentrations of nitrate, nitrite, and ammonia, all measured as nitrogen, outside of any applicable mixing zone designated by the department, will not exceed 3.50 milligrams per liter the values given in the table below, as long as such changes will not result in a detectable change increases greater than 0.01 milligrams per liter in the nitrogen concentration in any perennial surface water;~~

See next page for Table I

[Note: Table I is new material.]

Table I

EXISTING NI- TROGEN CON- CENTRATION IN GROUND WATER	PRIMARY SOURCE OF EXISTING NITROGEN	NITROGEN CON- CENTRATION AFTER THE PRO- POSED ACTIVITY	REQUIREMENTS FOR NONSIGNIFI- CANCE
< 2.5 MG/L	HUMAN WASTE	<2.5 MG/L	NONE
		>2.5 <5.0 MG/L	LEVEL 2 TREAT- MENT
	OTHER	<5.0 MG/L	NONE
		>5<10 MG/L	SIGNIFICANT
2.5-5.0 MG/L	HUMAN WASTE	<5 MG/L	LEVEL 2 TREAT- MENT
		>5<10	SIGNIFICANT
	OTHER	<5	NONE
		>5<7.5	LEVEL 2 TREAT- MENT
		>7.5<10	SIGNIFICANT
5.0-7.5	HUMAN WASTE	ANY INCREASE	SIGNIFICANT
	OTHER	<7.5	NONE
		>7.5<10	SIGNIFICANT
>7.5	ANY	ANY INCREASE	SIGNIFICANT
		>10	NOT ALLOWED, VIOLATES STAN- DARDS
ANY LEVEL	ANY	NO CHANGE	NOT SIGNIFICANT

(e) Changes in concentration of total inorganic phosphorus in ground water if water quality protection practices approved by the department have been fully implemented and if an evaluation of the phosphorus adsorptive capacity of the soils in the area of the activity indicates that phosphorus will be removed for a period of fifty years prior to a discharge to any surface waters;

(f) Changes in the quality of water for any harmful parameter for which water quality standards have been adopted other than nitrogen, phosphorous, and carcinogenic, bioconcentrating, or toxic parameters, in either surface or ground water, if the changes outside of a mixing zone designated by the department are less than 10% of the applicable standard and the existing water quality level is less than 40% of the standard;

(g) Changes in the quality of water for any parameter for which there are only narrative water quality standards if the changes will not have a measurable effect on any existing or anticipated use or cause measurable changes in aquatic life or ecological integrity.

(2) Notwithstanding compliance with the criteria of (1) above, the department may determine that the change in water quality resulting from an activity which meets the criteria in (1) above is degradation based upon the following:

- (a) cumulative impacts or synergistic effects;
- (b) secondary byproducts of decomposition or chemical transformation;
- (c) substantive information derived from public input;
- (d) changes in flow;
- (e) changes in the loading of parameters;
- (f) new information regarding the effects of a parameter;

or
(g) any other information deemed relevant by the department and that relates to the criteria in (1) above.

(3) The department may determine that a change in water quality resulting from an activity or category of activities is ~~not~~ nonsignificant based on information submitted by an applicant that demonstrates conformance with the guidance found in 75-5-301(5)(c), MCA. In making a determination under this section, the department shall allow for public comment prior to a decision pursuant to the public notice procedures in ARM 16.20.1334.

AUTH: 75-5-301, 75-5-303, MCA; IMP: 75-5-303, MCA

RULE VIII CATEGORIES OF ACTIVITIES THAT CAUSE NONSIGNIFICANT CHANGES IN WATER QUALITY (1) The following categories or classes of activities have been determined by the department to cause changes in water quality that are nonsignificant due to their low potential for harm to human health or the environment and their conformance with the guidance found in 75-5-301(5)(c), MCA:

(a) Activities which are nonpoint sources of pollution on land where reasonable land, soil, and water conservation practices are applied and existing and anticipated beneficial uses will be fully protected;

(b) Use of agricultural chemicals in accordance with a specific agrichemical management plan promulgated under 80-15-212, MCA, if applicable, or in accordance with a US EPA approved label and where existing and anticipated uses will be fully protected;

(c) Changes in existing water quality resulting from an emergency ~~or remedial response~~ activity that is designed to protect public health or the environment and is approved, authorized, or required by the department;

(i) changes in existing water quality resulting from treatment of a public water supply system as defined in 75-6-102(12), MCA, or a public sewage system as defined in 75-6-102(11), MCA, by chlorination or other similar means designed to protect the public health or the environment and

approved, authorized, or required by the department.

(d) Use of drilling fluids, sealants, additives, disinfectants and rehabilitation chemicals in water well or monitoring well drilling, development, or abandonment, if used according to department-approved water quality protection practices (ARM 16-21-601, et seq. and ARM 16-21-801, et seq. Title 16, Chapter 21);

(e) Short-term changes in existing water quality which last less than 60 days resulting from activities authorized by the department pursuant to 75-5-308, MCA;

(f) Domestic sewage treatment systems which discharge to ground water and which are designed, constructed, and operated in accordance with applicable department standards (ARM 16-16-303, 16-16-304, and/or 16-20-401); and where the resulting concentration, outside of any applicable mining zone designated by the department, will not exceed 2.50 mg/l (nitrogen compounds measured as nitrogen) as long as the changes caused by such systems will not result in a detectable change in the nitrogen concentration in any perennial surface water; Activities which cause increases in the concentration of nitrogen in ground water which do not exceed those listed as nonsignificant in the table in Rule VII(1)(d) and the changes caused by such activities will not result in a change in the nitrogen concentration in any perennial surface water which exceeds the trigger values listed in department circular WOB-7;

(g) Domestic sewage treatment systems in areas in which the existing nitrogen concentration in ground water is over 2.50 mg/l; which discharge to ground water an effluent with nitrogen concentrations no greater than 30 mg/l or at least 50% nitrogen removal from the raw state; and where the resulting concentration, outside of any applicable mining zone designated by the department, will not exceed 5.00 mg/l (nitrogen compounds measured as nitrogen), as long as the changes caused by such systems will not result in a detectable change in the nitrogen concentration in any perennial surface water;

(h)(g) Land application of animal waste, domestic sewage, or waste from public sewage treatment systems or other wastes containing nutrients where wastes are land applied in a beneficial manner, application rates are based on a complete agronomic uptake of applied nutrients and other parameters will not cause degradation;

(i)(h) Incidental leakage of water from a public water supply system as defined in 75-6-102(12), MCA, or wastewater from sources from a public sewage system as defined in 75-6-102(11), MCA, utilizing best practicable control technology designed and constructed in accordance with ARM 16-20-401-405.

(j)(i) Discharges of water from monitoring well or water well tests, hydrostatic pressure and leakage tests, or wastewater from the disinfection or flushing of water mains and storage reservoirs conducted in accordance with department approved water quality protection practices;

(k)(j) Oil and gas drilling, production, abandonment, plugging, and restoration activities performed in accordance

(g) Changes in the quality of water for any parameter for which there are only narrative water quality standards if the changes will not have a measurable effect on any existing or anticipated use or cause measurable changes in aquatic life or ecological integrity.

(2) Notwithstanding compliance with the criteria of (1) above, the department may determine that the change in water quality resulting from an activity which meets the criteria in (1) above is degradation based upon the following:

- (a) cumulative impacts or synergistic effects;
- (b) secondary byproducts of decomposition or chemical transformation;
- (c) substantive information derived from public input;
- (d) changes in flow;
- (e) changes in the loading of parameters;
- (f) new information regarding the effects of a parameter;

or

(g) any other information deemed relevant by the department and that relates to the criteria in (1) above.

(3) The department may determine that a change in water quality resulting from an activity or category of activities is ~~not~~ nonsignificant based on information submitted by an applicant that demonstrates conformance with the guidance found in 75-5-301(5)(c), MCA. In making a determination under this section, the department shall allow for public comment prior to a decision pursuant to the public notice procedures in ARM 16.20.1334.

AUTH: 75-5-301, 75-5-303, MCA; IMP: 75-5-303, MCA

RULE VIII. CATEGORIES OF ACTIVITIES THAT CAUSE NONSIGNIFICANT CHANGES IN WATER QUALITY (1) The following categories or classes of activities have been determined by the department to cause changes in water quality that are nonsignificant due to their low potential for harm to human health or the environment and their conformance with the guidance found in 75-5-301(5)(c), MCA:

(a) Activities which are nonpoint sources of pollution on land where reasonable land, soil, and water conservation practices are applied and existing and anticipated beneficial uses will be fully protected;

(b) Use of agricultural chemicals in accordance with a specific agrichemical management plan promulgated under 80-15-212, MCA, if applicable, or in accordance with a US EPA approved label and where existing and anticipated uses will be fully protected;

(c) Changes in existing water quality resulting from an emergency ~~ex-remedial response~~ activity that is designed to protect public health or the environment and is approved, authorized, or required by the department;

(i) changes in existing water quality resulting from treatment of a public water supply system as defined in 75-6-102(12), MCA, or a public sewage system as defined in 75-6-102(11), MCA, by chlorination or other similar means designed to protect the public health or the environment and

approved, authorized, or required by the department.

(d) Use of drilling fluids, sealants, additives, disinfectants and rehabilitation chemicals in water well or monitoring well drilling, development, or abandonment, if used according to department-approved water quality protection practices (ARM 16-21-601, et seq. and ARM 16-21-801, et seq. Title 16, Chapter 21);

(e) Short-term changes in existing water quality which last less than 60 days resulting from activities authorized by the department pursuant to 75-5-308, MCA;

(f) ~~Domestic sewage treatment systems which discharge to ground water and which are designed, constructed, and operated in accordance with applicable department standards (ARM 16-16-303, 16-16-304, and/or 16-20-401); and where the resulting concentration, outside of any applicable mixing zone designated by the department, will not exceed 2.50 mg/l (nitrogen compounds measured as nitrogen) as long as the changes caused by such systems will not result in a detectable change in the nitrogen concentration in any perennial surface water; Activities which cause increases in the concentration of nitrogen in ground water which do not exceed those listed as nonsignificant in the table in Rule VII(1)(d) and the changes caused by such activities will not result in a change in the nitrogen concentration in any perennial surface water which exceeds the trigger values listed in department circular MOB-7;~~

~~(g) Domestic sewage treatment systems in areas in which the existing nitrogen concentration in ground water is over 2.50 mg/l; which discharge to ground water an effluent with nitrogen concentrations no greater than 30 mg/l or at least 50% nitrogen removal from the raw state; and where the resulting concentration, outside of any applicable mixing zone designated by the department, will not exceed 5.00 mg/l (nitrogen compounds measured as nitrogen), as long as the changes caused by such systems will not result in a detectable change in the nitrogen concentration in any perennial surface water;~~

~~(h)(g) Land application of animal waste, domestic sewage, or waste from public sewage treatment systems or other wastes containing nutrients where wastes are land applied in a beneficial manner, application rates are based on a complete agronomic uptake of applied nutrients and other parameters will not cause degradation;~~

~~(i)(h) Incidental leakage of water from a public water supply system as defined in 75-6-102(12), MCA, or wastewater from sources from a public sewage system as defined in 75-6-102(11), MCA, utilizing best practicable control technology designed and constructed in accordance with ARM 16.20.401-405.~~

~~(j)(i) Discharges of water from monitoring well or water well tests, hydrostatic pressure and leakage tests, or wastewater from the disinfection or flushing of water mains and storage reservoirs conducted in accordance with department approved water quality protection practices;~~

~~(k)(j) Oil and gas drilling, production, abandonment, plugging, and restoration activities performed in accordance~~

with ARM 36-22-101, et seq. Title 36, chapter 22;

(1)(k) Short-term changes in existing water quality resulting from ordinary and everyday activities of humans or domesticated animals, including but not limited to recreational activities such as boating, hiking, fishing, wading, swimming and camping, fording of streams or other bodies of water by vehicular or other means, and drinking from or crossing of streams or other bodies of water by livestock and other domesticated animals;

(m) Coal and uranium prospecting performed in accordance with ARM 26.4.1001, et seq.;

(n) Solid waste management systems, motor vehicle wrecking facilities, and county motor vehicle graveyards licensed and operating in accordance with ARM Title 16, chapter 14;

(o) Hazardous waste management facilities permitted and operated in accordance with ARM Title 16, chapter 44;

(p) Discharges of storm water in conformance with a permit issued by the department under the storm water permit program (ARM 16.20.1301, et seq.).

(2) No application need be made to the department for a determination of whether a water quality change is nonsignificant if the activity causing the change is listed in (1) above.

AUTH: 75-5-301, 75-5-303, MCA; IMP: 75-5-303, MCA

RULE IX IMPLEMENTATION OF WATER QUALITY PROTECTION PRACTICES

(1) The owner of a new or increased source for which no water quality protection practices are approved by the department must design and submit a viable plan for implementation of the necessary water quality protection practices for department review, modification, and approval prior to implementation.

AUTH: 75-5-301, 75-5-303, MCA; IMP: 75-5-303, MCA

6. Rules 16.20.701 through 16.20.705, which can be found on pages 16-973 through 16-979 of the Administrative Rules of Montana, are proposed to be repealed because they are being completely replaced by the proposed new rules contained in this notice.

AUTH: 75-5-201, MCA; IMP: 75-5-303, 75-5-401

7. The board is extending until May 27, 1994, the time for public comment on the proposed new rules and repeal of existing rules contained in this notice in order for the public to comment on the agency's proposed changes to the rules in conjunction with the mixing zone rule. A public hearing will be held on the proposed rules and repeal of rules contained in this notice on May 20, 1994, at 9:00 a.m., in Room C209 of the Cogswell Building. 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 Yolanda Fitzsimmons, Board of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana, no later than May 27, 1994.

8. W.D. Hutchison has been designated to preside over and

conduct the hearing.

RAYMOND W. GUSTAFSON, Chairman
BOARD OF HEALTH AND
ENVIRONMENTAL SCIENCES

BY William J. O'Neil
for ROBERT J. ROBINSON, Director

Certified to the Secretary of State April 4, 1994.

Reviewed by:

Eleanor L. Parker
Eleanor Parker, DHES Attorney

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

In the matter of the amendment of)	NOTICE OF PUBLIC
rules 16.8.1301 - 1308, regarding)	HEARING FOR PROPOSED
open burning, and the adoption of)	AMENDMENT OF RULES AND
new rules I and II, regarding open)	ADOPTION OF NEW RULES
burning of Christmas tree waste)	
and open burning for commercial)	
film or video productions.)	

(Air Quality)

To: All Interested Persons

1. On May 20, 1994, at 8:00 a.m., the board will hold a public hearing in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the amendment and adoption of the above-captioned rules.

2. The rules, as proposed to be amended and adopted, appear as follows (new material in existing rules is underlined; material to be deleted is interlined):

16.8.1301 DEFINITIONS (1) "Best available control technology" (BACT) means those techniques and methods of controlling emission of pollutants from an existing or proposed open burning source which limit those emissions to the maximum degree which the department determines, on a case-by-case basis, is achievable for that source, taking into account impacts on energy use, the environment, and the economy, and any other costs, including cost to the source. Such techniques and methods may include the following: scheduling of burning during periods and seasons of good ventilation, applying dispersion forecasts, utilizing predictive modeling results performed by and available from the department to minimize smoke impacts, limiting the amount of burning to be performed during any one ~~period of~~ time, using ignition and burning techniques which minimize smoke production, selecting fuel preparation methods that will minimize dirt and moisture content, promoting fuel configurations which create an adequate air to fuel ratio, prioritizing burns as to air quality impact and assigning control techniques accordingly, and promoting alternative treatments and uses of materials to be burned. ~~In the case of For essential agricultural open burning during September or October, or prescribed wildland open burning during September, October, or November, BACT includes burning only during the time periods specified by the department, which may be determined by calling (406)444-3454 or (800)225-6779 a toll-free number available from the county sheriff's office. In the case of For prescribed~~ wildland open burning during December, January or February, BACT includes burning only during the time periods specified by the department, which may be determined by

calling (406) 444-3454.

(2) "Christmas tree waste" means wood waste from commercially grown Christmas trees left in the field where the trees were grown, after harvesting and on-site processing.

~~(2)(3)~~ "Essential agricultural open burning" means any open burning conducted on a farm or ranch ~~for the purpose of~~ to:

(a) ~~Eliminating~~ eliminate excess vegetative matter from an irrigation ditch where ~~when~~ no reasonable alternative method of disposal is available;

(b) ~~Eliminating~~ eliminate excess vegetative matter from cultivated fields after harvest has been completed when no reasonable alternative method of disposal is available;

(c) ~~Improving~~ improve range conditions when no reasonable alternative method is available; ~~or~~

(d) ~~Improving~~ improve wildlife habitat when no reasonable alternative method is available.

~~(3)(4)~~ "Major open burning source" means any person, agency, institution, business, or industry conducting any open burning ~~which that~~, on a statewide basis, will emit more than 500 tons per calendar year of carbon monoxide or 50 tons per calendar year of any other pollutant regulated under this chapter, except hydrocarbons.

~~(4)(5)~~ "Minor open burning source" means any person, agency, institution, business, or industry conducting any open burning ~~which that~~ is not a major open burning source.

~~(5)(6)~~ "Open burning" means combustion of any material directly in the open air without a receptacle, or in a receptacle other than a furnace, multiple chambered incinerator, or wood waste burner, with the exception of small recreational fires, construction site heating devices used to warm workers, or safety flares used to ~~combust~~ or dispose of dangerous hazardous or toxic gases at industrial facilities, such as refineries, gas sweetening plants, or oil and gas wells, sulfur recovery plants or elemental phosphorus plants.

~~(6)(7)~~ "Prescribed wildland open burning" means any planned open burning, either deliberately or naturally ignited, ~~which that~~ is conducted on forest land or relatively undeveloped rangeland ~~for the purpose of~~ to:

(a) ~~Improving~~ improve wildlife habitat;

(b) ~~Improving~~ improve range conditions;

(c) ~~Promoting~~ promote forest regeneration;

(d) ~~Reducing~~ reduce fire hazards resulting from forestry practices, including reduction of log deck debris when the log deck is ~~located in~~ close proximity to a timber harvest site;

(e) ~~Controlling~~ control forest pests and diseases; ~~or~~

(f) ~~Promoting~~ promote any other accepted silvicultural practices.

~~(7)(8)~~ "Salvage operation" means any operation conducted in whole or in part ~~for the salvaging or reclaiming of~~ to salvage or reclaim any product or material, ~~with the exception of~~ except the silvicultural practice commonly referred to as a

salvage cut.

(8)(9) "Trade wastes" means solid, liquid, or gaseous material resulting from construction or the operation of any business, trade, industry, or demolition project. Wood product industry wastes such as sawdust, bark, peelings, chips, shavings, and cull wood are considered trade wastes. Trade wastes do not include wastes generally disposed of by essential agricultural open burning and prescribed wildland open burning or Christmas tree waste, as defined in this rule.

(9)(10) "Wood waste burner" means a device commonly called a tepee burner, silo, truncated cone, wigwam burner, or other similar burner commonly used by the wood products industry for the disposal to dispose of wood.

AUTH: 75-2-111, 75-2-203, MCA; IMP: 75-2-203, MCA

16.8.1302 PROHIBITED OPEN BURNING -- WHEN PERMIT REQUIRED

(1) Remains the same.

(2) The Except as otherwise provided, the following material may not be disposed of by open burning:

(a) Any any waste which is moved from the premises where it was generated, including that waste moved to a solid waste disposal site, except as provided for in ARM 16.8.1307 or 16.8.1308-1

(b) Feed food wastes-1

(c) Styrofoam styrofoam and other plastics-1

(d) Wastes wastes generating noxious odors-1

(e) Weed wood and wood byproducts other than trade wastes, that have been treated, coated, painted, stained, or contaminated by a foreign material, such as papers, cardboard, or painted or stained wood, or tree limbs, unless a public or private garbage hauler, or rural container system, is unavailable, or unless open burning is allowed under [RULE III]-1

(f) Poultry poultry litter-1

(g) Animal animal droppings-1

(h) Dead dead animals or dead animal parts-1

(i) Tires tires, except as provided in ARM 16.8.1306-1

(j) Rubber rubber materials-1

(k) Asphalt asphalt shingles, except as provided in ARM 16.8.1306 or [RULE III]-1

(l) Tar tar paper, except as provided in ARM 16.8.1306 or [RULE III]-1

(m) Automobile automobile or aircraft bodies and interiors, except as provided in ARM 16.8.1306 or [RULE III]-1

(n) Insulated insulated wire, except as provided in ARM 16.8.1306 or [RULE III]-1

(o) Oil oil or petroleum products, except as provided in ARM 16.8.1306 or [RULE III]-1

(p) Treated treated lumber and timbers except creosote-treated railroad ties as provided in ARM 16.8.1307-1

(q) Pathogenic pathogenic wastes-1

(r) Hazardous hazardous wastes, as defined by 40 CFR Part 261-1

(s) Trade trade wastes, except as provided in ARM 16.8.1307 or 16.8.1308-1

(t) Any any materials resulting from a salvage

operation-;

(u) Chemicals- chemicals, except as provided in ARM 16.8.1306 or [RULE II];

(v) Christmas tree waste as defined in ARM 16.8.1301, except as provided in [RULE I];

(w) asbestos or asbestos-containing materials; and

(x) standing or demolished structures except as provided in ARM 16.8.1306 or [RULE III];

(3) Except as provided in ARM 16.8.1303, no person may open burn any non-prohibited material without first obtaining an air quality open burning permit from the department.

AUTH: 75-2-111, 75-2-203, MCA; IMP: 75-2-203, 75-2-211, MCA

16.8.1303 MINOR OPEN BURNING SOURCE REQUIREMENTS

(1) Unless required to obtain an open burning permit under another provision of this subchapter, a minor open burning source need not obtain an air quality open burning permit, but must:

(a) conform with BACT;

(1)(b) Comply with all rules within this subchapter, except with the exception of ARM 16.8.1304-1

(2)(c) Comply with any requirements or regulations relating to open burning established by any agency of local government, including local air pollution agencies established under 75-2-301, MCA, of the Montana Clean Air Act, or any other municipal or county agency responsible for protecting public health and welfare-;

(3)(d) If it desires to conduct essential agricultural open burning during September or October or prescribed wildland open burning during September, October or November, adhere to the time periods set for burning by the department and available by calling (406)444-3454 or (800)225-6779 a toll-free number available from the county sheriff's office-; and

(4)(e) If it desires to conduct essential agricultural open burning or prescribed wildland open burning during December, January, or February,

(i) submit a written request to the department, demonstrating that the essential agricultural open burning or prescribed wildland open burning must be conducted prior to reopening of open burning in March;

(ii) receive specific permission for the burning from the department; and

(iii) adhere to the time periods set for burning by the department and available by calling (406)444-3454.

AUTH: 75-2-111, 75-2-203, MCA; IMP: 75-2-203, MCA

16.8.1304 MAJOR OPEN BURNING SOURCE RESTRICTIONS A major open burning source must-

(1) Utilize best available control technology-

(2)(1) Prior to open burning, a major open burning source must submit an application to the department for an air quality major open burning permit. The application must be accompanied by the appropriate air quality permit application fee required under ARM 16.8.1907 and must contain the following information:

(a) A legal description of each planned site of open

burning or a detailed map showing the location of each planned site of open burning;

(b) ~~The~~ the elevation of each planned site of open burning;

(c) ~~The~~ the method of burning to be utilized used at each planned site of open burning; and

(d) ~~The~~ the average fuel loading or total fuel loading at each site to be burned.

~~(e) The appropriate air quality permit application fee required pursuant to ARM 16.8.1907.~~

(2) Proof of publication of public notice, consistent with this rule, must be submitted to the department before an application will be considered complete. An applicant for an air quality major open burning permit shall notify the public of the application for permit by legal publication, at least once, in a newspaper of general circulation in each airshed (as defined by the department) affected by the application. The notice must be published no sooner than 10 days prior to submittal of an application and no later than 10 days after submittal of an application. The form of the notice must be provided by the department and must include a statement that public comments may be submitted to the department concerning the application within 20 days after publication of notice or filing of the application, whichever is later. A single public notice may be published for multiple applicants.

(3) When the department approves or denies the application for a permit under this rule, a person who is jointly or severally adversely affected by the department's decision may request a hearing before the board. The request for hearing must be filed within 15 days after the department renders its decision and must include an affidavit setting forth the grounds for the request. The contested case provisions of the Montana Administrative Procedure Act, Title 2, Chapter 4, part 6, MCA, apply to a hearing before the board under this rule. The department's decision on the application is not final unless 15 days have elapsed from the date of the decision and there is no request for a hearing under this section. The filing of a request for a hearing postpones the effective date of the department's decision until the conclusion of the hearing and issuance of a final decision by the board.

(4) A major open burning source must:

(a) conform with BACT; and

(3) Receive (b) receive and adhere to the conditions in any air quality open burning permit issued to it by the department, which will be in effect for one year from its date of issuance; and

(4) (5) In order to To open burn in a manner other than that described in the application for an air quality open burning permit, the source must submit to the department, in writing or by telephone, a request for a change in the permit, including the information required by (3) (1) above, and must receive approval from the department.

AUTH: 75-2-111, 75-2-203, MCA; IMP: 75-2-203, 75-2-211, MCA

16.8.1305 SPECIAL BURNING PERIODS (1) Essential agri-

~~cultural open burning may be conducted only during the months of March through October.~~

~~(1) The following categories of open burning may be conducted during the entire year:~~

~~(2) Prescribed (a) prescribed wildland open burning;~~

~~(b) open burning performed to train firefighters under ARM 16.8.1306;~~

~~(c) and open burning authorized under the emergency open burning permit provisions set forth in ARM 16.8.1308; and~~

~~(d) essential agricultural open burning may be conducted during the entire year.~~

~~(3)(2) Open burning other than those categories listed in (1) and (2) above may be conducted only during the months of March through August November.~~

AUTH: 75-2-111, 75-2-203, MCA; IMP: 75-2-203, MCA

16.8.1306 FIREFIGHTER TRAINING (1) The department may issue an air quality open burning permit for open burning of asphalt shingles, tar paper, or insulated wire which is part of a building or standing structure, and oil or petroleum products, and automobile or aircraft bodies and interiors, may be burned in the open, for the purpose of training firefighters, if:

(a) the fire is will be restricted to a building or structure, or a permanent training facility, or other appropriate training site, in a site other than a solid waste disposal site;

(b) and if the material to be burned is will not be allowed to smolder after the training session has terminated, and no public nuisance is will be created;

(c) all asbestos-containing material has been removed;

(d) asphalt shingles, flooring material, siding, and insulation which might contain asbestos have been removed, unless samples have been analyzed by a certified laboratory and shown to be asbestos-free;

(e) all prohibited material that can be removed safely and reasonably has been removed;

(f) the open burning accomplishes a legitimate training need;

(g) clear educational objectives have been identified for the training;

(h) burning is limited to that necessary to accomplish the educational objectives;

(i) the training operations and procedures are consistent with nationally accepted standards of good practice; and

(j) emissions from open burning will not endanger public health or welfare or cause or contribute to a violation of any Montana or federal ambient air quality standard.

(2) The department may place any reasonable requirements in an air quality firefighter training open burning permit that the department determines will reduce emissions of air pollutants or will minimize the impact of emissions, and the recipient of a permit must adhere to those conditions.

(3) The applicant may be required, prior to each burn, to notify the department of the anticipated date and location of

the proposed training exercise and the type and amount of material to be burned. The department may be notified by phone, fax or in writing.

(4) An application for an air quality firefighter training open burning permit must be made on a form provided by the department. The applicant must provide adequate information to enable the department to determine whether the application satisfies the requirements of this rule for a permit.

(5) Proof of publication of public notice, consistent with this rule, must be submitted to the department before an application will be considered complete. An applicant for an air quality firefighter training open burning permit shall notify the public of the application for a permit by legal publication, at least once, in a newspaper of general circulation in the area affected by the application. The notice must be published no sooner than 10 days prior to submittal of an application and no later than 10 days after submittal of an application. The form of the notice must be provided by the department and must include a statement that public comments may be submitted to the department concerning the application within 20 days after publication of notice or filing of the application, whichever is later. A single public notice may be published for multiple applicants.

(6) When the department approves or denies the application for a permit under this rule, a person who is jointly or severally adversely affected by the department's decision may request a hearing before the board. The request for hearing must be filed within 15 days after the department renders its decision and must include an affidavit setting forth the grounds for the request. The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, MCA, apply to a hearing before the board under this rule. The department's decision on the application is not final unless 15 days have elapsed from the date of the decision and there is no request for a hearing under this section. The filing of a request for a hearing postpones the effective date of the department's decision until the conclusion of the hearing and issuance of a final decision by the board.

AUTH: 75-2-111, 75-2-203, MCA; IMP: 75-2-203, 75-2-211, MCA

16.8.1307 CONDITIONAL AIR QUALITY OPEN BURNING PERMITS

(1) The department may issue a conditional air quality open burning permit if the department determines that:

(a) alternative methods of disposal would result in extreme economic hardship to the applicant; and

(b) emissions from open burning will not endanger public health or welfare or cause or contribute to a violation of any Montana or federal ambient air quality standard.

(2) The department must be reasonable when determining whether alternative methods of disposal would result in extreme economic hardship to the applicant.

(3) Conditional open burning must conform with BACT.

(4) The department may issue a conditional air quality open burning permit to for the disposal dispose of:

(a) wood and wood byproduct trade wastes by any business, trade, industry, or demolition project; ~~or if it determines that:~~

~~(i) open burning constitutes BACT; and~~
~~(ii) emissions from such open burning do not endanger public health and welfare or cause a violation of any Montana or federal ambient air quality standards.~~

(b) Untreated ~~untreated~~ wood waste at a licensed landfill sites, if ~~the department determines that:~~

~~(i) alternative methods of disposal would result in extreme economic hardship to the solid waste management system owner or operator;~~

~~(ii) emissions from such open burning would not endanger public health and welfare or cause a violation of any Montana or federal ambient air quality standard; and~~

~~(iii)(i)~~ (i) the proposed open burning would will occur at an approved burn site, as designated in the solid waste management system license issued by the department pursuant to ARM Title 16, chapter 14, subchapter 5; and

~~(iv)(ii)~~ (ii) prior to issuance of the conditional air quality open burning permit, the wood waste pile is inspected by the department or its designated representative and no prohibited materials listed in ARM 16.8.1302, other than wood waste, are present.

~~(c) creosote-treated railroad ties if it is demonstrated by the applicant that:~~

~~(i) open burning constitutes BACT; and~~
~~(ii) emissions from such open burning would not endanger public health and welfare or cause a violation of any Montana or federal ambient air quality standards.~~

~~(2)(5)~~ (5) An air quality open burning permit issued under this rule is valid for the following periods:

(a) wood and wood byproduct trade waste--1 year; applicants may reapply for a permit annually renewable; and

(b) untreated wood waste at licensed landfill sites--single burn. A new permit must be obtained for each burn.

~~(c) creosote-treated railroad ties--a period prescribed by the department, not to exceed one year.~~

~~(3)(6)~~ (6) The department may place any reasonable requirements in a conditional air quality open burning permit that ~~it~~ the department determines will reduce emissions of air pollutants or ~~will~~ minimize the impact of said emissions, and the recipient of such a permit must adhere to those conditions. ~~In the case of~~ For a permit granted pursuant to under (1) (3)(a) above, BACT for the year covered by the permit will be set out specified within the terms of the permit, with the proviso that, however, the source may be required, prior to each burn, to receive approval from the department of the date of the proposed burn to ensure that good ventilation exists and to assign burn priorities if other sources in the area request to burn on the same day. Approval may be obtained requested by calling the air quality bureau at (406)444-3454.

~~(4)(7)~~ (7) An application for a conditional air quality open burning permit must be made on a form provided by the department, and must include be accompanied by the appropriate air

quality permit application fee required pursuant to under ARM 16.8.1908. The applicant ~~must~~ shall provide adequate information to enable the department to determine ~~that whether~~ the application satisfies the requirements for a conditional air quality open burning permit contained in this rule. Proof of publication of public notice, as required in ~~(5)~~ (8) of this rule, ~~shall must~~ must be submitted to the department ~~as part of any before an application, consistent with this rule will be considered complete.~~

~~(5)(8)~~ (8) The An applicant for a conditional air quality open burning permit shall notify the public of ~~its the~~ application ~~for permit by means of~~ legal publication, at least once, in a newspaper of general circulation in the area affected by the application. The notice ~~shall must~~ must be made published not sooner than 10 days prior to submittal of an application and not later than 10 days after submittal of an application. Form of the notice ~~shall must~~ must be provided by the department and ~~shall must~~ must include a statement that public comments may be submitted to the department concerning the application within 20 days after publication of notice or filing of the application, whichever is later. A single public notice may be published for multiple applicants.

~~(6)(9)~~ (9) A conditional air quality open burning permit granted pursuant to under ~~(1)~~ (4)(a) above is a temporary measure to allow time for the entity generating the trade wastes to develop alternative means of disposal.

~~(7)~~ (7) ~~The department must be reasonable when determining whether open burning constitutes BACT under (1)(a)(i) and (1)(c)(ii) above.~~

~~(8)~~ (10) When the department approves or denies the application for a permit under this rule, a person who is jointly or severally adversely affected by the department's decision may request, ~~within 15 days after the department renders its decision, upon affidavit setting forth the grounds therefor,~~ a hearing before the board. The request for hearing must be filed within 15 days after the department renders its decision and must include an affidavit setting forth the grounds for the request. A hearing shall be held under the provisions of Title 2, chapter 4, part 6, MCA. The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, MCA, apply to a hearing before the board under this rule. The department's decision on the application is not final unless 15 days have elapsed ~~from the date of the decision~~ and there is no request for a hearing under this section. The filing of a request for a hearing postpones the effective date of the department's decision until the conclusion of the hearing and issuance of a final decision by the board.

AUTH: 75-2-111, 75-2-203, MCA; IMP: 75-2-203, 75-2-211, MCA

16.8.1308 EMERGENCY OPEN BURNING PERMITS (1) The department may issue an emergency air quality open burning permit to allow burning of a substance not otherwise approved for burning under this subchapter if the applicant demonstrates that the substance ~~sought~~ to be burned poses an immediate

threat to public health and safety, or plant or animal life, and that no alternative method of disposal is reasonably available.

(2) Oral authorization to conduct emergency open burning may be ~~obtained~~ requested from the department by telephone (406-444-3454), ~~and must include~~ upon providing the following information:

(a) ~~Evidence why facts establishing that~~ alternative methods of disposing of the substance are not reasonably available;

(b) ~~Facts~~ facts establishing that the substance to be burned poses an immediate threat to human health and safety or plant or animal life;

(c) ~~The the~~ legal description or address of the site where the burn will occur;

(d) ~~The the~~ amount of material to be burned; and

(e) ~~the date and time of the proposed burn; and~~

~~(f) A~~ a commitment to pay the appropriate air quality permit application fee required ~~pursuant to~~ under ARM 16.8.1908 within 10 working days of permit issuance;

~~(f) The date and time of the proposed burn.~~

(3) Within 10 days of ~~seeking~~ receiving oral authorization to conduct emergency open burning under (2) above, the applicant must submit to the department a written application for an emergency open burning permit ~~which contains~~ containing the information required above under (2)(a)-(f). The applicant shall also submit the appropriate air quality permit application fee required ~~pursuant to~~ under ARM 16.8.1908.

AUTH: 75-2-111, 75-2-203, MCA; IMP: 75-2-203, 75-2-211, MCA

RULE 1 CHRISTMAS TREE WASTE OPEN BURNING PERMITS

(1) The department may issue an air quality open burning permit for disposal of Christmas tree waste, as defined in ARM 16.8.1301(2).

(2) The department may issue an air quality Christmas tree waste open burning permit if the department determines that emissions from open burning will not endanger public health or welfare or cause or contribute to a violation of any Montana or federal ambient air quality standard.

(3) Christmas tree waste open burning must conform with BACT.

(4) A permit issued under this rule is valid for one year, and applicants may reapply for a permit annually.

(5) The department may place any reasonable requirements in an air quality Christmas tree waste open burning permit that the department determines will reduce emissions of air pollutants or minimize the impact of emissions, and the recipient of a permit must adhere to those conditions. The following conditions, at a minimum, must be included in any air quality Christmas tree waste open burning permit:

(a) BACT for the year covered by the permit; and

(b) a provision that the source may be required, prior to each burn, to receive approval from the department of the date and time of the proposed burn to ensure that good ventilation

exists and to assign burn priorities, if necessary. Approval may be requested by calling the air quality bureau at (406)444-3454.

(6) An application for an air quality Christmas tree waste open burning permit must be made on a form provided by the department. The applicant shall provide adequate information to enable the department to determine whether the application satisfies the requirements of this rule for a permit.

(7) An applicant for an air quality Christmas tree waste open burning permit shall notify the public of its application either by publishing a notice in a newspaper of general circulation or by posting at least 2 public notices, one on the property as described in (a)(i) below, and one in a conspicuous location at the county courthouse as described in (a)(ii) below.

(a) Posted public notices must comply with the following conditions:

(i) At least 1 public notice must be posted on the property where the open burning is to occur, near the closest public right-of-way to the property, in a location clearly visible from the right-of-way;

(ii) At least 1 public notice must be posted in a conspicuous location at the county courthouse in the county where the burning is to take place;

(iii) The 2 public notices must be posted no sooner than 10 days prior to submittal of the application and no later than 10 days after submittal of the application and must remain posted in a visible condition for a minimum of 15 days; and

(iv) The 2 public notices must state the information in the application, the procedure for providing public comment to the department on the application, the date by which public comments must be submitted to the department, and the procedure for requesting a copy of the department's decision.

(b) Publication of public notices in a newspaper must:

(i) be by legal publication, at least once, in a newspaper of general circulation in the area affected by the application;

(ii) be published no sooner than 10 days prior to submittal of the application and no later than 10 days after submittal of the application; and

(iii) follow a form provided by the department, including a statement that public comments may be submitted to the department concerning the application within 20 days after publication of notice or filing of the application, whichever is later. A single public notice may be published for multiple applicants.

(8) When the department approves or denies the application for a permit under this rule, a person who is jointly or severally adversely affected by the department's decision may request a hearing before the board. The request for hearing must be filed within 15 days after the department renders its decision and must include an affidavit setting forth the grounds for the request. The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to a hearing before the board under this rule. The

department's decision on the application is not final unless 15 days have elapsed from the date of the decision and there is no request for a hearing under this section. The filing of a request for a hearing postpones the effective date of the department's decision until the conclusion of the hearing and issuance of a final decision by the board.

AUTH: 75-2-111, 75-2-203, MCA; IMP: 75-2-203, 75-2-211, MCA

RULE II. COMMERCIAL FILM PRODUCTION OPEN BURNING PERMITS

(1) The department may issue an air quality commercial film production open burning permit for open burning of otherwise prohibited material as part of a commercial or educational film or video production for motion pictures or television. Use of pyrotechnic special effects materials, including bulk powder compositions and devices, smoke powder compositions and devices, matches and fuses, squibs and detonators, and fireworks specifically created for use by special effects pyrotechnicians for use in motion picture or video productions is not considered open burning.

(2) The department may issue an air quality commercial film production open burning permit under this rule if the department determines that emissions from open burning will not endanger public health or welfare or cause or contribute to a violation of any Montana or federal ambient air quality standard.

(3) A permit issued under this rule is valid for a single production.

(4) Open burning under this rule must conform with BACT.

(5) The department may place any reasonable requirements in an air quality commercial film production open burning permit issued under this rule that the department determines will reduce emissions of air pollutants or minimize the impact of emissions, and the recipient of a permit must adhere to those conditions.

(6) An application for an air quality commercial film production open burning permit must be made on a form provided by the department. The applicant shall provide adequate information to enable the department to determine whether the application satisfies the requirements of this rule for a permit. Proof of publication of public notice, as required by (7) of this rule, must be submitted to the department before an application will be considered complete.

(7) An applicant for an air quality commercial film production open burning permit shall notify the public of its application by legal publication, at least once, in a newspaper of general circulation in the area affected by the application. The notice must be published no sooner than 10 days prior to submittal of the application and no later than 10 days after submittal of the application. Form of the notice must be provided by the department and must include a statement that public comments may be submitted to the department concerning the application within 20 days after publication of notice or filing of the application, whichever is later. A single public notice may be published for multiple applicants.

(8) When the department approves or denies the applica-

tion for a permit under this rule, a person who is jointly or severally adversely affected by the department's decision may request a hearing before the board. The request for hearing must be filed within 15 days after the department renders its decision and must include an affidavit setting forth the grounds for the request. The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, MCA, apply to a hearing before the board under this rule. The department's decision on the application is not final unless 15 days have elapsed from the date of the decision and there is no request for a hearing under this section. The filing of a request for a hearing postpones the effective date of the department's decision until the conclusion of the hearing and issuance of a final decision by the board.

AUTH: 75-2-111, 75-2-203, MCA; IMP: 75-2-203, 75-2-211, MCA

3. The proposed amendments to ARM 16.8.1301 are necessary to change the definition of "best available control technology" to define the term for all open burning during September, October and November as including burning during time periods defined by the department; to amend the definition of "open burning" to conform the definition with the references to flares in the definition of incinerator in 75-2-103(11), MCA; and to remove Christmas tree waste from the definition of "trade waste" in order to allow open burning of Christmas tree waste, as proposed under Rule I.

The proposed amendments to ARM 16.8.1302 are necessary to clarify that the prohibition on open burning of wood and wood byproducts applies only to processed wood and processed wood byproducts and that it does not apply to tree limbs; to prevent open burning of aircraft, except in compliance with the proposed amendments to the firefighter training provisions of ARM 16.8.1306; to allow open burning of Christmas tree waste as proposed under new Rule I and the burning of structures for commercial movie purposes as proposed under Rule II; and to prohibit the burning of asbestos-laden materials.

The proposed amendments to ARM 16.8.1303 are necessary to eliminate the distinction between essential agricultural open burning and prescribed wildland open burning for burning during September through February and to add procedures needed to control burning during December through February. The department believes that there is no basis for distinguishing between the two types of burning, during those months, and that both types of open burning should be allowed during those months. The proposed amendments also add two requirements for essential agricultural open burning and prescribed wildland open burning during December, January or February: demonstration of the need to burn prior to reopening of the general open burning season in March and receipt of permission for each specific burn.

The proposed amendments to ARM 16.8.1304 are necessary to clarify the procedures for obtaining a permit for major open burning.

The proposed amendments to ARM 16.8.1305 are necessary to remove the burning period distinction between essential

agricultural open burning and prescribed wildland open burning, and to extend the present general March through August period for open burning to November. The department believes that extending this time period will not endanger public health or welfare.

The proposed amendments to ARM 16.8.1306 add procedures for obtaining a permit for burning of otherwise prohibited material for firefighter training. The proposed amendments would require essentially the same permit process for firefighter training open burning that is presently required for conditional open burning of otherwise prohibited materials. The department believes that there is no reason not to require the same permit process for open burning for firefighter training that is required for other conditional open burning. The proposed amendments to ARM 16.8.1306 also allow open burning of automobile and aircraft bodies and interiors for firefighter training. The department believes that burning these materials may be essential to proper firefighter training. The proposed amendments also clarify additional requirements for issuance of a permit that are not stated in the present rule.

The proposed amendments to ARM 16.8.1307 add general conditions for issuance of conditional air quality open burning permits and delete creosote-treated railroad ties from the list of materials which may be burned under a conditional open burning permit. The U.S. Environmental Protection Agency has disapproved of conditional open burning of creosote-treated railroad ties. The proposed amendments add a provision allowing publication of a single public notice for multiple applicants for permits for major open burning, open burning for firefighter training, Christmas tree waste open burning and commercial film production upon burning.

New Rule I allows the department to issue a permit for open burning of Christmas tree waste to dispose of wood waste generated in the fields where Christmas trees are grown. This amendment is necessary to allow Christmas tree growers a reasonable method of disposing of stumps and branches remaining in the field after tree harvesting.

New Rule II allows the department to issue a permit for open burning of otherwise prohibited materials for a film or video production. The department has received requests for approval of open burning for these purposes and believes that a permit process will not endanger public health or welfare.

The department also proposes to make minor editorial changes to ARM 16.8.1301-1308 to clarify the rules and conform the rules to present rule drafting style requirements.

4. Interested persons may submit their data, views, or arguments concerning the proposed amendments and proposed new rule, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Yolanda Fitzsimmons, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620, no later than May 12, 1994.

5. Will Hutchison has been designated to preside over and conduct the hearing.

RAYMOND W. GUSTAFSON, Chairman
BOARD OF HEALTH AND
ENVIRONMENTAL SCIENCES

by *William J. Gritz*
for ROBERT J. ROBINSON, Director

Certified to the Secretary of State April 4, 1994.

Reviewed by:

Eleanor A. Parker
Eleanor Parker, DHES Attorney

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

In the matter of the adoption of	)	NOTICE OF PUBLIC
rules I through XIII dealing with	)	HEARING FOR PROPOSED
home infusion therapy licensing.	)	ADOPTION OF NEW
	)	RULES I-XIII

(Home Infusion
Licensing)

To: All Interested Persons

1. On May 5, 1994, at 9:00 a.m., the department will hold a public hearing in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the adoption of the above-captioned rules.

2. The rules, as proposed, appear as follows:

RULE I. DEFINITIONS As used in this subchapter the following definitions apply:

(1) "Caregiver" means an individual who is not an employee of the home infusion therapy agency who assists the client with activities of daily living as necessary and with carrying out the client's treatment plan. The caregiver may be a family member, friend, relative or employee of the client.

(2) "Client" means a patient who has been referred to a home infusion therapy agency by a physician and who has been accepted into that agency's home infusion therapy program.

(3) "Department" means the department of health and environmental sciences.

(4) "Home environment" means the condition of the client's home with respect to cleanliness, safety and readiness for the provision of infusion therapy for the client within the home.

(5) "Home infusion therapy agency" means a health care facility, as that term is defined in 50-5-101(19), MCA, which provides home infusion therapy services.

(6) "Home infusion therapy program" means the comprehensive provision of pharmaceutical products and clinical support services to an individual in the comfort of their own home, including ongoing monitoring and physician reports, home deliveries, laboratory tests, and client and caregiver training.

(7) "Quality assurance group" means a group of professional personnel authorized by the governing body of the agency to advise the agency on policies and to evaluate all programs, and that includes at least one physician, one registered nurse, and appropriate representatives from the other professional disciplines utilized by the home infusion therapy agency, at least one of whom is not an employee of the

5. Will Hutchison has been designated to preside over and conduct the hearing.

RAYMOND W. GUSTAFSON, Chairman
BOARD OF HEALTH AND
ENVIRONMENTAL SCIENCES

by *William J. O'Leary*
for ROBERT J. ROBINSON, Director

Certified to the Secretary of State April 4, 1994.

Reviewed by:

Eleanor A. Parker
Eleanor Parker, DHES Attorney

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

In the matter of the adoption of)	NOTICE OF PUBLIC
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(6) "Home infusion therapy program" means the comprehensive provision of pharmaceutical products and clinical support services to an individual in the comfort of their own home, including ongoing monitoring and physician reports, home deliveries, laboratory tests, and client and caregiver training.

(7) "Quality assurance group" means a group of professional personnel authorized by the governing body of the agency to advise the agency on policies and to evaluate all programs, and that includes at least one physician, one registered nurse, and appropriate representatives from the other professional disciplines utilized by the home infusion therapy agency, at least one of whom is not an employee of the

agency.

AUTH: 50-5-103, MCA; IMP: 50-5-103, MCA

RULE II POLICIES AND PROCEDURES (1) The home infusion therapy agency shall adopt written policies and procedures that include:

- (a) a clear statement of the services the agency offers;
- (b) the geographic area to be served;
- (c) the admission process;
- (d) a plan for family education and support services and other in-home training as necessary and appropriate;
- (e) a plan for assessing the home environment;
- (f) a plan to ensure and coordinate:
 - (i) prescription confirmation;
 - (ii) insurance verification and direct billing to insurance companies;
 - (iii) delivery arrangements, including emergency deliveries;
- (iv) nursing support services;
- (v) in-home set-up of equipment and supplies;
- (vi) ongoing monitoring and physician reports; and
- (vii) inventory management of the client's supplies in the home on a regular basis;
- (g) a plan for post-discharge client education;
- (h) a description of the clinical aspects of the home infusion care offered which:
 - (i) describes how offered services are administered, monitored, modified based on physicians' orders and patient conditions, or discontinued, and how patient aftercare and education will be provided, including through necessary referrals in accordance with physicians' orders; and
 - (ii) indicates how the agency monitors for and treats adverse reactions, including necessary emergency procedures.

AUTH: 50-5-103, MCA; IMP: 50-5-103, MCA

RULE III GOVERNING AUTHORITY (1) A home infusion therapy agency must have a governing body that is legally responsible for the conduct of the agency and that:

- (a) Ensures that the medical and professional staff:
 - (i) have written policies that are approved by the governing body;
 - (ii) are accountable to the governing body for the quality of care provided to clients; and
 - (iii) are selected on the basis of individual character, competence, training, experience, judgment, and professional qualifications according to the specific areas in which they provide service.
- (b) Appoints an administrator who is responsible for managing the agency.
- (c) Ensures, pursuant to the written policies and procedures, that:
 - (i) every client is under the care of a physician; and
 - (ii) whenever a client is admitted to the program, the

admission procedures required by [Rule VIII] are followed.

(d) Prepares, adopts, reviews, and updates annually an overall institutional plan that includes the following:

(i) a system of financial management and accountability which has financial records specific to the home infusion program and includes, at a minimum, income and expense reports for:

- (A) pharmacy services;
- (B) equipment;
- (C) medical supplies; and
- (D) skilled nursing;
- (ii) an annual operating budget;

(iii) a system that assures that members of the governing body and appropriate administrative and professional staff have adequate and comprehensive liability insurance.

(e) Ensures that the agency's staff are licensed, certified, or registered, as appropriate, in accordance with Montana law and rules and that each staff member provides health services only within the scope of his/her license, certification, or registration.

(f) Holds meetings at least quarterly with the professional staff and administrator to discuss agency policies and to evaluate programs.

(g) Contracts with a licensed physician, preferably one with demonstrated expertise in infusion therapy, to provide overall medical consultation to the agency, including a review of policies and procedures, as well as to provide individual consultation, as appropriate. Such consultation includes:

(i) working in cooperation with the client's attending physician, as appropriate, to develop and update the medical plan of care; and

(ii) being a resource to staff, clients, caregivers, families, and attending physicians regarding pain and symptom control measures.

AUTH: 50-5-103, MCA; IMP: 50-5-103, MCA

RULE IV ADMINISTRATOR (1) A home infusion therapy agency shall have an administrator who is either:

(a) a Montana licensed registered nurse, with at least a baccalaureate degree and 2 years infusion nursing experience; or

(b) a registered pharmacist who is licensed in the state of Montana.

(2) The administrator must be assigned responsibility for:

- (a) program strategic planning and budgeting;
- (b) evaluating the infusion therapy program, services, and personnel according to a quality assurance program;
- (c) establishing and maintaining effective channels of communication;
- (d) keeping infusion therapy program personnel up to date with state-of-the-art clinical information, practices, and equipment;

(e) assuring adequate and appropriate staffing, including through contracts where necessary;

(f) staff development, including orientation, in-service education, and continuing education;

(g) coordinating the various program areas within the agency and senior management, as appropriate, according to the organizational structure;

(h) keeping current on local area issues and trends relevant to home infusion therapy;

(i) assuring that services provided meet legal and ethical standards of practice;

(j) assuring that safe and appropriate service policies, including emergency procedures, are developed and implemented;

(k) directing staff in performance of their duties, including admission, discharge, and provision of service to the client; and

(l) assuring appropriate staff supervision at all times.

AUTH: 50-5-103, MCA; IMP: 50-5-103, MCA

RULE V STAFFING (1) All infusion nursing personnel, whether employed by the agency or working on a contract basis, shall:

(a) possess a baccalaureate degree in nursing;

(b) have a minimum of 2 years of clinical experience in infusion nursing; and

(c) maintain current state licensure.

(2) All pharmacists employed by the agency shall maintain current state licensure.

(3) Any other professional staff members employed by the agency shall maintain current professional state licensure, as appropriate.

(4) Contracts for nursing services must include provisions regarding:

(a) orientation of the nurse to the agency's programs;

(b) a requirement that the nurse will document each day's service as it is provided, the same day it is provided, and submit the documentation to the agency within 48 hours after the service is provided;

(c) a requirement that the nurse maintain adequate liability insurance coverage; and

(d) a mechanism for evaluating contract services.

AUTH: 50-5-103, MCA; IMP: 50-5-103, MCA

RULE VI QUALITY ASSURANCE (1) Under the supervision of the administrator and guidance of the governing body, members of the quality assurance group must develop policies governing the scope of services offered by the agency and conduct an annual review of:

(a) the agency's policies and procedures;

(b) admission and discharge criteria;

(c) medical supervision and place of treatment;

(d) emergency care;

- (e) clinical records;
- (f) personnel qualifications;
- (g) quality of services and products; and
- (h) efficiency of operations.

(2) In order to provide a basis for setting program goals in the planning process, the quality assurance group shall routinely collect and monitor data for each client regarding:

- (a) client age, race, sex, primary and secondary diagnoses;
- (b) referral source;
- (c) disposition on discharge;
- (d) average length of service;
- (e) days of service by diagnosis and treatment;
- (f) number and type of procedures performed;
- (g) number of service units by diagnosis;
- (h) number and classification of complications, including phlebitis, infiltration, site infection, and other infection;
- (i) types of medication and their costs;
- (j) incidences of rehospitalization;
- (k) hydration and nutritional status;
- (l) average visit time;
- (m) average travel time;
- (n) average travel cost per visit;
- (o) productivity rates; and
- (p) client location on discharge.

(3) Prior to, during, and after use, agency staff shall inspect all intravenous equipment and supplies for product integrity and expiration date. If the client or caregiver is administering the dose, a written checklist must be provided consistent with agency documentation requirements.

(4) The quality of the infusion therapy services provided by the agency must be routinely assessed by the administrator and agency staff. Such assessment shall include monitoring of:

- (a) the client's home environment to ensure cleanliness and to ensure that there is a capable caregiver available for the client;

- (b) compliance with aseptic technique and therapy guidelines;

- (c) the client's nutritional status, including:

- (i) weekly nutritional assessments;

- (ii) weight gain and loss;

- (iii) energy level;

- (iv) condition of skin, hair and nails;

- (v) monthly static reserves;

- (vi) oral intake; and

- (vii) protein requirements and nitrogen balance assessed monthly;

- (d) the client's fluid status, including:

- (i) intake and output;

- (ii) skin turgor;

- (iii) mucous membranes;

- (iv) edema;
 - (v) lung assessment; and
 - (vi) fluid requirements determined per patient's diagnosis and physical data;
 - (e) infection, including:
 - (i) vital signs;
 - (ii) CBC or other blood tests;
 - (iii) observation of procedure;
 - (iv) assess site; and
 - (v) storage of solutions, which must be monitored initially and weekly;
 - (f) metabolic disorders, including:
 - (i) fingerstick blood sugars before and after infusions as indicated;
 - (ii) mental changes;
 - (iii) condition of skin, hair and nails;
 - (iv) serum electrolytes;
 - (v) changes in output; and
 - (vi) muscle cramping and fatigue;
 - (g) psychological factors, including:
 - (i) mood changes; and
 - (ii) energy level;
 - (h) external factors, including:
 - (i) patient assessment based on all patient and non-patient parameters;
 - (ii) drug interactions;
 - (iii) drug therapy - lab value interactions; and
 - (iv) drug therapy - patient interactions and incompatibilities.
 - (5) All quality assurance activities shall be used to improve patient care and resolve identified problems.
- AUTH: 50-5-103, MCA; IMP: 50-5-103, MCA

RULE VII ADMISSION POLICIES AND PROCEDURES (1) A physician must authorize home infusion therapy for a client before the client may be accepted as a client by any home infusion therapy agency.

(2) Admission into the home infusion therapy program must be based on a reasonable expectation that the client's needs can be adequately and safely met by the program.

(3) Upon admission, the client must be informed:

(a) that s/he has the right to make informed decisions regarding her/his care; and

(b) of the home infusion therapy agency's mechanism for receiving, reviewing, and resolving client complaints.

(4) The agency shall ensure that clients or caregivers of the home infusion therapy agency participate in a planned training program prior to the client's discharge from the hospital, when possible.

(5) A comprehensive plan of care must be formulated for each client according to the client's individual needs. The comprehensive plan of care must include consideration of:

(a) the client's health and psychosocial status;

(b) the types of services and equipment needed;

- (c) the scope and frequency of services needed;
- (d) parenteral fluids;
- (e) blood and blood components;
- (f) medication dosage, concentration, volume, rate, and frequency;
- (g) prognosis;
- (h) functional limitations of the client and/or caregiver;
- (i) nutritional requirements;
- (j) safety measures; and
- (k) precautions, contraindications and laboratory procedures.

AUTH: 50-5-103, MCA; IMP: 50-5-103, MCA

RULE VIII EMERGENCIES (1) A home infusion therapy agency must have approved standing orders and procedures for emergency situations, including but not limited to the availability of emergency kits with appropriate drugs which have been ordered by the client's physician and placed in the client's home, when appropriate.

(2) Any client with a venous access device or any type of catheter to administer medications or fluids must be documented as an at-risk or vulnerable individual.

AUTH: 50-5-103, MCA; IMP: 50-5-103, MCA

RULE IX CLIENT CARE (1) Care to each client must be provided under the general supervision of a physician and must follow a written and signed plan of treatment which is reviewed at least every 30 days, or as often as deemed necessary, by the physician.

(2) Agency staff must visit a client within 48 hours after referral to the agency, unless otherwise indicated by the client's referring physician.

(3) Nursing visits to infusion therapy clients in their homes must be made as frequently as necessary to educate, monitor, and assess the client's status and treatment.

(4) Nursing care must be provided in accordance with the client's written comprehensive treatment plan, and must include:

- (a) assessing the client on the initial visit;
- (b) assessing the home environment, including safety, adequate refrigeration, storage, and cleanliness;
- (c) initiating the plan of care and necessary revisions;
- (d) administering infusion therapy according to physician orders;
- (e) performing venipuncture and insertion of intravenous needles and catheters;
- (f) preparing infusion solutions with the addition of medications;
- (g) initiating, monitoring, and terminating infusion solutions and additives;
- (h) establishing flow rates, if not done by the physician;

- (i) initiating appropriate preventive nursing procedures;
 - (j) preparing clinical and progress reports;
 - (k) providing service in accordance with reimbursement, ethical, and legal guidelines;
 - (l) coordinating services;
 - (m) referring other services, as needed;
 - (n) informing the physician and other agency personnel of changes in the client's needs;
 - (o) evaluating each client's total care needs on an ongoing basis;
 - (p) training the client and caregiver; and
 - (q) assessing the ability of the client or caregiver to manage when staff is not present.
 - (5) Pharmacy services, including the provision of clinical services and pharmaceuticals, may be provided either directly by agency staff or by arrangement.
 - (6) Delivery services may be provided to the client, which services may include:
 - (a) safe and clean transport of equipment and supplies to and from the client's home;
 - (b) timely delivery of supplies and equipment;
 - (c) setting up equipment in the client's home; and
 - (d) record keeping.
 - (7) Necessary equipment and supplies may be provided either directly by the agency or by arrangement with another entity.
 - (8) Care must be available 24 hours a day, 7 days per week.
 - (9) The first dose of any infusion medication must be given in a monitored environment appropriate to the client and the medication, as determined by the client's physician.
 - (10) The infusion nurse and pharmacist shall review drug and equipment regimes prior to initiation of treatment, when changes in therapy occur, and at least weekly as a matter of course.
 - (11) State and federal law must be adhered to regarding the administration, disposal, and documentation of controlled substances.
- AUTH: 50-5-103, MCA; IMP: 50-5-103, MCA

RULE X RECORDS (1) A home infusion care record must be maintained and kept up to date for each client. Documentation in the record must be detailed and accurate and reflect the care or service provided.

(2) The record shall contain a current plan of care or service and:

(a) the name(s) of the individual(s) to contact in case of emergency or death and the identity of other individuals and organizations known to be involved in the client's care or service;

(b) safety measures particular to the client;

(c) functional limitations and notations on the suitability or adaptability of the client's home for the provi-

- sion of the planned care or service;
- (d) the client's physician's name;
 - (e) a medication profile and a record of intravenous procedures performed;
 - (f) prescribed nursing intervention;
 - (g) complications;
 - (h) consent and authorization forms;
 - (i) laboratory results;
 - (j) any do-not-resuscitate order that may have been issued;
 - (k) pharmacy assessment reports; and
- (1) any instructions given to the client for further care after discharge by the home infusion therapy agency.
- (3) Clinical records must be routinely reviewed every 30 days to determine the adequacy of the plan of treatment and appropriateness of the continuation of care.
- (4) Complications must be documented.
- (5) Trends must be monitored and a record of such trends must be kept in the client's clinical record.
- (6) Other necessary information must be made a part of the client's record, and includes but is not limited to:
- (a) transfer forms/summaries or copies of records received from transferring organization(s); and
 - (b) documentation of any discussions with clients and, as appropriate, family members or caregivers regarding life-sustaining intervention.
- (7) Do-not-resuscitate orders, if any, must be documented and signed by the client's physician in accordance with applicable law and rules.
- (8) The agency must have a written policy that delineates who has the authority to make entries in and review the record.
- (9) An explanatory legend must be included in the record to define any abbreviations or symbols used in the record.
- (10) The record of a client discharged from a home infusion therapy program must be completed within a reasonable time period, as specified in the agency's policies and procedures.

AUTH: 50-5-103, MCA; IMP: 50-5-103, MCA

RULE XI UTILIZATION REVIEW (1) Home infusion therapy agencies shall review at least quarterly a representative sample of records in order to assure the records reflect the care or service provided, the condition and progress of the client, and the condition of the client at discharge.

AUTH: 50-5-103, MCA; IMP: 50-5-103, MCA

RULE XII INFECTION CONTROL (1) The administrator shall designate an infection control officer who shall:

- (a) develop and implement policies governing control of infections and communicable diseases;
- (b) develop a system for identifying, reporting, investigating, and controlling infections and communicable diseases.

es of clients and personnel; and

(c) maintain a log of incidents related to infections and communicable diseases.

(2) Infection control and safety measures include, but are not limited to, the following:

- (a) use of aseptic technique;
- (b) use of filters;
- (c) culturing for intravenous-related infections;
- (d) isolation precautions in accordance with CDC guidelines;

- (e) appropriate needle disposal;
- (f) use of luer-lock to luer-lock procedures;
- (g) cleaning and storage of reusable equipment between usage;

- (h) inspection of equipment prior to delivery;
- (i) maintenance and repair of equipment according to the manufacturer's guidelines; and

- (j) adequate infectious and hazardous waste disposal.
- (3) When clients or caregivers prepare sterile preparations in the home, they must be instructed verbally and in writing regarding safeguards against microbial contamination.

AUTH: 50-5-103, MCA; IMP: 50-5-103, MCA

RULE XIII WASTE DISPOSAL (1) Disposal of discontinued and outdated drugs, controlled substances, or hazardous waste must be documented and conform to federal requirements.

(2) The documentation of the destruction or disposal of drugs or controlled substances must be witnessed by a pharmacist and at least one other licensed health care professional. Documentation shall include the type of drug and the amount of drug disposed of or destroyed.

(3) Clients and caregivers must be instructed regarding the proper disposition of hazardous substances in the home.

AUTH: 50-5-103, MCA; IMP: 50-5-103, MCA

3. The department is proposing these rules in order to regulate the specific type of health care facility that is organized to provide home infusion therapy, in order to assure that quality services are provided in a safe and effective manner. The rules are necessary because 50-5-201, MCA, requires any state health care facility to be licensed by the department in order to operate, and, since a home infusion therapy agency fits within the definition of "health care facility" contained in 50-5-101, MCA, licensure standards must be adopted for it before such licensure may occur.

4. Interested persons may submit their data, views, or arguments concerning the proposed rules, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Denzel Davis, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620, and must be received no later than May 12, 1994.

5. Cynthia Brooks has been designated to preside over and conduct the hearing.

for William J. Robinson
for ROBERT J. ROBINSON, Director

Certified to the Secretary of State April 4, 1994.

Reviewed by:

Eleanor A. Parker
Eleanor Parker, OHES Attorney

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption)	NOTICE OF PROPOSED ADOPTION,
and amendment of rules)	AMENDMENT AND REPEAL OF RULES
instituting procedures for the)	
revocation or suspension of the)	
certification of peace officers)	
and other public safety)	
officers; and generally revising)	
the procedures for peace)	NO PUBLIC HEARING CONTEMPLATED
officer standards and training)	

TO: All Interested Persons.

1. On May 16, 1994, the Board of Crime Control, Peace Officer Standards and Training Council, proposes to adopt Rules I-X and amend ARM 23.14.411, pertaining to procedures for revoking or suspending the standards and training certification of peace officers, detention officers, detention center administrators, and public safety communications officers. In addition, the board and council propose to adopt Rule XI; amend ARM 23.14.401, 23.14.404 through 23.14.408, 23.14.412, 23.14.413, and 23.14.419; and repeal ARM 23.14.417 and 23.14.418 governing peace officer standards and training.

2. Proposed rules I through XI do not replace or modify any sections currently found in the Administrative Rules of Montana. The rules proposed for adoption will read as follows:

RULE I. DEFINITIONS As used in Rules I through X the following definitions apply:

(1) "Certification" means any basic or advanced standards and training certification granted by the POST council after completion of the specific requirements as set forth in these rules.

(2) "Complainant" means:

(a) Any real or artificial person making a complaint against a public safety officer to the POST council; or

(b) The POST director acting on his knowledge, information or belief, which may be based on the action of a police commission or other local government unit.

(3) "Council" means the peace officer standards and training advisory council as created by these rules.

(4) "Director" means the executive director of the peace officer standards and training advisory council, as established by these rules.

(5) "Formal Proceedings" means proceedings for suspension or revocation that the director determines cannot be settled at the preliminary stage of review and investigation, and must proceed pursuant to notice and hearing.

(6) "Presiding officer" means the chairman of the POST council or his designated representative, who shall regulate the course of hearings held by the council.

(7) "Public safety officer" means a peace officer, as defined in section 7-32-303, MCA, detention officer, detention center administrator, or public safety communication officer.

(8) "Respondent" means the public safety officer against whom a complaint has been made or his legal representative.

(9) "Revocation" means the permanent cancellation by the council of a public safety officer's certification.

(10) "Suspension" means the annulment, for a period of time set by the council, of a public safety officer's certification.

AUTH: 44-4-301, MCA. IMP: 44-4-301, MCA.

RULE II. GROUNDS FOR SUSPENSION OR REVOCATION OF MONTANA PEACE OFFICERS' STANDARDS AND TRAINING CERTIFICATION (1) The Montana Board of Crime Control, Peace Officer Standards and Training Advisory Council, shall consider and rule on any complaint made against a public safety officer that may result in the revocation or suspension of that officer's certification.

(2) The grounds for suspension or revocation of the certification of public safety officers are as follows:

(a) Willful falsification of material information in order to obtain or maintain certification;

(b) A physical or mental condition that substantially limits the person's ability to perform the essential duties of a peace officer, or poses a direct threat to the health and safety of the public or fellow officers, and cannot be eliminated by reasonable accommodation;

(c) Addiction to or the unlawful use of controlled substances or other drugs;

(d) Unauthorized use of or being under the influence of alcoholic beverages while on duty, or the use of alcoholic beverages in a manner which tends to discredit the law enforcement profession;

(e) The commission of a felony, an offense which would be a felony if committed in this state, or an offense involving dishonesty, unlawful sexual conduct or physical violence;

(f) Other conduct or a pattern of conduct which tends to significantly undermine public confidence in the law enforcement profession;

(g) Failure to meet the minimum standards for employment set forth in these rules; or

(h) Failure to meet the minimum training requirements provided in these rules.

AUTH: 44-4-301, MCA. IMP: 44-4-301, MCA.

RULE III. PRELIMINARY PROCEDURE IN PROCEEDINGS FOR SUSPENSION OR REVOCATION OF CERTIFICATION (1) Any complaint made against a public safety officer that alleges grounds for suspension or revocation shall be made initially to the appropriate governmental unit. The appropriate governmental unit shall issue a written ruling on the initial complaint. Thereafter, if a complainant wishes to pursue his complaint with the council, the complaint must be in writing and provide at least the following information:

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AUTH: 44-4-301, MCA.

IMP: 44-4-301, MCA.

RULE III. PRELIMINARY PROCEDURE IN PROCEEDINGS FOR SUSPENSION OR REVOCATION OF CERTIFICATION (1) Any complaint made against a public safety officer that alleges grounds for suspension or revocation shall be made initially to the appropriate governmental unit. The appropriate governmental unit shall issue a written ruling on the initial complaint. Thereafter, if a complainant wishes to pursue his complaint with the council, the complaint must be in writing and provide at least the following information:

(a) Name, address, and telephone number of the complainant (the director may keep this information confidential for good cause shown);

(b) Name and place of employment of the person complained against;

(c) A full and complete description of the incident; and

(d) The signature, address, and telephone number of the local chief of police or sheriff (the director may waive this requirement for good cause shown).

(2) Complaints made by or filed with the director shall be investigated by him and such staff of the Board of Crime Control as he deems necessary.

(3) Following review and investigation of a complaint, the director may take any appropriate action, including but not limited to the following:

(a) Forward the complaint to the council for formal proceedings;

(b) File a formal complaint with the council on his own behalf;

(c) Send a written letter of inquiry to the subject of the complaint, explaining the allegation of violation and requesting an explanation or statement of intent to cure the violation;

(d) Accept the voluntary surrender of a certificate issued by the council, or

(e) For good cause, close the investigation of the complaint.

(4) In all cases that are not forwarded to the council for formal proceedings, the director shall, when the case is closed, file a written report setting forth the circumstances and resolution of the case.

AUTH: 44-4-301, MCA.

IMP: 44-4-301, MCA.

RULE IV: COMMENCEMENT OF FORMAL PROCEEDINGS FOR SUSPENSION OR REVOCATION OF CERTIFICATION

(1) Formal proceedings may be commenced only after the filing of a complaint as described in these rules, the director's determination that formal proceedings are necessary, and the board's issuance of a written order to show cause and notice of opportunity for hearing.

(2) In formal proceedings, the respondent must be afforded reasonable notice. The order and notice shall contain at least:

(a) The name and address of the complainant;

(b) A statement, in plain language, of the nature and circumstances of the incident complained of;

(c) Reference to the particular section(s) of the statutes or rules alleged to have been violated;

(d) A statement of the time, place and nature of the hearing; and

(e) A statement that failure to answer the complaint may result in default.

(3) The respondent or his counsel may examine the original complaint unless the director determines that the demand of individual privacy clearly exceeds the merits of public disclosure.

(4) In formal proceedings, the respondent must file an Answer, or be in default. The answer shall contain at least:

(a) A request for hearing; and

(b) A statement of grounds of opposition to each allegation of the complaint.

(5) Service shall be made in a manner consistent with Montana law.

(6) If a review of the conduct of a person holding a certificate subject to decertification under these rules is pending before any court, board, tribunal or agency, the council may, in its discretion, stay any proceedings for decertification pending before the council for so long as the council deems necessary.

(7) In the event the respondent fails to answer, appear or otherwise defend a complaint against him of which the respondent had notice, the council may enter an order based on the allegations of the complaint. However, the council may only enter an order based solely on the allegations of the complaint if the council is acting either on a verified complaint or has conducted a proceeding at which the complainant's evidence was presented. The council shall enter an order containing findings of fact, conclusions of law, and an opinion.

(8) Any party may represent himself, or may at his own expense be represented by an attorney licensed to practice law in the state.

(9) A representative from the office of the attorney general shall present to the council the case of the complainant.

(10) The council may utilize a legal advisor to be present and advise the council in conducting the hearing. If the council's legal advisor is employed by the office of the attorney general, his contact with the representative from the office of the attorney general who presents the case of the petitioner shall be restricted to that permitted by recognized professional standards.

(11) Unless required for disposition of ex parte matters authorized by law, after issuance of notice of hearing, the council may not communicate with any party or his representative in connection with any issue of fact or law in such case except upon notice and opportunity for all parties to participate.

AUTH: 44-4-301, MCA.

IMP: 44-4-301, MCA.

RULE V. HEARING PROCEDURES (1) All motions made to the council shall be made in writing not less than ten (10) days prior to the date set for the hearing, and mailed to the director, the office of the attorney general and all opposing parties. The council may, in its discretion and for good cause shown, allow the late filing of any motion.

(2) When formal proceedings are initiated and notice has been given to the respondent, the case shall be assigned a docket number by the director. The director shall establish a separate file for each docketed case, in which he shall systematically place all papers, pleadings, motions, documents, transcripts, evidence and exhibits; he shall note thereon the docket number assigned and the date of filing.

(3) In all formal proceedings before the council, discovery shall be allowed all parties in accordance with the Model Rule 13 of the Attorney General's Model Rules of Administrative Practice. Requests for discovery from the council shall be made in writing

and directed to the director for the presiding officer designated to hear the case, with a copy to the appropriate parties.

(4) Issuance and enforcement of subpoenas shall be governed by the Montana administrative procedure act, section 2-4-104, MCA. Subpoenas may be issued by the director or the presiding officer designated to hear the case, upon receipt of the written application therefor by any party to the case.

AUTH: 44-4-301, MCA. IMP: 44-4-301, MCA.

RULE VI. CONDUCT OF HEARINGS (1) In hearings held in formal proceedings, irrelevant, immaterial, or unduly repetitious evidence must be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs is admissible, whether or not such evidence is admissible in a trial in the courts of Montana. In the presiding officer's discretion, any part of the evidence may be received in written form. All oral testimony shall be made under oath; all written testimony shall be verified. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it is not sufficient in itself to support a finding unless it is admissible over objection in civil actions.

(2) In all formal hearings, the presiding officer shall give effect to the rules of privilege recognized by law. The party calling a witness shall bear the costs associated with the witness' appearance.

(3) The order of procedure at hearings before the council shall be as follows:

(a) The presiding officer shall announce that the hearing is convened upon the call of the docket number and title of the case to be heard, and shall direct the placement in the record of the complaint, the order to show cause and notice of opportunity for hearing, and the answer. Also, the presiding officer shall note for the record all subpoenas issued and all appearances of record;

(b) Each of the parties may make an opening statement. The time allowed may be limited by the presiding officer;

(c) The representative from the office of the attorney general shall present the evidence in support of the complaint. The respondent or his counsel may cross-examine any witness for the complainant and may challenge any of the complainant's evidence. The petitioner's exhibits shall be marked alphabetically beginning with "A";

(d) The respondent shall present the evidence in support of his position, and he and/or his witnesses may be cross-examined by the representative from the office of the attorney general. The respondent's exhibits shall be marked numerically, beginning with "1";

(e) Rebuttal evidence may be allowed within the discretion of the presiding officer. At this time, any party may offer evidence and/or argument regarding the length of the period of suspension of a certificate;

(f) Closing statements may be made by the representative from the office of the attorney general and by the respondent or his counsel at the conclusion of the presentation of evidence. The time allowed for closing statements may be limited at the

discretion of the presiding officer. A rebuttal statement by the complainant may be made only in the discretion of the presiding officer.

(g) After all proceedings have concluded, the presiding officer shall excuse all witnesses, and declare the hearing closed and the case submitted. Any party who wishes to present written briefs of law to the council may do so within the time set by the presiding officer, and the presiding officer may request written briefs of law for the council.

AUTH: 44-4-301, MCA. IMP: 44-4-301, MCA.

RULE VII. DECISION AND ORDER (1) Following a hearing, the council shall enter a written decision and order containing findings of fact, conclusions of law, a reasoned opinion, and an order, stated separately. The decision and order shall be sent by certified mail to the respondent and his counsel. This rule does not preclude the council from giving preliminary, nonbinding notice to the parties prior to the filing of the council's written decision and order.

(2) In the event a certificate is suspended, the council shall state in its decision and order the length of time for which the certificate is suspended and the reasons therefor. In suspending a certificate, the council shall be guided by generally accepted professional standards. A respondent who has had his or her certification suspended may apply for recertification once the period of suspension has passed.

(3) In the event a certificate is revoked or suspended, the respondent shall surrender his certificate to the council.

AUTH: 44-4-301, MCA. IMP: 44-4-301, MCA.

RULE VIII. RECORD OF PROCEEDINGS (1) The record shall consist of:

- (a) The complaint, the order to show cause and notice of hearing, and the answer;
- (b) All evidence offered or considered;
- (c) All objections and rulings thereon;
- (d) All other matters requested to be placed in the record;
- (e) The council's decision and order; and
- (f) A recording of the hearing held. The recording need not be transcribed, unless requested by a party. The requesting party shall bear the cost of transcription.

AUTH: 44-4-301, MCA. IMP: 44-4-301, MCA.

RULE IX. APPEALS (1) Appeals from decisions of the council must be made within 30 days to the Montana Board of Crime Control.

(2) Costs of transcripts and any other reasonable costs assessed by the council regarding the record on appeal shall be borne by the party making the appeal.

(3) In the event that within 30 days of issuance of the council's decision and order no party appeals and the Montana Board of Crime Control does not signal its intent to modify council's decision and order, it shall become final. On appeal, the Board of Crime Control may adopt the decision and order of the council. On appeal or on its own motion, the Board of Crime Control, in its order, may reject or modify the conclusions of law and interpretation of administrative rules in the council's decision

and order, but may not reject or modify the council's findings of fact unless the Board of Crime Control first determines from a review of the complete record and states with particularity in its order that the council's findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The Board of Crime Control may accept or reduce the recommended sanction in a decision and order, but may not increase it without a review of the complete record. For good cause, the Board of Crime Control may take additional evidence.

(4) Appeals from decisions of the Board of Crime Control shall be taken pursuant to the portion of the Montana Administrative Procedure Act dealing with judicial review of contested cases, title 2, chapter 4, part 7, MCA.

AUTH: 44-4-301, MCA. IMP: 44-4-301, MCA.

RULE X. APPLICABILITY OF THE RULES OF CIVIL PROCEDURE The Montana rules of civil procedure, insofar as they are not inconsistent with the laws of the state and these rules and regulations, shall apply to cases before the council.

AUTH: 44-4-301, MCA. IMP: 44-4-301, MCA.

RULE XI. REQUIREMENTS FOR DESIGNATED INCIDENT COMMAND CERTIFICATION Designated incident command certification is established for the purpose of promoting standardized incident management and streamlined interagency mutual aid during multi-day or multijurisdictional emergencies through the use of the incident command system (ICS).

(1) The POST advisory council shall issue incident command certificates designated by:

(a) emergency response specialty; and

(b) area of expertise denoted as any of the ICS command staff positions or any of the general staff positions of planning, logistics or finance.

(2) In addition to ARM 23.14.403 and 23.14.404, the following are required for the award of a designated incident command certificate:

(a) shall possess the intermediate certificate;

(b) shall have completed the incident command system course at the Montana law enforcement academy or an equivalent;

(c) shall have completed at least 16 hours of additional training and testing for the command or general staff position for which certification is being sought;

(d) shall be trained and competent within a specialized area of emergency response in accordance with standards established by the POST advisory council;

(e) shall have successfully served in a command or general staff capacity as attested to on an application by the applicant's agency administrator; and

(f) shall be eligible to respond as overhead support for mutual aid requests outside of the applicant's jurisdiction as attested to on an application by the applicant's agency administrator.

(3) An officer assigned to an ICS command or general staff position is usually a senior officer, trained within a specific area of expertise, who is routinely assigned within a jurisdiction to coordinate or take charge of specific aspects of emergency response or extraordinary circumstances.

AUTH: 44-4-301, MCA.

IMP: 44-4-301, MCA.

3. The rules proposed to be amended will read as follows (new matter underlined, deleted matter interlined):

23.14.401 ADMINISTRATION OF PEACE OFFICERS STANDARDS AND TRAINING (1) through (3) (j) remain the same.

(k) One member to be a delegate at large; and

(l) One member to be a detention center administrator or detention officer; and

(m) One member to be an incumbent county attorney recommended by the Montana county attorneys association.

(4) and (5) remain the same.

(6) For the purposes of this regulation the terms "law enforcement officer" and "peace officer" shall mean the undersheriffs and deputy sheriffs of each county, the members of the police force of every organized city or town, the marshals of every town, state highway patrolmen, state fish and game wardens, campus security police of the state university system and the airport police organized by airport commissions or boards who are given general police powers to enforce the state laws and city ordinances, and are salaried, full-time or part-time employees of their law enforcement agencies. The terms "detention officer" and "detention center administrator" mean those defined in 44-4-302, MCA.

(7) through (10) remain the same.

(11) The council shall recommend to the board of crime control rules and regulations with respect to:

(a) Minimum standards of physical, educational, mental and moral fitness which shall govern the recruitment, selection and appointment of law enforcement officers, and detention officers, and other individuals subject to police officer standards and training requirements;

(11) (b) through (14) remain the same.

(15) The executive director shall have the following duties, to be exercised as directed by the board:

(a) To approve law enforcement and detention officer training schools administered by state, county, municipal corporations, public school districts, vocational-technical school districts, private institutions and law enforcement ~~schools,~~ hereinafter referred to as "law enforcement schools;"

(15) (b) through (21) remain the same.

AUTH: 44-4-301, MCA.

IMP: 44-4-301 and 7-32-303, MCA.

23.14.404 GENERAL REQUIREMENTS FOR CERTIFICATION

(1) remains the same.

(2) To be eligible for the award of a certificate, each peace officer must be a full-time or part-time, paid and sworn peace officer employed by a law enforcement agency as defined by the

board of crime control at the time the application for certification is received by the board.

(3) and (4) remain the same.

(5) Point System.

(a) Education Points:

(i) one college semester unit shall equal 4 points.

(ii) one college quarter unit shall equal 3 points.

(iii) ~~when more than 15 education points are claimed, law enforcement technical, vocational and professional subjects shall not exceed two-thirds of the total number of such points claimed, and no degree has been earned, the total number of educational points claimed as training points toward any level of POST certification shall not exceed two-thirds of the total number of such training points that are required.~~

(iv) and (v) remain the same.

(b) Training Points:

(i) ten classroom hours of law enforcement training certified or approved by the POST advisory council shall equal one point.

(ii) no training points may be claimed for the basic course or legal equivalency course.

(iii) the acceptability of training points claimed for training received out-of-state shall be determined by the POST advisory council.

~~(iv) training points claimed for the award of the advanced certificate shall be based on the following ratio of prescribed subject areas which have been completed at a certified training school: legal matters (including recent court decisions) 20%, advanced investigative techniques and aids 20%, advanced police patrol procedures 20%, and human and community relations 20%.~~

(6) remains the same.

AUTH: 44-4-301, MCA. IMP: 44-4-301, 44-11-301 through 44-11-305, MCA.

23.14.405 REQUIREMENTS FOR THE BASIC CERTIFICATE In addition to ARM 23.14.403 and 23.14.404 above, the following are required for the award of the basic certificate:

(1) and (2) remain the same.

(3) Peace officers with out-of-state experience and training and peace officers formerly employed by the designated federal agencies specified in the Administrative Rules of Montana who do not have basic certification and are employed by Montana law enforcement agencies:

(a) remains the same.

(b) whose training is determined by the POST advisory council as equivalent to the basic course must successfully complete an equivalency test, approved by the council and administered by the Montana law enforcement academy, by achieving a cumulative score of 75% or more and successfully complete the legal equivalency training school conducted by MLEA. The council will require those who fail the equivalency test to successfully complete the basic course at MLEA.

(3)(c) through (4) remain the same.

AUTH: 44-4-301, MCA. IMP: 44-4-301, 7-32-303, 44-11-301 through 44-11-305, MCA.

23.14.406 REQUIREMENTS FOR THE INTERMEDIATE CERTIFICATE In addition to ARM 23.14.403 and 23.14.404 above, the following are required for the award of the intermediate certificate:

- (1) and (2) remain the same.
- ~~(3) Shall have completed the intermediate course or the equivalency as designated by the POST advisory council, and,~~
 - ~~(a) if the council determines the training to be equivalent to the intermediate course the officer must successfully complete an equivalency test, approved by the council and administered by MLEA, by achieving a cumulative score of 75% or more. The council will require those who fail the equivalency test to successfully complete the intermediate course at MLEA before awarding the intermediate certificate.~~
 - ~~(b) if the council determines the training is not equivalent, the officer must successfully complete the intermediate course.~~
- (43) Has 4 years experience and 40 training points; or
- (54) Has 5 years experience and 30 training points; or
- (65) Has 4 years experience, 20 training points, and possess an associate degree; or
- (76) Has 3 years experience, 15 training points, and possess a baccalaureate degree; ~~or~~
- ~~(8) Has 2 years experience, 10 training points, possess a masters degree.~~

AUTH: 44-4-301, MCA.

IMP: 44-4-301, MCA.

23.14.407 REQUIREMENTS FOR THE ADVANCED CERTIFICATE In addition to ARM 23.14.403 and 23.14.404 above, the following are required for the award of the advanced certificate:

- (1) Shall possess the intermediate certificate.
- ~~(2) Shall have completed the advanced course or the equivalency as defined by the POST advisory council or complete alternative courses as provided in subsection (3).~~
 - ~~(a) If the council determines the training to be equivalent to the advanced course, the officer must successfully complete an equivalency test, approved by the council and administered by MLEA, by achieving a cumulative score of 75% or more. The council will require those who fail the equivalency test to successfully complete the advanced course at MLEA before awarding the advanced certificate.~~
 - ~~(b) If the council determines the training is not equivalent, the officer must successfully complete the advanced course.~~
- (32) Shall have:
 - (a) completed a professional development course, usually ten weeks or more in length, such as the FBI national academy course, northwestern university traffic institute management course, the southern police institute management course, and or others that are recognized by the POST advisory council; or, with the approval of the agency administrator;
 - ~~(ab) Completed one two 40-hour special courses and the any 40-hour advanced legal training school conducted by MLEA; or~~
 - ~~(b) Complete two 40-hour special courses within a 24-month cycle and~~

~~(e) Any applicant for the advanced certificate who has completed the requirements of either subsection (3)(a) or (3)(b) after October 26, 1984, has met the advanced course requirements.~~

~~(4) Shall have completed at least 8 years service with a law enforcement agency, except for holders of college degrees.~~

(5) Shall have acquired the following points related to combinations of education, training and experience:

(a) through (e) remain the same.

AUTH: 44-4-301, MCA.

IMP: 44-4-301, MCA.

23.14.408 REQUIREMENTS FOR THE SUPERVISORY CERTIFICATE In addition to ARM 23.14.403 and 23.14.404 above, the following are required for the award of the supervisory certificate:

(1) through (3) remain the same.

(4) Peace officers with out-of-state experience and training at the supervisory level who and are employed at that level by Montana law enforcement agencies are eligible if they:

(a) remains the same.

(b) If the council determines the training to be equivalent to the supervisory course, the officer must successfully complete an equivalency test, approved by the council and administered by MLEA by achieving accumulative score of 75% or more. ~~Those who pass the equivalency test must successfully complete the legal training school at MLEA before they are eligible for the certificate.~~ The council will require those who fail the equivalency test to successfully complete the supervisory course and the legal training school at MLEA.

(5) remains the same.

AUTH: 44-4-301, MCA.

IMP: 44-4-301, MCA.

23.14.411 PURPOSE OF CERTIFICATES AND AWARDS

(1) remains the same.

(2) Certificates and awards remain the property of the board of crime control and the board shall have the power to cancel or suspend ~~recall~~ any certificate or award upon due cause determined by the board.

(3) Basic, intermediate, advanced, supervisory, command, and administrative and other certificates are established for the purpose of fostering professionalization, education, and experience necessary to perform adequately the duties of the law enforcement service.

AUTH: 44-4-301, MCA.

IMP: 44-4-301, MCA.

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

(a) and (b) remain the same.

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

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

(ii) through (iv) remain the same.

(v) on-site inspection of any facility utilized by the academy or by any sponsoring agency may be conducted by the staff of the POST advisory council according to the above requirements and those contained in the POST-10(73) inspection form for law enforcement training facilities. When the council staff does not conduct the inspection, the academy administrator shall file an inspection form with the council at the time of filing the reports required at the completion of the course. The course coordinator of the sponsoring agency will file the form with the academy administrator at the completion of regional courses sponsored by the agency.

(1)(d) and (e) remain the same.

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

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

(2) For the purposes of ARM 23.14.412, 23.14.413 and 23.14.419, the following definitions are used:

(a) remains the same.

(b) ~~On-the-job~~field training is instruction, training or skill practice rendered to an officer by another officer or officers on a tutorial basis during a tour of duty while performing the normal activities of that officer's employment.

(c) In-service training is training provided within a law enforcement agency ~~of less than 15 hours duration that is~~ utilized to review and develop the skills and knowledge, and is primarily unique to specific agency needs, for those officers in need of retraining.

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

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

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

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

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

~~(b) Such courses must meet the definition of specialized courses;~~

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

~~(ec) The courses must be presented on consecutive days of not less than six hours a day and the last day may not be less than three hours at least 2 hours or more in length; and~~

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

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

(a) Any law enforcement agency requesting certification of a regional training course that is not administered by the law enforcement academy must notify the law enforcement academy administrator not less than 35 days before the commencement of the course. There shall be no retroactive certification of any agency sponsored regional training programs;

(6) (b) and (c) remain the same.

(d) The course must;

(i) meet the requirements of ARM this rule, 23.14.412, and 23.14.413, and 23.14.419;

(ii) ~~meet~~ the requirements for training facilities of subsection (1) (c) above;

~~(iii) the course must be a minimum of 15 hours, must be presented on consecutive days of not less than six hours a day and the last day may not be less than three hours, at least 2 hours in length;~~

~~(iii) meet the requirements for instructors of ARM 23.14.419;~~

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

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

(ef) A qualified course coordinator will be assigned by the academy administrator to coordinate and administer the course;

(eg) The course coordinator shall be responsible for monitoring the standards for training, trainee attendance and performance, instructor performance, and, within 10 days of completion of the course, submit to the academy administrator a completed student application on an appropriate POST form 12-79; ~~green copy~~ the final course grade, and firearms qualification score (when applicable) of each trainee attending the course;

(eh) ~~All~~ No costs and or expenses associated with the course shall ~~not~~ be assessed to the law enforcement academy; and

~~(hi) The course must be a specialized training course as defined in these rules, and Attendance records shall be retained by the academy. Master copies of each examination given shall be~~

retained by the academy for at least one year after the completion of the course.

~~(1) The sponsoring law enforcement agency shall be responsible for maintaining attendance records and master copies of each examination given for at least three years after the completion of the course.~~

(7) Requirements for course coordinator:

~~(a) Must be a certified instructor;~~

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

(eb) Must have ~~the respect~~ a reputation for fairness, honesty, moral character and objectivity amongst his or her peers;

(dc) Must be qualified and appointed by the law enforcement academy administrator with the consent of the POST advisory council; and

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

(8) remains the same.

AUTH: 44-4-301, MCA. IMP: 7-32-303 and 7-32-4112, MCA.

23.14.413 CERTIFICATION REQUIREMENTS FOR TRAINEE ATTENDANCE AND PERFORMANCE (1) remains the same.

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

(3) remains the same.

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

(5) remains the same.

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

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

(8) and (9) remain the same.

(10) The maximum number of trainees for the basic course shall be ~~4032, unless otherwise approved by the POST council.~~ The maximum number of trainees for any regional training course shall be ~~60 and the minimum number of trainees shall be 10.~~

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

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

(13) remains the same.

AUTH: 44-4-401, MCA. IMP: 7-32-303 and 7-32-4112, MCA.

23.14.415 CODE OF ETHICS (1) and (2) remain the same.

(3) The law enforcement code of ethics: (a) A police officer acts as an official representative of government who is required and trusted to work within the law. The officer's powers and duties are conferred by statute. The fundamental duties of a police officer include serving the community, safeguarding lives and property, protecting the innocent, keeping the peace, and ensuring the rights of all to liberty, equality and justice. As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard the lives and property, to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the constitutional rights of all men to liberty, equality and justice.

(4)(b) A police officer shall perform all duties impartially, without favor or affection or ill will and without regard to status, sex, race, religion, political belief or aspiration. All citizens will be treated equally with courtesy, consideration and dignity. Officers will never allow personal feelings, animosities or friendships to influence official conduct. Laws will be enforced appropriately and courteously and in carrying out their responsibilities, officers will strive to obtain maximum cooperation from the public. They will conduct themselves in appearance and deportment in such a manner as to inspire confidence and respect for the position of public trust they hold. I will keep my private life unswayed as an example to all; maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

(5)(c) A police officer will use responsibly the discretion vested in the position and exercise it within the law. The principle of reasonableness will guide the officer's determinations and the officer will consider all surrounding circumstances in determining whether any legal action shall be taken.

Consistent and wise use of discretion, based on professional policing competence, will do much to preserve good relationships and retain the confidence of the public. There can be difficulty in choosing between conflicting courses of action. It is important to remember that a timely word of advice rather than arrest - which

may be correct in appropriate circumstances - can be a more effective means of achieving a desired end. I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

(6)(d) A police officer will never employ unnecessary force or violence and will use only such force in the discharge of duty as is reasonable in all circumstances. Force should be used only with the greatest restraint and only after discussion, negotiation and persuasion have been found to be inappropriate or ineffective. While the use of force is occasionally unavoidable, every police officer will refrain from applying the unnecessary infliction of pain or suffering and will never engage in cruel, degrading, or inhuman treatment of any person. I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God and my chosen profession...law enforcement.

(e) Whatever a police officer sees, hears, or learns of, which is of a confidential nature, will be kept secret unless the performance of duty or legal provision requires otherwise. Members of the public have a right to security and privacy, and information obtained about them must not be improperly divulged.

(f) A police officer will not engage in acts of corruption or bribery, nor will an office condone such acts by other police officers. The public demands that the integrity of police officers be above reproach. Police officers must avoid any conduct that might compromise integrity and thus undercut the public confidence in a law enforcement agency. Officers will refuse to accept any gifts, presents, subscriptions, favors, gratuities, or promises that could be interpreted as seeking to cause the officer to refrain from performing official responsibilities honestly and within the law. Police officers must not receive private or special advantage from their official status. Respect from the public cannot be bought; it can only be earned and cultivated.

(g) Police officers will cooperate with all legally authorized agencies and their representatives in the pursuit of justice. An officer or agency may be one among many organizations that may provide law enforcement services to a jurisdiction. It is imperative that a police officer assist colleagues fully and completely with respect and consideration at all times.

(h) Police officers will be responsible for their own standard of professional performance and will take every reasonable opportunity to enhance and improve their level of knowledge and competence. Through study and experience, a police officer can acquire the high level of knowledge and competence that is essential for the efficient and effective performance of duty. The acquisition of knowledge is a never-ending process of personal and professional development that should be pursued constantly.

(i) Police officers will behave in a manner that does not bring discredit to their agencies or themselves. A police officer's character and conduct while off duty must always be exemplary, maintaining a position of respect in the community in which he or she lives and serves. The officer's personal behavior must be beyond reproach.

AUTH: 44-4-301, MCA.

IMP: 44-4-301, MCA.

23.14.416 THE BASIC COURSE (1) The amount of training for which certification will be granted in the basic peace officer's course shall be not less than 480 hours of instruction.

(2) Students in a basic peace officer's course shall be required to complete instruction in the following minimum prescribed subject areas at a training school certified to present the course:

- (a) Administrative, assessment, graduation - 30 hours
- (b) Law - 72 hours
- (c) Police function and human behavior - 35 hours
- (d) Patrol - 70 hours
- (e) Investigations - 80 hours
- (f) Traffic - 45 hours
- (g) Police proficiencies - 100 hours
- (h) First responder - 48 hours

(3) The POST advisory council shall annually review the curriculum for the basic peace officer's course by examining and approving performance objectives which have been established for each designated training block within these minimum prescribed subject areas.

(4) The council may approve changes from the course content established at the last annual review upon written application from a director of a training school certified to present the course providing evidence that such change is compatible with the public interest. The amount of training for which certification will be granted in the basic course shall be not less than 330 hours of instruction.

(2) Requirement Successful completion of not less than 330 hours of instruction in the following minimum prescribed subject areas at a training school certified to present the basic course:

- (a) Introduction to law enforcement and police ethics - 4 hours
- (b) Criminal law, procedures and liability - 37.5 hours
- (c) Crime scene protection, processing, evidence preparation and handling - 52 hours
- (d) Case preparation, courtroom procedure and moot court - 16 hours
- (e) Patrol procedures - 62 hours
- (f) Traffic - 16 hours
- (g) Juvenile procedures - 4 hours
- (h) Defensive tactics - 12 hours
- (i) Human behavior and abnormal behavior - 10 hours
- (j) Interpersonal communications and interviewing techniques - 9.5 hours
- (k) Threat response - 12 hours

- ~~(1) Firearms safety, fundamentals, maintenance and practical~~
~~46 hours~~
- ~~(m) Written examinations and graduation 6 hours~~
- ~~(3) Course change: The council may approve changes from the~~
~~course content listed in this specification upon written~~
~~application from the school director presenting evidence that such~~
~~change is compatible with the public interest.~~

AUTH: 44-4-301, MCA.

IMP:

44-4-301, MCA.

23.14.419 INSTRUCTOR CERTIFICATION REQUIREMENTS (1) and

(2) remain the same.

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

(a) remains the same.

(b) A bachelor's degree; a higher degree; or lacking an academic degree, applicant must have a minimum of a high school diploma or the GED equivalency stated in section 7-32-303 (2)(f) MCA, and must have successfully completed an 40-hour minimum instructor's development course of council approved classroom instruction, approved by the POST council.

(c) Be of good moral character; Meet the requirements of 7-32-303 (2)(a), (5)(d), and (5)(e) MCA;

(d) remains the same.

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

(f) remains the same.

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

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

(6) and (7) remain the same.

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

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

shall be required to apply for original certification after that time or the council may deny a request to renew the certificate.

(10) through (15) remain the same.

AUTH: 44-4-301, MCA.

IMP: 44-4-301, MCA.

4. The rules proposed to be repealed are ARM 23.14.417 and 23.14.418. These rules may be found on pages 23-427 and 23-428 of the Administrative Rules of Montana.

5. The Department believes that the proposed rules I through XI are necessary to effectuate section 44-4-301(2)(b), MCA, (ch. 437, 11. 1993). That statute gives the Montana Board of Crime Control authority to "develop procedures for revoking or suspending the certification" of public safety officers. The department believes that it is necessary to amend ARM 23.14.401, 23.14.404 through 23.14.408, 23.14.411 through 23.14.413, 23.14.415, 23.14.416, and 23.14.419, and to repeal ARM 23.14.417 and 23.14.418 in order to bring the rules into conformance with the recommendations of the POST advisory council.

6. Interested parties may submit their written data, views, or arguments concerning the proposed rules to the P.O.S.T. Council, Board of Crime Control, 303 North Roberts, Helena, Montana, 59620, not later than May 14, 1994.

7. If a person who is directly affected by the proposed adoption wishes to submit his data, or express views and arguments orally or in writing at a public hearing, he must make a written request for a hearing and submit this request, along with any written comments he has, to the P.O.S.T. Council, Board of Crime Control, 303 North Roberts, Helena, Montana, 59620, no later than May 14, 1994.

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

BOARD OF CRIME CONTROL

Edwin L. Hall

EDWIN L. HALL, Executive Director

Certified to the Secretary of State.

4/4/94

Chris D. Switzer

Rule Reviewer

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PUBLIC HEARING
amendment of Montana's	)	ON PROPOSED AMENDMENTS OF
prevailing wage rates,	)	PREVAILING WAGE RATES-
pursuant to Rule 24.16.9007	)	BUILDING CONSTRUCTION

TO ALL INTERESTED PERSONS:

1. On May 6, 1994, at 10:00 a.m., a public hearing will be held in room 104 of the Walt Sullivan Building (Department of Labor and Industry Building), 1327 Lockey, Helena, Montana, to consider proposed amendments to the prevailing wage rate rule, ARM 24.26.9007. There are two aspects to the proposed changes; first, the Department proposes to incorporate by reference the 1994 building construction rates, and second, the Department proposes minor changes in the rule to identify which bureau will maintain copies of the rate publication.

The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the Department by not later than 5:00 p.m., May 2, 1994, to advise us of the nature of the accommodation that you need. Please contact the Research and Analysis Bureau, Unemployment Insurance Division, Attn: Ms. Kate Kahle, P.O. Box 1728, Helena, MT 59624-1728; telephone (406) 444-3239; TDD (406) 444-0532; fax (406) 444-2638.

2. The Department hereby proposes to adopt and incorporate by reference the "State of Montana Prevailing Wage Rates-Building Construction" which sets forth the building construction prevailing wage rates. A copy of the proposed prevailing wage rates may be obtained from Kate Kahle, Research and Analysis Bureau, Unemployment Insurance Division, Department of Labor and Industry, P.O. Box 1728, Helena, Montana 59624.

AUTH: 18-2-431 MCA;
IMP: 18-2-402 MCA.

Reason: Pursuant to 18-2-402 and 18-2-411(b)(5), MCA, the Department is updating the standard prevailing wages for building construction. Prevailing wage rates are established for each wage rate district in the state. The Department updates the prevailing wages for building construction occupations every two years. Prevailing wages for building construction were last updated in 1992. Use of prevailing wage rates is required in public contracts by 18-2-422, MCA.

3. The Department of Labor and Industry also proposes to amend the rule as follows: (new matter underlined, deleted matter interlined)

24-16-9007 ADOPTION OF STANDARD PREVAILING RATE OF WAGES

(1) Remains the same.

(2) The commissioner maintains a mailing list of interested persons and agencies. A copy of any notice, proposed rate of wages, adopted rates, wages or other information are distributed to each addressee. All others may obtain a copy or be included on the mailing list upon request ~~delivered~~ to the ~~Administrator~~ Labor Standards Bureau, Employment Relations Division, Department of Labor and Industry, P.O. Box 1728, Helena, MT 59624. Copies of adopted wage rates are available at reproduction cost for a period of five years following their effective date.

(3) The standard prevailing rates of wages, are hereby adopted and incorporated by reference. Copies of the rates are available upon request from the Labor Standards Bureau, Employment Relations Division, Department of Labor and Industry, ~~Corner of Leakey and Roberts~~ 1805 Prospect Avenue, P.O. Box 1728, Helena, MT 59624, (406) 444-5600.

AUTH: 18-2-431 MCA;

IMP: 18-2-402 MCA.

Reason: Due to recent Departmental reorganization, the Labor Standards Bureau is now responsible for keeping the rate publications. A corrected street address is also proposed to enable the public to find the right location of the Labor Standards Bureau.

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


Kate Kahle
Research and Analysis Bureau
Unemployment Insurance Division
Department of Labor and Industry
P.O. Box 1728
Helena, Montana 59624-1728

so that they are received by not later than 5:00 p.m., May 13, 1994.

5. The Department proposes to make these amendments effective July 1, 1994.

6. The Hearings Unit of the Legal Services Division, Department of Labor and Industry, has been designated to preside over and conduct the hearing.


David A. Scott
Rule Reviewer


Laurie Ekanger, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State: April 4, 1994

BEFORE THE BOARD OF LAND COMMISSIONERS
AND THE DEPARTMENT OF STATE LANDS
OF THE STATE OF MONTANA

In the matter of the amendment)
of Rules ARM 26.4.201,)
26.4.202, 26.4.204, 26.4.205,) NOTICE OF PROPOSED AMENDMENT,
26.4.206 and 26.4.207; repeal) REPEAL, AND ADOPTION
of Rule ARM 26.4.203; and)
adoption of Rules I through V) NO PUBLIC HEARING CONTEMPLATED
implementing the Opencut Mining)
Act.)

TO: All Interested Persons

1. On June 27, 1994, the Board of Land Commissioners and the Department of State Lands propose to amend Rules ARM 26.4.201 through 202 and 26.4.204 through 207 implementing the Opencut Mining Act; to repeal Rule ARM 26.4.203 providing the contents for an application for a mined land reclamation contract; and to adopt new Rules I through V in place of repealed Rule ARM 26.4.203.

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

26.4.201 APPLICABILITY (1) Pursuant to section 82-4-231 of This subchapter applies to opencut mining operations as provided in the "Opencut Mining Act" (Part 4 Title 82, Chapter 4, Title 82 Part 4, MCA, hereinafter referred to as "the act"), an operator conducting opencut mining operations for sand, gravel, bentonite, clay, scoria or phosphate rock which shall result in the removal of 10,000 cubic yards or more, of product or overburden; or, any operator conducting a number of operations each of which results in the removal of less than 10,000 cubic yards of product or overburden but which totally yield 10,000 cubic yards; or more, of product or overburden, is required to obtain a contract from the state board of land commissioners, unless an operator is specifically exempted from the provisions of the rule by subsection (3).

(2) Those underground/Underground phosphate mine operators operations shall obtain a reclamation contract to insure reclamation of the aboveground-above-ground associated disturbance.

(3) Those operators currently conducting sand, gravel, bentonite, clay, scoria or phosphate rock mining operations pursuant to the provisions of a reclamation contract issued under the "Montana Opencut or Strip Mined Land Reclamation Act" of 1971 are recognized as being in compliance with Montana law. However, should the operator begin new operations as defined above in 82-4-431, MCA, or desire to expand operations beyond the existing contract area, he shall be responsible for obtaining a new contract under the provisions of the "Opencut Mining Act," act as amended.

(4) Under certain conditions specified in 82-4-431, MCA, an operator may remove up to 1,000 cubic yards of mineral and overburden without first obtaining a contract or amendment. In addition to the requirements stated in 82-4-431, MCA:

(a) The operator shall revegetate the affected land with a seed mixture containing,

24-16-9007 ADOPTION OF STANDARD PREVAILING RATE OF WAGES

(1) Remains the same.

(2) The commissioner maintains a mailing list of interested persons and agencies. A copy of any notice, proposed rate of wages, adopted rates, wages or other information are distributed to each addressee. All others may obtain a copy or be included on the mailing list upon request delivered to the ~~Administrator~~ Labor Standards Bureau, Employment Relations Division, Department of Labor and Industry, P.O. Box 1728, Helena, MT 59624. Copies of adopted wage rates are available at reproduction cost for a period of five years following their effective date.

(3) The standard prevailing rates of wages, are hereby adopted and incorporated by reference. Copies of the rates are available upon request from the Labor Standards Bureau, Employment Relations Division, Department of Labor and Industry, ~~Corner of Lockey and Roberts~~ 1805 Prospect Avenue, P.O. Box 1728, Helena, MT 59624, (406) 444-5600.

AUTH: 18-2-431 MCA;

IMP: 18-2-402 MCA.

Reason: Due to recent Departmental reorganization, the Labor Standards Bureau is now responsible for keeping the rate publications. A corrected street address is also proposed to enable the public to find the right location of the Labor Standards Bureau.

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

Kate Kahle
Research and Analysis Bureau
Unemployment Insurance Division
Department of Labor and Industry
P.O. Box 1728
Helena, Montana 59624-1728

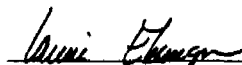
so that they are received by not later than 5:00 p.m., May 13, 1994.

5. The Department proposes to make these amendments effective July 1, 1994.

6. The Hearings Unit of the Legal Services Division, Department of Labor and Industry, has been designated to preside over and conduct the hearing.



David A. Scott
Rule Reviewer



Laurie Ekanger, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State: April 4, 1994

BEFORE THE BOARD OF LAND COMMISSIONERS
AND THE DEPARTMENT OF STATE LANDS
OF THE STATE OF MONTANA

In the matter of the amendment)
of Rules ARM 26.4.201,)
26.4.202, 26.4.204, 26.4.205,) NOTICE OF PROPOSED AMENDMENT,
26.4.206 and 26.4.207; repeal) REPEAL, AND ADOPTION
of Rule ARM 26.4.203; and)
adoption of Rules I through V) NO PUBLIC HEARING CONTEMPLATED
implementing the Opencut Mining)
Act.)

TO: All Interested Persons

1. On June 27, 1994, the Board of Land Commissioners and the Department of State Lands propose to amend Rules ARM 26.4.201 through 202 and 26.4.204 through 207 implementing the Opencut Mining Act; to repeal Rule ARM 26.4.203 providing the contents for an application for a mined land reclamation contract; and to adopt new Rules I through V in place of repealed Rule ARM 26.4.203.

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

26.4.201 APPLICABILITY (1) Pursuant to section 82-4-231 of This subchapter applies to opencut mining operations as provided in the "Opencut Mining Act" (Part 4 Title 82, Chapter 4, Title 82 Part 4, MCA, hereinafter referred to as "the act"), an operator conducting opencut mining operations for sand, gravel, bentonite, clay, scoria or phosphate rock which shall result in the removal of 10,000 cubic yards or more, of product or overburden; or, any operator conducting a number of operations each of which results in the removal of less than 10,000 cubic yards of product or overburden but which totally yield 10,000 cubic yards, or more, of product of overburden, is required to obtain a contract from the state board of land commissioners, unless an operator is specifically exempted from the provisions of the rule by subsection (3).

(2) Those underground/Underground phosphate mine operators operations shall obtain a reclamation contract to insure reclamation of the aboveground-above-ground associated disturbance.

(3) Those operators currently conducting sand, gravel, bentonite, clay, scoria or phosphate rock mining operations pursuant to the provisions of a reclamation contract issued under the "Montana Opencut or Strip Mined Land Reclamation Act" of 1971 are recognized as being in compliance with Montana law. However, should the operator begin new operations as defined above in 82-4-431, MCA, or desire to expand operations beyond the existing contract area, he shall be responsible for obtaining a new contract under the provisions of the "Opencut Mining Act," act as amended.

(4) Under certain conditions specified in 82-4-431, MCA, an operator may remove up to 1,000 cubic yards of mineral and overburden without first obtaining a contract or amendment. In addition to the requirements stated in 82-4-431, MCA:

(a) The operator shall revegetate the affected land with a seed mixture containing,

at a minimum, three different grass species, each of which shall be adapted to the climate, soil, and postmining land use of the affected area; or by using other methods and types of establishment approved by the department; and

(b) the operator shall control noxious weeds as specified in the respective district weed management plan.

AUTH: 82-4-422, MCA; IMP: 82-4-431, MCA.

26.4.202 DEFINITIONS When used in any rule or regulation adopted pursuant to the provisions of the act, the term "department" means the department of state lands ~~this subchapter, unless a different meaning clearly appears from the context.~~

(1) "Department" means the department of state lands provided for in Title 2, Chapter 15, part 32. MCA;

(2) "Contiguous" and "nearby" mean within 1,000 feet.

AUTH: 82-4-422, MCA; IMP: 82-4-422, 403, MCA.

26.4.204 APPROVAL OR DISAPPROVAL OF AN APPLICATION FOR A CONTRACT (1) Upon receipt of an application for a mined land reclamation contract and within the time limits provided in 82-4-434, MCA, the department shall conduct a detailed examination of the operator's application to determine if the requirements of the act, and ~~this subchapter the rules and regulations adopted pursuant thereto, will~~ shall be satisfied. The department shall report its findings to the commission pursuant to the time limitations imposed by section 82-4-434(1). After receiving the department's report, the ~~commission~~ The department shall approve the application and enter into a contract with the operator if it determines that the fee, bond or security, and the detailed mining and reclamation plan will satisfy the requirements of the act and ~~this subchapter the rules and regulations adopted pursuant thereto.~~ If, however, the ~~department~~ commission determines that the mining or reclamation of an area for which an application has been submitted cannot be carried out in accordance with the provisions of the act; and ~~this subchapter the rules and regulations adopted pursuant thereto, or if the department is not able to make such a determination because weather or other conditions on site do not permit an appropriate on-site evaluation, then the application shall be disapproved, not be approved and a contract to mine shall not be issued. No person may commence a mining operation which is subject to the provisions of the act, or the rules and regulations adopted pursuant thereto, without first obtaining a contract from the commission.~~

(2) ~~Plans to create a shallow pond as part of a reclamation plan must be approved by the department. A shallow pond may be allowed in remote areas where creation of waterfowl is to be the reclaimed use. A pond may also be created for other beneficial uses if the landowner and/or government agency desires and approves the creation of such pond.~~

(3) ~~(2) No excavations will be allowed. The department may not approve any application involving excavations on any river or live stream channels, in confined drainages, or on floodways at locations likely to cause detrimental erosion or offer a new channel to the river or stream at times of flooding except that such excavations may be allowed when necessary to protect or promote the health, safety, or welfare of the people.~~

(4) ~~(3) Before approving an operator's application for a contract, a copy of the reclamation plan shall be submitted to the chairman of the Department of Anthropology at the University of Montana at Missoula for comment; the department shall submit a copy of~~

the mining and reclamation plan to the director of the university of Montana statewide archaeological survey for evaluation of possible archaeological or historical values in the area to be mined, as required by 82-4-434, MCA. If the site is likely to contain significant archaeological or historical artifacts, then the commission department may require that the company operator sponsor an archaeological survey by a representative of the State Archaeological Survey or by other competent professional authorities prior to approving the application.

(5)(4) If the site is likely to contain critical fish and wildlife use areas, the department may require a fish and wildlife survey covering all seasons of wildlife use. This survey report, when submitted, shall include a complete presentation of all field data, identification of the data source and a detailed description of the methodology used to gather the data.

(6)(5) Issuance of a contract pursuant to the provisions of the act imposes upon an operator the duty to comply with all rules promulgated by the commission under the act. All mined land reclamation contracts must provide that the operator shall comply with all requirements of the Opencut Mining Act and rules adopted thereunder.

AUTH: 82-4-422, MCA; IMP: 82-4-423, 431, 434, MCA.

26.4.205 AMENDMENT AND REVISION OF CONTRACTS (1) An operator conducting a mining operation under the provisions of a contract issued pursuant to the act may seek an amendment to either the bond and security portions of the contract, or the mining and reclamation plan, by filing a request for an amendment with the department.

(2) The bond and security portion of an existing contract may be amended only pursuant to the provisions of section 82-4-432, 82-4-433, MCA, or [Rule 11 and ARM 26.4.203(a)(i) of the rules and regulations adopted pursuant thereto.

(3) The reclamation plan in an existing contract can only be amended pursuant to the provisions of section 82-4-434, MCA. A request for an extension of time to complete a mining and reclamation plan shall be considered a request for an amendment to an existing contract.

(4) Regardless of the portion of a contract for which an amendment is sought, no amendment becomes operative until approved by the commission department. Once approved by the commission department, however, an amendment becomes a part of the original contract.

(5) An amendment approved by the commission department pursuant to the provisions of ARM 26.4.205(1) this rule does not require the payment of an additional fee.

AUTH: 82-4-422, MCA; IMP: 82-4-432, 433, 434, MCA.

26.4.206 ANNUAL PROGRESS REPORT (1) Every operator issued a contract pursuant to the provisions of the act shall file a progress report within 60 days of the contract annual anniversary date with the department on a form furnished by the department. In addition, the department may request the submission of new maps. All maps submitted pursuant to this rule shall show:

- (a) the area to be mined in the next 12 months;
- (b) the location of new haul and access roads;
- (c) the area affected during the preceding year's operation;
- (d) the areas previously mined that have been reclaimed; and
- (e) the location of haul and access roads that have been regraded and seeded, or

authorized for future use:

(2) If any additional bond or surety is required pursuant to section 82-4-423(2) and ARM 26.4-203 of the rules and regulations adopted pursuant thereto, such additional security shall be submitted with the annual progress report.

(1) Every operator holding a reclamation contract pursuant to the act must submit an annual progress report to the department between January 15 and March 15 of each year.

(2) The annual progress report must be made on the form provided by the department and must provide the information required by the department for each mine site operated or reclaimed during the calendar year.

(3) Updated maps must be submitted when the most current map on file with the department for a site no longer accurately represents on-the-ground conditions at the site. Updated maps must show:

- (a) the features required by [Rule, I.];
- (b) the areas mined to date;
- (c) the areas reclaimed to date; and
- (d) any other features deemed necessary by the department.

AUTH: 82-4-422, MCA; IMP: 82-4-434, MCA.

26.4.207 PENALTIES (1) Any person who commences or conducts a mining operation or operations which are subject to the provisions of section 82-4-431, and ARM 26.4-201 of the rules and regulations adopted pursuant thereto, shall be subject to the penalty provisions of section 13 of the act if such operation or operations are commenced or conducted without first obtaining a contract from the commission.

(2) Any person who fails to complete a reclamation plan in compliance with the terms of an approved plan; or in the time specified by an approved plan; shall be subject to the penalty provisions of section 82-4-434(3)

In determining the amount of the civil penalty, or whether to waive such penalty, for a violation of the act, of this subchapter, or of the provisions of a reclamation contract as provided in 82-4-441, MCA, the department shall consider the following factors:

(a) the number of similar violations by that operator during the 3-year period prior to the violation;

(b) the degree of seriousness of the violation including:

(i) whether the violation caused a situation where the public health, public safety, or environment has been adversely affected or is likely to be adversely affected in the future;

(ii) whether the specific provisions of the act, this subchapter, or reclamation contract that was violated is intended to prevent such adverse effect;

(iii) whether the violation will significantly alter or hinder reclamation or the approved postmining land use; and

(iv) whether the violation impaired the administration of the act;

(c) the degree of negligence involved in the violation including whether the requirement is obvious or was called to the attention of the operator prior to the violation, or whether the violation was inadvertent or unavoidable or resulted from an emergency situation; and

(d) the degree of good faith shown by the operator in rectifying the violation.

AUTH: 82-4-422, MCA; IMP: 82-4-441, MCA.

2. Rule ARM 26.4.203, the rule proposed to be repealed, is on pages 26-415 through 26-419 of the Administrative Rules of Montana (ARM).
AUTH: 82-4-422, MCA; IMP: 82-4-432, MCA.

3. Proposed new Rules I through V replace repealed rule ARM 26.4.203 and provide as follows:

RULE I BOND OR OTHER SECURITY (1) An application for a contract must be accompanied by a bond or other form of security acceptable to the department under 82-4-433, MCA, of at least \$200.00 for each acre of affected land as defined in 82-4-403, MCA. After the department has evaluated the site it may increase the amount of bond in accordance with 82-4-433, MCA.

(2) The department may adjust bonding levels yearly. Should the department determine that additional bond or other securities are required, the operator must submit such additional security within 30 days of notification by the department.

(3) If the bond, letter of credit, or other form of security is cancelled or otherwise becomes ineffective, the operator must reinstate such bond or replace such bond or security with other bond, letter of credit, or other form of security acceptable to the department under 82-4-433, MCA, within 30 days after notification. Upon failure of the operator to reinstate or replace such bond or other security within that time, the department may suspend the reclamation contract(s) secured by such bond or other security until reinstatement or replacement of the bond or other security has been made. The operator shall cease all opencut mining operations on lands covered by a reclamation contract which has been suspended.

(4) Any requests for full or partial release of bond or other reclamation security must be submitted on forms provided by the department and may be submitted along with the annual progress report.

AUTH: 82-4-422, MCA; IMP: 82-4-432, 433, MCA.

RULE II SITE INFORMATION (1) An application for a contract must be accompanied by a map or maps showing the following:

- (a) the areas where mineral extraction will occur;
- (b) topographic features on and contiguous to the proposed mine site;
- (c) the boundaries of the areas included in the proposed reclamation contract;
- (d) all pre-existing disturbances;
- (e) natural drainageways, ponds, marshes, ditches, streams, rivers, springs, wells, and proposed diversion and water containment structures;
- (f) all permanent man-made features such as roads, buildings, fences, and utility lines;
- (g) any existing and proposed access, haul, and support roads, including the authorized access from, and location of, the nearest public road;
- (h) existing and proposed soil and overburden stockpiles;
- (i) the proposed disposal site(s) for refuse, reject fines, oversize material, road surfacing materials, and excess overburden;
- (j) existing and proposed mineral stockpiles; and
- (k) existing and proposed processing facilities and staging areas.

(2) Each map must also include the legal description, a north arrow, scale or dimensions, and the date of drafting.

(3) In addition to such maps, an application for a contract must be accompanied by a narrative describing the pre-mining conditions at, and contiguous to, the proposed mine site, including the following:

- (a) a description of the topography and site location;
- (b) the present land use and past mining disturbances;
- (c) the estimated depth to the water table at seasonal high and low water table conditions;
- (d) a description of any surface water features or wells;
- (e) the types and thickness of soil and overburden to be disturbed;
- (f) the dominant vegetation;
- (g) any significant use by wildlife; and
- (h) any additional information requested by the department pertinent to a specific operation.

(4) The department may require the operator to provide a standard soil survey of the proposed mine site.

AUTH: 82-4-422, MCA; IMP: 82-4-432, 434, MCA.

RULE III MINING AND RECLAMATION PLAN (1) An application for a contract must be accompanied by a mining and reclamation plan conforming to the requirements of 82-4-434, MCA, and including the additional requirements provided in this rule.

(2) The plan must designate one or more specific postmining land uses in conformity with 82-4-434, MCA, and include a statement by the local governing body having jurisdiction over the area to be mined that such uses are compatible with local zoning requirements, if any.

(3) The plan must contain a statement of the depths of soil and overburden materials to be salvaged and a description of the method(s) to be used in doing so which provides:

- (a) that all available soil material will be stripped at least 10 feet from the edge of any area that will be mined, excavated, sloped, or used as a permanent disposal site; and
- (b) that all available soil material, but not more than 6 inches, will be stripped from all stockpile areas, all processing facility areas, all staging areas, and locations of all new access and support roads.

(4) The plan must contain a statement that soil materials will be salvaged and stockpiled separately from overburden and either hauled directly to graded or prepared areas, or stockpiled where they will be neither lost to erosion nor disturbed by mining activity; and, where the approved postmining land use does not require soil, a statement that soil stockpiles will nevertheless remain on site until the complete development of the approved postmining land use is assured to the satisfaction of the department.

(5) The plan must contain a statement that all access, haul, and support roads will be located, constructed, and maintained in a manner that will control erosion.

(6) If requested by the department, the plan must contain the design specifications for new road construction and significant road improvements.

(7) The plan must contain a description, including structural diagrams, of any

sediment control structures, water treatment systems, and other water structures that will be used to prevent sedimentation on adjoining lands, prevent pollution of adjoining waters, and store or direct water. Such structures and systems must be designed so as not to cause problems, such as flooding, sedimentation, or erosion, off of the contracted area, or interfere with the rights of adjoining landowners.

(8) The plan must include a statement that appropriate measures will be taken to protect surface water and groundwater from deterioration of water quality or quantity as a result of mining and reclamation activities. If requested by the department, the plan must provide for data to be furnished on water quality and quantity before, during, and after mining, and for specific measures to be taken to prevent or mitigate impacts on water quality or quantity.

(9) The plan must include a description of the anticipated postmining topography and of the backfilling, grading, and overburden replacement methods that will be used to achieve such topography. To the extent possible, the postmining topography must have surfaces that meet the following standards:

(a) Surfaces must be conducive to the postmining land uses specified in the plan.
(b) Surfaces must have a slope of 3:1 or flatter unless otherwise approved by the department except in the following cases:

(i) in sand, slopes must be 4:1 or flatter;
(ii) where the postmining land use is to be cropland or hayfields, slopes must be 5:1 or flatter;

(c) Surfaces must be at least 3 feet above the highest seasonal water table unless:
(i) otherwise approved by the department; or
(ii) the approved postmining land use includes a body of water.
(d) Surfaces must conform to the surrounding topography and drainage pattern.
(e) Surfaces must be stable and not subject to excessive erosion or mass movement.
(f) Surfaces must be graded to drain or concentrate water in a specific area.
(g) Where the postmining land use is to be cropland or hayfields, surfaces must be free of rocks that would impede harvesting of hay, grains, or other crops.

(10) The plan must include a statement that all road surfacing materials will be retrieved and properly disposed of as refuse or stockpiled; and that road locations will be graded to conform with the surrounding topography and drainage pattern, ripped, topsoiled, and seeded or planted with species approved by the department for the affected land. This requirement may be waived by the department if the plan of operation proposes that all or portions of such roads will be left for the landowner's use provided such roads would be left in a condition suitable for the intended road use.

(11) The mining and reclamation plan must include a plan for the disposal of all refuse, including trash, petroleum and other toxic or hazardous substances, reject fines, oversized material, road surfacing materials, and excess overburden that conforms to the following requirements:

(a) All material not conducive to plant growth must be buried under at least 3 feet of overburden or other material suitable for plant growth; reject fines, oversize, or excess overburden must not be placed on sideslopes or at the head of any drainageway, unless approved by the department;

(b) Solid wastes as defined in Title 75, Chapter 10, MCA, must be disposed of in accordance with that chapter; to the extent possible, refuse must not be placed where it could

be encountered by future mining operations; only those wastes generated on site by the operator may be disposed of on site unless otherwise approved by the department subject to applicable state and federal laws and regulations; and

(c) Petroleum products and other hazardous wastes, hazardous substances, and regulated substances as defined in Title 75, Chapter 10, MCA, must be disposed of at a licensed disposal site in accordance with applicable state and federal laws and regulations.

(12) The plan must contain a statement that any excess minerals left on the site will be consolidated into stockpiles of similar grade and, if possible, that such stockpiles will be placed in a common area close to a primary access point. The plan must provide that sufficient soil materials will be stockpiled adjacent to the excess mineral stockpiles for replacement on such areas. The plan must provide that these topsoil stockpiles will be shaped and seeded. The plan must provide that all reject fines remaining stockpiled will be graded to a slope of 4:1 or flatter.

(13) Where the designated postmining land use requires revegetation, the plan must include a description of overburden replacement, topsoiling, and revegetation techniques that will be used to ensure that vegetative cover will be capable of sustaining the designated postmining land use. The following items are required:

(a) a description of the method and depth of ripping of all graded and natural surfaces that have been compacted by activities associated with mining operations;

(b) a description of the method and depth of replacement of salvaged overburden and soil materials to be redistributed on affected areas; reject fines from processing operations may be used to achieve the desired depth(s) of soil material provided that such materials are not detrimental to plant or animal life;

(c) a description of the methods, types, rates, and times of application of fertilizer, other soil amendments, or both;

(d) a description of the methods of seedbed preparation;

(e) a description of the method, species, rates, and time periods to be used to seed or plant the affected land; a vegetative cover must be established and capable of sustaining the designated postmining land use; all affected areas must be drill seeded on the contour unless otherwise approved by the department; if broadcast seeding is to be used, describe the method that will be used to cover the seed;

(f) a description of the methods, types, and rates of mulch application or cover crop seeding, if any;

(g) a statement that all seed will be weed free and that noxious weeds will be controlled as specified in the respective district weed management plan, and a description of any planned weed control measures; and

(h) a description of the methods to be used, or arrangements that have been made, to protect or manage seeded or planted areas for a minimum of two growing seasons or until the new vegetation becomes established.

(14) The plan must contain a statement that reclamation will be as concurrent with mining operations as feasible, and a statement of the date upon which the final reclamation of all affected areas will be completed. Such statements must provide that all grading, replacement of soil material, and revegetation work will be completed within one year after mining and related activities have ceased on any area no longer needed for mining or related purposes. The operator may request an extension of time to complete reclamation by requesting an amendment under 82-4-434, MCA, and ARM 26.4.205.

(15) The plan must include an estimate of the costs per acre for reclamation specifying the type, time, and cost of equipment required; equipment mobilization costs; the man-hours and costs of labor required; the costs of soil amendment, seed, and fencing required; and any other costs.

(16) The plan must contain a description of the methods and materials to be used to clearly mark the centerline of all proposed access roads, and the boundary of the proposed contract area.

(17) The plan must contain a statement that proper care will be taken to prevent wildfires.

(18) The plan must contain a statement that archaeological and historical values in areas to be mined will be given appropriate protection; that should possibly significant archaeological or historical values be found, the operations will be routed around the site of discovery for a reasonable time until salvage can be made; and that the operator will promptly notify the State Historic Preservation Office.

(19) The plan must contain a statement that all persons involved in the mining and reclamation of the site will be familiar with the specifics of the plan.

AUTH: 82-4-422, MCA; IMP: 82-4-432, 434, MCA.

RULE IV LANDOWNER'S CONSENT TO RECLAMATION

(1) In order to ensure that the affected land will be reclaimed as provided in the mining and reclamation plan, the operator shall secure the agreement in writing of the owner of the land to be affected by mining to allow the operator or the department, or agents or contractors of the department, to enter and reclaim the affected land as provided in the plan.

No application for a contract shall be approved unless accompanied by such an agreement in a form approved by the department and executed by the landowner.

AUTH: 82-4-422, MCA; IMP: 82-4-422, 423, MCA.

RULE V ADDITIONAL REQUIREMENTS FOR BENTONITE MINES (1) In addition to the requirements imposed by [Rules I, II, III and IV], the department may require an operator mining bentonite to submit information described in this rule as part of the mining and reclamation plan.

(2) The department may require an analysis of the surface materials and each major stratum in the overburden, including determinations of saturation percentage, pH, electrical conductivity, sodium absorption ratio, texture, and additional analyses as required by the department. In submitting this information, the operator shall also list the number of samples taken, the method by which they were taken, the location and depths from which they were taken, the name and address of the persons who took the samples if other than the operator, the methods of analysis, and the names and addresses of those persons who analyzed the samples. The soils analyses must be accompanied by a map delineating soil types, sample site locations, depths of soils materials to be salvaged for each soil type, and the dominant vegetative species present on each soil type.

(3) The department may require a listing of the fish and wildlife species on and contiguous to the proposed mine site, relative abundance of each, and season(s) of use.

(4) The department may require a description of the final disposal of bentonite cleanings, stray bentonite seams encountered in stripping overburden, and any materials toxic to plants or animals. At a minimum, such materials must first be covered with at least three

feet of non-toxic overburden, if available, and then with salvaged soil materials where available.

(5) The department may require a description of how grading on all bentonite pits and spoil piles will be conducted. At a minimum, the grading of all bentonite pits must include backfilling the pit to the degree that, when possible, the natural drainage pattern will be maintained and all potential boggy conditions will be eliminated unless the surface landowner indicates to the department, in writing, that development of a water body is desirable and the department approves the design of such water body. If the landowner deems such a water body to be desirable, the operator shall then submit to the department a diagram showing the design of the water body. The department shall disapprove any design for a water body which creates unsafe conditions for livestock or wildlife, adversely affects any other landowner's rights, or does not reasonably assure a permanent, viable water body.

(6) The department may require a description of how mining and reclamation on a hillside will be carried out. At a minimum, all overburden removed must be deposited in such a manner that it can be placed back in the cut and final grading will return the disturbed area to as near the original topography as possible.

(7) The department may require a description of annual grasses or grains that, at the department's direction, may be used to stabilize certain disturbed areas prior to the establishment of the required cover of perennial vegetation.

(8) If the location of future bentonite excavations cannot be determined more than a year in advance, the department may require the information described in this rule to be submitted to the department yearly, 30 days prior to the anniversary date of the contract.

AUTH: 82-4-422, MCA; IMP: 82-4-432, 434, MCA.

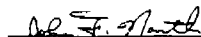
5. The rules contained in section 2 are being amended and ARM 26.4.203 is being ~~repealed~~ and replaced with new Rules I through V in order to generally revise and update the administrative rules implementing the Opencut Mining Act. This revision is necessary to implement changes to the Opencut Mining Act made by Chapter 39, Laws of 1977; Chapter 113, Laws of 1981; Chapter 138, Laws of 1983; Chapter 280, Laws of 1987; and Chapter 431, Laws of 1991. In addition, revisions are being made to update requirements in light of current reclamation practices and technology. Finally, revisions are being made to clarify and streamline the rules.

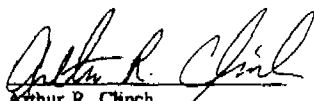
6. Interested persons may submit their data, views or arguments concerning the proposed amendments, repeal, and adoption of new rules in writing to Arthur R. Clinch, Commissioner of State Lands, P.O. Box 201601, Helena, MT 59620-1601. Any comments must be received no later than May 16, 1994.

7. If a person who is directly affected by the proposed amendment, repeal, and adoption of rules wishes to express data, views and arguments orally or in writing in a public hearing, he or she must make written request for a hearing and submit this request along with any written comments he or she has to Arthur R. Clinch, Commissioner of State Lands, P.O. Box 201601, Helena, MT 59620-1601. A written request for a public hearing on the proposed amendment, repeal, and adoption of rules from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the administrative code committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be

held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 33 persons based on 332 persons having reclamation contracts under the Opencut Mining Act.

Reviewed by:


John F. North
Chief Legal Counsel


Arthur R. Clinch
Commissioner of State Lands

Certified to the Secretary of State April 4, 1994.

BEFORE THE BOARD OF OIL AND GAS CONSERVATION
OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PUBLIC HEARING
adoption of new rules pertaining	)	ON THE PROPOSED ADOPTION
to horizontal wells and enhanced	)	OF NEW RULES PERTAINING
recovery tax incentives	)	TO HORIZONTAL WELLS AND
	)	ENHANCED RECOVERY TAX
	)	INCENTIVES

To: All Interested Persons.

1. On May 12, 1994, at the Board of Oil and Gas Conservation, 2535 St. Johns Avenue, Billings, Montana, a public hearing will be held in the Conference Room to consider the adoption of new rules pertaining to certification of horizontal wells and enhanced recovery projects for tax purposes.

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

NEW RULE I. CERTIFICATION OF HORIZONTAL WELLS (1) Upon request by the operator, the Board's staff will certify to the Department of Revenue the completion of a horizontal well. Such well must be drilled and completed in conformance with the Board's rules and any required reports, including the directional survey required under ARM 36.22.703, must be on file with the Board before the certification is made. A well that has not produced for five (5) or more years prior to its completion as a horizontal well, or a well which was permanently plugged for abandonment prior to its re-entry and completion as a horizontal well, will be considered a new horizontal well for the purpose of certification. (History: Sec. 82-11-111 MCA; AUTH: Ch. 9, Sp. L. 1993, Eff. 12-17-93; IMP, Sec. 15-23-601 and 15-36-101 MCA.)

NEW RULE II. CERTIFICATION OF ENHANCED RECOVERY PROJECTS

(1) The Board, upon application of an interested party and notice and hearing, will certify to the Department of Revenue its approval of a new or expanded enhanced recovery project. Projects requiring compulsory unitization under Mont. Code Ann. § 82-11-204, et seq. and wholly voluntary projects requested under ARM 36.22.1229 through 36.22.1234 must comply with the application, notice, and hearing requirements under the applicable rule or statute. (History: Sec. 82-11-111 MCA; AUTH: Ch. 9, Sp. L. 1993, Eff. 12-17-93; IMP, Sec. 15-23-601 and 15-36-101 MCA.)

NEW RULE III. APPLICATION - CONTENTS AND REQUIREMENTS

(1) Applications for certification and approval of secondary recovery projects and new tertiary recovery projects that comply with the requirements of Mont. Code Ann. § 82-11-204, et seq. need not file an additional application for

certification; the project will be certified upon approval by the Board. Applications for secondary recovery projects and new tertiary recovery projects following the procedure in ARM 36.22.1229 through 36.22.1234 must additionally include a map or plat showing the project boundaries and a legal description of all of the tracts to be included in the project area. Applicants for certification of tertiary projects must also describe the tertiary method(s) to be used. Applicants will be required to supply technical and economic evidence that the project is reasonably necessary to increase the ultimate recovery of oil and that the value of the estimated additional oil recovery exceeds the estimated additional cost incidental conducting such operations.

(2) Applications for approval and certification of expansion of an existing enhanced recovery project must include: (a) a map or plat of the previously approved project and the area to be affected by the proposed expansion;

(b) a description of the method or methods to be used to enhance recovery in the project area;

(c) the name(s), depths, and description of the unitized or target formation(s) and the formation(s) which are producing or have produced within the project area;

(d) the location of all oil and gas wells, input wells, dry holes, and drilling wells;

(e) the location of proposed new injection or production wells or horizontally re-completed injection or production wells and the anticipated timetable for drilling or re-completion of such wells;

(f) the proposed effective date of the project. If the project expansion involves a change in operating conditions the application must include a description of both the current operating practices and the proposed changes to be made. The applicant must demonstrate that the proposed expansion is reasonably expected to result in the recovery of oil that would not otherwise be recovered if the expansion were not performed. (History: Sec. 82-11-111 MCA; AUTH: Ch. 9, Sp. L. 1993, Eff. 12-17-93; IMP, Sec. 15-23-601 and 15-36-101 MCA.)

NEW RULE IV. DETERMINATION OF PRODUCTION DECLINE RATE

(1) Production decline rates used for calculation of incremental production from secondary and tertiary recovery projects and expanded enhanced recovery projects will be determined by the Board upon application of the operator and after notice and hearing. This determination may be made concurrently with the approval and certification of the enhanced recovery project, or at a subsequent hearing.

(2) The production decline rate for a project will be based on the primary producing mechanism(s) of the reservoir and, where applicable, the secondary recovery mechanism(s) of the project and the production history of the project. Where the production history of the project area is sufficient a decline rate will be determined by applying an exponential or hyperbolic method of analysis. If production history is not sufficient or appropriate an exponential or hyperbolic method

may be applied to an analogous project, field, or well. Conventional or numeric reservoir performance analysis methods may also be used.

(3) The applicant for a hearing will file with the Board's staff the production history data, the proposed analysis method(s), and any supporting information which the applicant intends to present at the hearing. This filing will be sufficiently in advance of the hearing to allow the staff an opportunity to review the data and methods selected in order to provide a recommendation for approval, modification, or rejection of the application to the Board.

(4) The determination of the decline rate for individual wells in primary production which have been horizontally re-completed will be done by filing a request for determination with the Board's staff. The operator may propose the method of analysis and provide data which it wishes the Board's staff to use in the determination. The staff's determination will be presented to the Board at the next available regular meeting. In the absence of a protest of the determination further evidence or testimony will not be required. (History: Sec. 82-11-111 MCA; AUTH: Ch. 9, Sp. L. 1993, Eff. 12-17-93; IMP, Sec. 15-23-601 and 15-36-101 MCA.)

NEW RULE V. FILING FEES

(1) An application for determination of the production decline rate from a new or expanded enhanced recovery project will pay a fee based upon:

(a) the number of wells which produce or have produced in the project area;

(b) the method used to analyze these data. Fees will be established at the time the request for determination is made to the Board's staff and must be paid before the rate of decline is certified to the Department of Revenue. The fee schedule will be as follows:

Projects which require review/analysis of production from:

10 or fewer producing wells	\$100.00
10 to 100 wells	\$100.00 plus \$5.00 per well over 10
over 100 wells	\$550.00 plus \$2.50 per well over 100

Methods of analysis multiplier:

To the fee determined above multiply by:

1 (no multiplier)	exponential or hyperbolic analysis of <u>project</u> data
1.5	exponential or hyperbolic analysis of <u>analog project</u>
2.0	numeric simulation or material balance/volumetric methods

For unusually complex or atypical methods or projects the staff may request that the Board establish a processing fee as

part of the approval/certification hearing for a particular project. (History: Sec. 82-11-111 MCA; AUTH: Ch. 9, Sp. L. 1993, Eff. 12-17-93; IMP, Sec. 15-23-601 and 15-36-101 MCA.)

NEW RULE VI. DEFINITIONS (1) For the purposes of this subchapter the definitions at 15-23-601, MCA, apply. (History: Sec. 82-11-111 MCA; AUTH: Ch. 9, Sp. L. 1993, Eff. 12-17-93; IMP, Sec. 15-23-601 and 15-36-101 MCA.)

3. The Board of Oil and Gas Conservation will make reasonable accommodations for persons with disabilities who wish to participate in this hearing. If you need an accommodation, contact the Board no later than 5:00 p.m., May 10, 1994, to advise of the nature of the accommodation you need. Please contact the Oil and Gas Division, ATTN: Tom Richmond, 2535 St. Johns Avenue, Billings, Montana, 59102; telephone (406) 656-0040, FAX (406) 657-1604.

4. New rules are proposed for adoption in order to provide procedural direction to those persons interested in drilling or re-completing horizontal wells or initiating new or expanded enhanced recovery projects under the tax incentive program passed by the Montana Legislature in the 1993 Special Session. The rules also provide the standards for the evaluation of applications for such projects.


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

Tom Richmond
Department of Natural Resources and Conservation
Oil and Gas Division
2535 St. Johns Avenue
Billings, Montana 59102

no later than May 16, 1994.

6. The authority of the department to make the adoption is based on Mont. Code Ann. § 82-11-111, and Ch. 9, Sp. L., effective 12-17-93; the rules implement Mont. Code Ann. §§ 15-23-601 and 15-36-101.

BOARD OF OIL AND GAS CONSERVATION


THOMAS RICHMOND, ADMINISTRATOR


DONALD D. MACINTYRE, RULE REVIEWER

Certified to Secretary of State April 4, 1994.

7-4/14/94

MAR Notice No. 36-22-54

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

In the Matter of Proposed	)	NOTICE OF PROPOSED AMENDMENT
Amendment to a Rule Pertaining)	)	OF RULE 38.2.3909
to Stenographic Recording and))	
Transcripts.	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Interested Persons

1. On May 18, 1994 the Department of Public Service Regulation proposes to amend the rule identified in the above title and described in the following paragraphs, related to stenographic recording of hearings.

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

38.2.3909 TRANSCRIPTS (1) Except as provided in (3), a full and complete record of all proceedings before the commission or hearing examiner in any hearing and all testimony shall be taken down by a reporter appointed by the commission.

(2), (a) and (b) Remain the same.

(3) Except when a stenographic record is demanded by a party pursuant to 2-4-614, MCA, in the discretion of the Commission or hearing examiner, a satellite hearing for the purpose of receiving public testimony may be recorded mechanically. For purposes of this rule a "satellite hearing" is any secondary hearing held at various points within the state for the convenience of the public and to encourage public comment and which is dependent on a primary hearing for technical evidence and argument.

AUTH: Secs. 69-1-110, 69-2-101, 69-3-103, 69-12-201, MCA; IMP, Secs. 2-4-614, 69-1-110, 69-2-101, 69-3-103 and 69-12-201, MCA

3. Rationale: This amendment is reasonably necessary to maximize cost effective public participation, encourage flexibility, and reduce agency time and costs associated with stenographic recordings (court reporters).

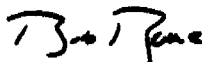
4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing (original and 10 copies) to Martin Jacobson, Public Service Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601 no later than May 18, 1994.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a public hearing and submit this request along with any written comments he has (original and 10 copies) to Martin Jacobson, Public Service Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, no later than May 18, 1994.

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

7. The authority of the agency to make rules as proposed and the statutes being implemented are set forth following the rule above.

8. The Montana Consumer Counsel, 34 West Sixth Avenue, P.O. Box 201703, Helena, Montana 59620-1703, (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.



Bob Rowe, Vice-Chairman

CERTIFIED TO THE SECRETARY OF STATE APRIL 4, 1994.


Reviewed By

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE ADOPTION) NOTICE OF THE PROPOSED
of NEW RULES I and II relating) ADOPTION of NEW RULES I and
Limited Liability Companies) II relating to Limited
) Liability Companies

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On May 26, 1994, the Department of Revenue proposes to adopt rules I and II relating to limited liability companies.
2. The rules as proposed to be adopted provide as follows:

NEW RULE I - RECOGNITION OF A LIMITED LIABILITY COMPANY

(1) The Montana Limited Liability Company Act as codified in Title 35, Chapter 8, MCA, is effective for tax periods beginning on or after October 1, 1993. The taxpayer must register as a limited liability company with the Montana secretary of state before being recognized as a limited liability company by the Montana department of revenue.

AUTH: 15-1-201 MCA; IMP: Title 35, chapter 8, MCA.

NEW RULE II - TAXATION OF A LIMITED LIABILITY COMPANY

(1) The taxation of a limited liability company in Montana depends upon its federal classification as a corporation or a partnership as determined by the Internal Revenue Service, regardless of whether an entity is recognized as a limited liability company under the Montana Limited Liability Company Act. For example, a limited liability company may be formed in Montana with one member, however, in order to be taxed as a partnership for federal purposes, and consequently for Montana purposes, the limited liability company must have at least two members. If the limited liability company is taxed as a corporation for federal tax purposes, then it must file a Montana corporation license tax return, form CLT-4, with the Natural Resource and Corporation Tax Division of the Montana Department of Revenue as provided for under Title 15, Chapter 31, MCA. If a limited liability company is treated as a partnership for federal tax purposes, then it must file a partnership return reflecting each member's share of the income/(loss), and also, the members must file Montana individual income tax returns reflecting their share of the income/(loss) of the limited liability company. These returns are to be filed with the income and miscellaneous tax division, Montana department of revenue as provided for under Title 15, Chapter 30, MCA.

(2) A copy of the limited liability company's federal return must be attached with the tax return required for Montana purposes.

AUTH: 15-1-201 MCA; IMP: Title 35, chapter 8, MCA.

3. The Department proposes New Rules I and II to specify the tax treatment of a limited liability company as recognized by the Montana Limited Liability Company Act, Title 35, Chapter 8, MCA.


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

Cleo Anderson
Department of Revenue
Office of Legal Affairs
Mitchell Building
Helena, Montana 59620

no later than May 12, 1994.

5. If a person who is directly affected by the proposed amendments wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Cleo Anderson at the above address no later than May 12, 1994.

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


CLEO ANDERSON
Rule Reviewer


MICK ROBINSON
Director of Revenue

Certified to Secretary of State April 4, 1994

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

In the matter of the	)	NOTICE OF PUBLIC HEARING ON
adoption of Rule I and the	)	THE PROPOSED ADOPTION OF
amendment of rule 46.9.606	)	RULE I AND THE AMENDMENT OF
pertaining to contractor	)	RULE 46.9.606 PERTAINING TO
allotments for community	)	CONTRACTOR ALLOTMENTS FOR
block grants	)	COMMUNITY BLOCK GRANTS

TO: All Interested Persons

1. On May 4, 1994, 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 adoption of Rule I and the amendment of rule 46.9.606 pertaining to contractor allotments for community block grants.

The Department of Social and Rehabilitation Services will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the department no later than 5:00 p.m. on April 25, 1994, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970.

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

[RULE I] TERMINATION OR REDUCTION OF ALLOTMENT (1) The allotment of a contractor who currently receives CSBG funding or who received funding in the previous program period can be terminated or reduced below the proportional share currently being received or received in the previous program period only for cause. The term "cause" includes but is not limited to:

- (a) a statewide redistribution of funds in response to:
 - (i) the results of the most recent available census or other appropriate data;
 - (ii) the establishment of a new entity eligible for funding; or
 - (iii) severe economic dislocation; or
- (b) the contractor's failure to comply with the terms of its agreement to provide services.

(2) The allotment of a contractor who currently receives CSBG funding or who received funding in the previous program period can be terminated or reduced only after the contractor has been notified and given an opportunity for a hearing on the record before the director or the director's designee. A request for a hearing from a contractor must be submitted to the department in writing within 30 days of the date of notice of

the termination or reduction. The decision of the director or the director's designee shall be subject to review by the secretary of health and human services.

(a) Upon request, the secretary shall review the record and issue a written determination stating the secretary's reasons for that determination.

(b) In cases where a contractor requests review by the secretary, the termination or reduction of the contractor's allotment is not final until the secretary has affirmed the state's finding of cause.

AUTH: 53-2-201 MCA
IMP: 53-10-502 MCA

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

46.9.606 CONTRACTOR ALLOTMENTS Subsections (1) through (2)(b)(i) remains the same.

(ii) one-half based upon the percentage of the state's low-income population with income below the poverty line residing within the contractor's area.

(3) General population allocation: Each contractor shall receive an amount equal to the population residing in the contractor's 1980 area according to the most recent U.S. decennial census population divided by the population of the state of Montana's 1980 according to the most recent U.S. decennial census population times the amount available for allocation according to general population distribution in subsection (2)(b)(i).

(4) Poverty population allocation: Each eligible contractor shall receive an amount equal to the contractor's 1980 population residing in the contractor's area which has income below the poverty line according to the most recent U.S. decennial census of poverty below poverty population divided by Montana's 1980 the population of the state of Montana which has income below the poverty line according to the most recent U.S. decennial census of poverty population times the amount available for allocation according to poverty population distribution in subsection (2)(b)(ii). If the results of the most recent U.S. decennial 1980 census information referenced to in subsection (3) and (4) of the rule is are unavailable, the most current and accurate information available will be used.

AUTH: Sec. 53-2-201 MCA
IMP: Sec. 53-10-502 MCA

4. The Office of Community Services of the U.S. Department of Health and Services, which administers the Community Services Block Grant (CSBG) program, has notified the department that it must have a written policy providing that a contractor's

CSBG allotment will not be reduced or terminated except for cause and after notice and an opportunity for hearing, as specified in the Community Services Block Grant Act, 42 U.S.C. 9904. The Department therefore proposes to adopt a new rule to set forth the requirements for termination or reduction of a contractor's allotment.

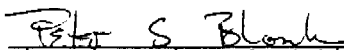
Additionally, the amendment of ARM 46.9.606(3) and (4) is necessary to delete references to the 1980 census. ARM 46.9.606 currently specifies that a contractor's allotment is based on the percentage of the State of Montana's total population and the percentage of the state's low-income population residing in the contractor's area as determined by the 1980 census. The rule has not been amended since 1983, and the references to the 1980 census therefore were not deleted after the results of the 1990 census became available.

In order to avoid the necessity for amending the rule each time a new census is completed, subsections (3) and (4) of ARM 46.9.606 are being amended to refer to "the most recent U.S. decennial census." Minor changes in the wording of ARM 46.9.606(2)(b)(ii), (3) and (4) are also being made for purposes of clarity. There is no change in the way allotments are determined.

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 Russell E. Cater, Chief Legal Counsel, Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, MT 59604-4210, no later than May 12, 1994.

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


Rule Reviewer


Director, Social and Rehabilitation Services

Certified to the Secretary of State April 4, 1994.

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

In the matter of the	)	NOTICE OF PUBLIC HEARING ON
amendment of rules	)	THE PROPOSED AMENDMENT OF
46.12.1107, 46.12.1108,	)	RULES 46.12.1107,
46.12.1109, 46.12.1110,	)	46.12.1108, 46.12.1109,
46.12.1111, 46.12.1112,	)	46.12.1110, 46.12.1111,
46.12.1113 and 46.12.1114	)	46.1112, 46.12.1113 AND
pertaining to medicaid	)	46.12.1114 PERTAINING TO
coverage of services	)	MEDICAID COVERAGE OF
provided to recipients age	)	SERVICES PROVIDED TO
65 and over in institutions	)	RECIPIENTS AGE 65 AND OVER
for mental diseases	)	IN INSTITUTIONS FOR MENTAL
	)	DISEASES

TO: All Interested Persons

1. On May 4, 1994, at 1:30 p.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana to consider the proposed amendment of rules 46.12.1107, 46.12.1108, 46.12.1109, 46.12.-1110, 46.12.1111, 46.12.1112, 46.12.1113 and 46.12.1114 pertaining to medicaid coverage of services provided to recipients age 65 and over in institutions for mental diseases.

The Department of Social and Rehabilitation Services will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the department no later than 5:00 p.m. on April 25, 1994, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, P.O. Box 4210, Helena, MT 59604-4210; telephone (406) 444-5622; FAX (406) 444-1970.

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

46.12.1107 INSTITUTIONS FOR MENTAL DISEASES. PURPOSE

(1) These rules are intended to provide the criteria for payment of ARM 46.12.1107 through 46.12.1114 specify requirements for the provision of and reimbursement for medicaid nursing facility services to medicaid recipients age 65 or older who are residents of an institution for mental diseases. These rules are in addition to requirements generally applicable to medicaid providers as otherwise provided in state and federal statutes, rules, regulations and policies.

AUTH: Sec. 53-2-201 and 53-6-113 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-111 and 53-6-113 MCA

7-4/14/94

MAR Notice No. 46-2-766

46.12.1108 INSTITUTIONS FOR MENTAL DISEASES, DEFINITIONS

(1) The definitions contained in ARM 46.12.1202(2)(a) through (2)(e), (2)(k) through (2)(v) and (2)(u) through (2)(y) apply to these rules for institutions for mental diseases.

(1) "Administrator" means the person licensed by the state, including an owner, salaried employee, or other provider, with daily responsibility for operation of the facility. In the case of a facility with a central management group, the administrator, for the purpose of these rules, may be a person other than the titled administrator of the facility if such person has daily responsibility for operation of the facility and is currently licensed by the state as a nursing home administrator.

(2) "Department" means the Montana department of social and rehabilitation services or its agents, including but not limited to parties under contract to perform audit services, claim processing and utilization review.

(3) "Fiscal year" or "rate year" means the 12-month period ending June 30, e.g., fiscal year 1995 is the 12-month period from July 1, 1994 through June 30, 1995.

(24) "Institution for mental diseases (IMD)" means a hospital, nursing facility, or other institution with more than 16 beds which the department has determined is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services. An institution for the mentally retarded, including an intermediate care facility for the mentally retarded, is not an institution for mental diseases.

(a) An institution for mental diseases is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases, whether or not it is licensed as such.

(1) In making a determination of whether an institution is an institution for mental diseases, the department shall consider the guidelines set forth in section B of section 4390 of the state medicaid manual, but no single guideline or combination of guidelines shall necessarily be determinative. The state medicaid manual is promulgated by the federal health care financing administration to provide guidance to states on administration of the medicaid program. The department hereby adopts and incorporates herein by reference section B of section 4390 of the state medicaid manual (1990). A copy of section B of section 4390 of the state medicaid manual may be obtained from the Department of Social and Rehabilitation Services, Medicaid Services Division, P.O. Box 4210, Helena, MT 59604-4210.

(5) "Medicaid recipient" means a person who is eligible and receiving assistance under Title XIX of the Social Security Act for nursing facility services.

(36) "Mental disease" means a diseases listed as a mental disorders in the ICD-9-CM DSM-III (International Classification

of Diagnostic and Statistical Manual of Mental Diseases, Ninth Third Edition), with the exception of but does not include mental retardation, senility and organic brain syndrome.

(42) "Nursing facility services" includes the term "long term care facility services" and also the terms "skilled nursing services" and "intermediate care services". Examples of nursing facility services and a listing of items provided by the facility which are defined as routine services and reimbursed through the routine per diem rate are contained in ARM 46.12.1202 (2)(a) through (2)(a)(viii) means services defined in ARM 46.12.1222, but not including intermediate care facility services for the mentally retarded.

(8) "Patient contribution" means the total of all of a resident's income from any source available to pay the cost of care, less the resident's personal needs allowance. The patient contribution includes a resident's incurment determined in accordance with applicable eligibility rules.

(9) "Patient day" means a whole 24-hour period that a person is present and receiving nursing facility services, regardless of the payment source. Even though a person may not be present for a whole 24-hour period on the day of admission or day of death, such day will be considered a patient day.

(10) "Provider" means a nursing facility that meets the provider participation requirements specified in ARM 46.12.1109.

(11) "Resident" means a person admitted to the provider's facility who has been present in the facility for at least one 24-hour period.

AUTH: Sec. 53-2-201 and 53-6-113 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-111 and 53-6-113 MCA

46.12.1109 GENERAL REQUIREMENTS AND LIMITATIONS FOR INSTITUTIONS FOR MENTAL DISEASES, PROVIDER PARTICIPATION REQUIREMENTS

(1) An institution for mental diseases must follow the rules set forth at ARM 46.12.1246(2) through (2)(b), 46.12.1223(1) through (1)(e), 46.12.1223(1)(f), 46.12.1245, 46.12.1246, 46.12.1254, 46.12.1258, 46.12.1260, 46.12.1261, 46.12.1264 and 46.12.1268.

(2) Payment is not available for services provided to any individual who is under age 65 and is in an institution for mental diseases except for persons under 21 receiving inpatient psychiatric services described at ARM 46.12.590.

(3) There must be a written agreement between the department, the state mental health authority (i.e. the Montana department of corrections and human services) and the provider of services. The agreement must provide for:

(1) An institution for mental diseases, as a condition of participation in the Montana medicaid program, must be a nursing facility that meets the following requirements:

(a) complies with the requirements set forth at ARM 46.12.1223 for medicaid nursing facility service providers;

(b) has been determined by the department, in accordance with ARM 46.12.1108, to be an institution for mental diseases;

(c) complies with ARM 46.12.1265 regarding utilization review and quality of care for nursing facilities; and

(d) enters into and maintains a written agreement with the department that specifies the respective responsibilities of the department and the provider including arrangements for:

Subsections (3)(a) through (3)(d) remain the same in text but are renumbered (1)(a) through (1)(d).

~~(e) the duty of the provider to record, report and exchange recording, reporting and exchanging medical and social information about recipients; and~~

Subsection (3)(f) remains the same in text but is renumbered (1)(f).

~~(4) The institution for mental diseases must provide for recorded individual plans of treatment and care to ensure that institutional care maintains the recipient at, or restores him to, the greatest possible degree of health and independent functioning. The plans must include:~~

~~(a) a review of the recipient's medical, psychiatric, and social needs within 30 days after the date of admission;~~

~~(b) periodic review of the recipient's medical, psychiatric, and social needs;~~

~~(c) a determination every 90 days of the recipient's need for continued institutional care and for alternative care arrangements;~~

~~(d) appropriate medical treatment in the institution; and~~

~~(e) appropriate social services.~~

~~(5) Institutions for mental diseases must meet three or more of the following factors:~~

~~(a) the facility is licensed as a psychiatric facility for the care and treatment of individuals with mental diseases by the state of Montana;~~

~~(b) the facility advertises or holds itself out as a facility for the care and treatment of individuals with mental diseases;~~

~~(c) the facility is accredited as a psychiatric facility by the Joint Commission for the Accreditation of Health Care Organizations (JCAHO);~~

~~(d) a review of patient records indicates that the facility specializes in providing psychiatric/psychological care and treatment and more than fifty percent of the staff has specialized psychiatric/psychological training, or more than fifty percent of the patients are receiving psychopharmacological drugs;~~

~~(e) the facility is under the jurisdiction of the state's mental health authority (the Montana department of corrections and human services);~~

~~(f) more than fifty percent of all the patients in the facility have mental diseases which require inpatient treatment according to the patients' medical records;~~

~~(g) more than fifty percent of the patients in the facility has been transferred from a state mental institution for continuing treatment of their mental disorders;~~

~~(h) independent professional review teams report a preponderance of mental illness in the diagnoses of the patients in the facility;~~

~~(i) the average patient age is significantly lower than that of a typical nursing home; and~~

~~(j) part or all of the facility consists of locked wards.~~

~~(6) Skilled nursing facility services must be provided in accordance with 42 CFR 405 subpart K (1988 edition) and 42 CFR part 403 (1988 edition), and intermediate care facility services must be provided in accordance with 42 CFR 442 subpart F and 42 CFR part 403 (1988 edition). The department hereby adopts and incorporates herein by reference 42 CFR 405 subpart K (1988 edition), 42 CFR 442 subpart F (1988 edition) and 42 CFR part 403 (1988 edition), which define the participation requirements for providers, copies of which may be obtained through the Department of Social and Rehabilitation Services, Medicaid Services Division, P.O. Box 4210, 111 N. Sanders, Helena, Montana 59604-4210.~~

AUTH: Sec. 53-2-201 and 53-6-113 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-111 and 53-6-113 MCA

46.12.1110 SCREENING AND UTILIZATION REVIEW REQUIREMENTS FOR MEDICAID RECIPIENTS INSTITUTIONS FOR MENTAL DISEASES, INDIVIDUAL TREATMENT PLANS (1) Authorized Medicaid

recipients are those residents who have been determined eligible for Medicaid, are 65 years of age or older, have a diagnosis of mental disease as defined in ARM 46.12.1100(3) and have a need for nursing facility services as determined by the department or its designee. The need for nursing facility services will be determined based upon the following criteria:

(a) the services of a skilled nursing facility (SNF) are needed when a person meets the criteria for skilled care as defined by the Medicare Intermediary Manual, transmittal no. 1365, (December 1987) section 3132, published by the United States department of health and human services. The department hereby adopts and incorporates herein by reference the Medicare Intermediary Manual, transmittal no. 1365 (December 1987), section 3132, copies of which may be obtained through the Department of Social and Rehabilitation Services, Medicaid Services Division, P.O. Box 4210, 111 N. Sanders, Helena, MT 59604-4210, and

(b) the services of an intermediate care facility (ICF) are needed when a person does not qualify for skilled nursing

facility care and is determined by the department or its designee to need care at a level higher than personal care.

(2) The department or its designee will make determinations prior to admission or prior to Medicaid payment and will redetermine as often as deemed necessary.

(3) The department or its designee will make periodic inspections of care and services in institutions for mental diseases. These inspections of care will be performed in accordance with 42 CFR 456 subpart I (1988 edition). The department hereby adopts and incorporates herein by reference 42 CFR 456 subpart I (1988 edition), copies of which may be obtained through the Department of Social and Rehabilitation Services, Medicaid Services Division, P.O. Box 4210, 111 N. Sanders, Helena, MT 59604-4210.

(1) Institutions for mental diseases providing services under these rules must provide for and maintain recorded individual plans of treatment and care to ensure that institutional care maintains the recipient at, or restores him to, the greatest possible degree of health and independent functioning. The plans must include:

(a) an initial review of the recipient's medical, psychiatric and social needs within 30 days after the date of admission;

(b) periodic review of the recipient's medical, psychiatric and social needs;

(c) a determination at least every 90 days of the recipient's need for continued institutional care and for alternative care arrangements;

(d) appropriate medical treatment in the institution; and

(e) appropriate social services.

AUTH: Sec. 53-2-201 and 53-6-113 MCA

IMP: Sec. 53-6-101 MCA

46.12.1111 INSTITUTION FOR MENTAL DISEASES, REIMBURSEMENT

(1) Payment rates will be effective for rate years beginning July 1 of each year. The department will establish an interim rate by October 1 of each rate year. The interim rate will be based upon estimated allowable cost per day for the rate year as limited by the reimbursement rates that follow. The estimated allowable cost per day will be determined by dividing total estimated allowable costs for the rate year by total estimated bed days for the rate year.

(2) The interim payment rate will be limited by the department's estimate of the upper rate limit described in subsection (3).

(3) The final payment rate will be limited by an upper payment rate limit. The upper payment rate limit is computed by first calculating the total allowable cost per day for a base year. The base year cost per day is then indexed forward by the Medicare market basket rate of increase from June 30 of the base

~~year to June 30 of each subsequent rate year to determine the upper payment rate limit. The base year for a provider is the initial rate year for which an interim rate is set under these reimbursement rules. Subsequent base years will be redetermined on two year intervals, such that every other rate year establishes a new base year.~~

~~(4) The final payment rate for each rate year will be computed by dividing the total allowable costs incurred by the provider as determined in ARM 46.12.1207 by the total allowable bed days of service.~~

~~(5) The difference between the final payment rate and the interim payment rate will be settled through the overpayment and underpayment procedures set forth in ARM 46.12.1261.~~

(1) The Montana medicaid program will not reimburse for services provided in institutions for mental diseases, except:

(a) as provided in ARM 46.12.590 through 46.12.599 for medicaid recipients under age 21 receiving services in residential treatment facilities; or

(b) as provided in this rule for medicaid recipients age 65 or over receiving nursing facility services in a nursing facility that the department has determined to be an institution for mental diseases under ARM 46.12.1108.

(2) For nursing facility services provided to medicaid recipients age 65 years or over in an institution for mental diseases, the Montana medicaid program will pay a provider:

(a) for each patient day, an interim per diem rate, determined as provided in subsection (3), minus the amount of the medicaid recipient's patient contribution, subject to retrospective cost settlement based upon a final rate determined in accordance with subsection (4), and

(b) additional reimbursement for separately billable items as provided in subsection (5).

(3) Prior to the billing of July services each fiscal year, the department will determine an interim per diem payment rate for each provider. The provider's interim per diem payment rate shall be determined based upon the department's estimate of actual allowable costs under ARM 46.12.1258, divided by estimated patient days for the fiscal year. The department may consider, but shall not be bound by, the provider's cost estimates in estimating actual allowable costs. The provider's interim per diem payment rate is an estimate only and shall not bind the department in any way in the final per diem payment rate determination under subsection (4).

(4) The provider's final per diem payment rate is the provider's actual allowable cost incurred for the fiscal year, determined in accordance with ARM 46.12.1258 and 46.12.1260, divided by the total patient days of service during the fiscal year, subject to the limits specified in subsections (4)(a) and (b).

(a) Final per diem payment rates in base years may not exceed the amount specified in subsection (4). Base years are

even-numbered fiscal years, i.e., fiscal years 1990, 1992, 1994 and subsequent even-numbered years.

(b) Final per diem payment rates in non-base years may not exceed the per diem rate calculated using the provider's actual allowable cost incurred for the immediately preceding base year indexed to June 30 of the rate year. The index is the final medicare market basket index applicable to the non-base year. Non-base years are odd-numbered fiscal years, i.e., fiscal years 1991, 1993, 1995 and subsequent odd-numbered years.

(c) The provider's final rate shall be determined based upon the provider's cost report for the fiscal year filed in accordance with ARM 46.12.1113, after desk review or audit by the department or its agents. The difference between the total amount to which the provider is entitled under the final per diem payment rate determined under subsection (4), taking into account patient contribution and the total amount paid to the provider under the interim per diem payment rate determined under subsection (3) will be settled through the overpayment or underpayment procedures specified in ARM 46.12.1261.

(5) Separately billable items are those items specified in ARM 46.12.1245 and are reimbursable by medicaid according to the provisions of ARM 46.12.1245.

AUTH: Sec. 53-2-201 and 53-6-113 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-111 and 53-6-113 MCA

46.12.1112 INSTITUTIONS FOR MENTAL DISEASES. BILLING AND PAYMENT

(1) The department pays providers the amounts determined under these rules on a monthly basis upon receipt of an appropriate billing which represents the number of days of service provided to authorized medicaid recipients times the payment rate minus the amount each medicaid recipient pays toward the cost of care.

(2) The payments made in accordance with ARM 46.12.1111 represent full payment for routine services for the days of service reported on a medicaid claim form. A provider shall not bill or collect any additional amount from medicaid recipients except as allowed in subsection (3). A provider shall not bill or collect any additional amount from the department except as follows:

(a) Ancillary medical supplies may be billed in accordance with ARM 46.12.1205(3)(a) through (c).

(b) Physical, occupational, and speech therapies may be billed additionally in accordance with ARM 46.12.1205(3)(d).

(c) Durable medical equipment may be billed in accordance with ARM 46.12.1205(3)(e).

(d) Prescribed medication may be billed in accordance with ARM 46.12.1205(3)(f).

(e) Transportation may be billed additionally in accordance with ARM 46.12.1205(3)(g).

~~(f) Any other medical services for medicaid recipients not billable under this subsection may be billed by the provider of those services according to applicable department rules.~~

~~(g) Providers may contract with any qualified person or agency to provide required services. However, except as allowed in this subsection, none of the contracted services may be billed to the department.~~

~~(h) Payment may be made for holding or reserving a bed while the medicaid recipient is temporarily absent from the facility in accordance with ARM 46.12.1205(5) and 46.12.1205 (6).~~

~~(3) The following items or services are not considered to be routine items or services covered by the routine payment rate. These items or services may be charged to the medicaid recipient:~~

~~(a) vitamins and multivitamins;~~

~~(b) calcium supplements;~~

~~(c) nasal decongestants and antihistamines;~~

~~(d) special requests by a medicaid recipient for a specific item or brand that is different from that which the facility routinely stocks or provides as a requirement or condition of participation which is covered under the routine service payment rate (i.e. special lotion, powder, incontinence care supplies);~~

~~(e) cosmetics;~~

~~(f) tobacco products and accessories;~~

~~(g) personal dry cleaning;~~

~~(h) beauty shop services;~~

~~(i) television rental;~~

~~(j) less than effective drugs (exclusive of stock items);~~

or

~~(k) over-the-counter drugs (exclusive of the following routine stock items:-~~

~~(i) acetaminophen;~~

~~(ii) aspirin;~~

~~(iii) milk of magnesia;~~

~~(iv) mineral oil;~~

~~(v) suppositories for evacuation; or~~

~~(vi) meclon and miltan.~~

(1) Providers must bill for all services and supplies in accordance with the provisions of ARM 46.12.303. The department's fiscal agent will pay a provider on a monthly basis the amount determined under these rules upon receipt of an appropriate billing which reports the number of patient days provided to authorized medicaid recipients during the billing period.

AUTH: Sec. 53-2-201 and 53-6-113 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-111 and 53-6-113 MCA

46.12.1113 INSTITUTIONS FOR MENTAL DISEASES, COST REPORTING (1) Providers ~~shall~~ must submit annual cost reports in accordance with ARM 46.12.1260.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-111 and 53-6-113 MCA

46.12.1114 INSTITUTIONS FOR MENTAL DISEASES, ADMINISTRATIVE REVIEW AND FAIR HEARING PROCEDURES (1) Providers ~~shall be entitled to may appeal decisions pertaining to their interim or final payment rates in accordance with adverse determinations by the department through the administrative review and fair hearing procedures specified in~~ ARM 46.12.1268.

AUTH: Sec. 2-4-201 and 53-6-113 MCA

IMP: Sec. 2-4-201, 53-6-101, 53-6-111 and 53-6-113 MCA

3. The current administrative rules pertaining to medicaid nursing facility services for medicaid recipients age 65 or older who are residents of an institution for mental diseases (IMD) do not clearly state participation requirements or reimbursement criteria for the medicaid program. Additionally, the rules include references to obsolete state and federal rules, and require updating. The proposed rules correct these deficiencies and conform the rules to current federal requirements and department policies and procedures. The proposed rules reorganize the current rules to more logically arrange the rules by subject matter, and to make the rule language more concise, direct, and clear. The proposed rules are not intended to make significant substantive changes in policy or procedure.

The proposed changes to ARM 46.12.1107 are necessary to specify the purpose and scope of the institution for mental diseases rules. The proposed changes to ARM 46.12.1107 modify the rule language to specify the rules that apply to institutions for mental diseases serving individuals 65 years or over and to state more precisely and completely the purpose of the rules. The proposed rule also specifies that ARM 46.12.1107 through 46.12.1114 are in addition to other requirements generally applicable to medicaid providers.

The proposed changes in ARM 46.12.1108 are necessary to update the definitions used in the rules. The current rules refer to definitions from a former version of the nursing facility rules which has now been repealed. It is necessary to update the definition section to specify the definitions that will apply to certain terms used in the proposed rules. Definitions included in the current rule which have become obsolete have been deleted.

Proposed subsection (3) includes a definition of "fiscal year" and "rate year" that specifies that the fiscal year and rate year are the same and that they correspond to the state fiscal year. The intent of this provision is to require all providers to use the state fiscal year for their accounting purposes. Since the only participating provider is a state facility that uses the state fiscal year, this will have no impact, except that any new provider would be required to use the state fiscal year. This is necessary to allow for application of the reimbursement methodologies specified in ARM 46.12.1111.

The definition of institution for mental diseases in proposed ARM 46.12.1109(4) has been revised to fully incorporate the federal definitions and guidelines used to identify institutions for mental disease. Some of the guidelines are stated in current ARM 46.12.1109, but differ somewhat from the federal guidelines in substance and manner of application. Under the proposed rule, the federal definition from 42 CFR § 435.1009 has been stated, and the guidelines from the state medicaid manual have been incorporated by reference rather than restated in their entirety. The effect of the guidelines has also been specified. The definition of an institution for mental diseases is necessary to define the facilities that are subject to the federal and state exclusion of coverage (see 42 CFR § 435.1008 and proposed ARM 46.12.1111(1)), as well as to define, together with other parts of the proposed rules, the nursing facilities that are eligible to participate in the institution for mental diseases program.

The amendment of the definition of "mental disease" (ARM 46.12.1108 (2)) is necessary to refer to the DSM-III rather than the ICD-9-CM. The DSM-III is more frequently used as the common reference in the context of mental illness and mental institutions and has been incorporated in recent federal regulations pertaining to Preadmission Screening and Annual Resident Review adopted in the November 30, 1992 Federal Register.

The remaining proposed definitions have been revised as necessary to state the current law or have been added as necessary to define terms used in the proposed rules as necessary to specify department policy.

The changes to ARM 46.12.1109 are necessary to remove outdated ARM references and to specify the requirements for program participation. The proposed rule is necessary to specify that only nursing facilities which are also institutions for mental diseases may participate. The current rules are unclear as to whether hospitals or other institutions may participate. The proposed changes are also necessary to specify clearly the requirement for an agreement between the department and the

provider regarding the respective responsibilities of the parties regarding methods of care, joint planning, etc. The proposed changes are also necessary to eliminate redundant statements of certain requirements and to move some provisions to more logical locations in the rules.

The proposed changes to ARM 46.12.1110 are necessary to specify the requirements for treatment plans currently set forth in ARM 46.12.1109. Except for minor changes in wording, the requirements are not changed.

The proposed changes to ARM 46.12.1111 are necessary to specify clearly the conditions under which institution for mental diseases reimbursement is available, and to specify that reimbursement to institution for mental diseases nursing facilities is available only for nursing facility services to medicaid-eligible individuals who are age 65 years or older. The proposed changes are also necessary to clearly describe the reimbursement methodology and procedures for institutions for mental diseases. The proposed rules do not change the current methodologies, practices or policies.

The proposed changes to ARM 46.12.1112 are necessary to specify the current department policy and practice regarding billing for services and to delete certain requirements that have been moved to other parts of the proposed rules. A minor wording change has been made to ARM 46.12.1113 to conform to correct usage. The proposed changes to ARM 46.12.1114 are necessary to specify the correct scope of the provider's right of appeal.

The Medical Care Advisory Committee will be notified of the proposed changes on April 28, 1994. Copies of this notice may be obtained at local county human service offices. The department does not anticipate any fiscal impact from the proposed changes.

4. The proposed changes will become effective July 1, 1994.

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 Russell E. Cater, Chief Legal Counsel, Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, MT 59604-4210, no later than May 12, 1994.

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

James H. [unclear]
Rule Reviewer

R. S. [unclear]
Director, Social and Rehabilitation Services

Certified to the Secretary of State April 4, 1994.

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

In the matter of the	)	NOTICE OF PUBLIC HEARING ON
amendment of rule 46.12.571	)	THE PROPOSED AMENDMENT OF
pertaining to ambulatory	)	RULE 46.12.571 PERTAINING
surgical centers	)	TO AMBULATORY SURGICAL
	)	CENTERS

TO: All Interested Persons

1. On May 5, 1994, at 2:00 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 rule 46.12.571 pertaining to ambulatory surgical centers.

The Department of Social and Rehabilitation Services will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the department no later than 5:00 p.m. on April 25, 1994, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970.

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

46.12.571 CLINIC SERVICES, REQUIREMENTS (1) These requirements are in addition to those requirements contained in ARM 46.12.301 through 46.12.308g.

Subsections (2) through (5) remain the same.

~~(a) Covered surgical procedures are limited to those procedures that do not generally exceed:~~

~~(i) a total of 90 minutes operating time; and~~

~~(ii) a total of 4 hours recovery or convalescent time.~~

~~(b) If the covered surgical procedure requires anesthesia, the anesthesia must be:~~

~~(i) local or regional anesthesia; or~~

~~(ii) general anesthesia of 90 minutes or less duration.~~

Subsections (5)(c) and (5)(d) remain the same in text but are renumbered (5)(a) and (5)(b). Subsections (6) through (13) remain the same.

AUTH: Sec. 53-2-201 and 53-6-113 MCA

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

3. The amendment to ARM 46.12.571 is necessary to improve access for medicaid recipients to medical services and to reduce

the costs of services being provided through the medicaid program.

The existing limitations in ARM 46.12.571, relating to operating and recovery times and to the duration of anesthesia, are unnecessary. The limitations do not reflect the capability of surgical centers to deliver services. In recent years, the capability of outpatient stand alone surgical centers to provide surgical services has significantly improved. Surgical centers now provide quality surgical services in a convenient manner.

The limitations are also inappropriate in that they are similar to licensing standards and therefore are not appropriate for the medicaid program to impose unless serving a specific goal of the program. The Department is reviewing the other requirements stated in ARM 46.12.571 to determine if any of them may be inappropriate. Those which are determined to be inappropriate will be removed in a future notice of rule making.


The total savings to the medicaid program due to this proposed rule change can not be estimated. Cost information available to the Department from other insurers does indicate that the cost for certain procedures, not currently reimbursable by the medicaid program in surgical centers, can be half of that incurred in a hospital setting.

4. The effective date for this proposed change is to be retroactive to January 1, 1994. This is necessary since the Department in discussions with representatives of the surgical centers agreed to implement the change effective on that date.

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 Russell E. Ceter, Chief Legal Counsel, Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, MT 59604-4210, no later than May 12, 1994.

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


Rule Reviewer


Director, Social and Rehabilitation Services

Certified to the Secretary of State April 4, 1994.

BEFORE THE STATE ELECTRICAL BOARD
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment)	NOTICE OF AMENDMENT OF
of rules pertaining to applica-)	RULES PERTAINING TO MASTER,
tions, general responsibilities,)	JOURNEYMAN AND RESIDENTIAL
temporary permit, fees, examin-)	ELECTRICIANS AND THE
ations, continuing education)	ADOPTION OF A NEW RULE
and the adoption of a new rule)	PERTAINING TO PIONEER
pertaining to pioneer electri-)	ELECTRICIAN CERTIFICATES
cian certificates)	

TO: All Interested Persons:

1. On February 10, 1994, the State Electrical Board published a notice of proposed amendment and adoption of rules pertaining to master, journeyman and residential electricians at page 225, 1994 Montana Administrative Register, issue number 3.

2. The Board has amended ARM 8.18.402, 8.18.404, 8.18.407, 8.18.408, 8.18.409 and adopted new rule I (8.18.410) exactly as proposed. The Board has amended ARM 8.18.403 as proposed but noted that language "or permit" through "electrical contractor" was inadvertently omitted from the original notice. Subsection (9) should have been proposed as follows in the original notice:

"8.18.403. GENERAL RESPONSIBILITIES (1) through (8) will remain the same as proposed.

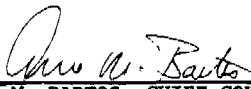
(9) ~~(a) The licensed master electrician or journeyman electrician, in the case of residential construction, may be relieved from further responsibility under any application or permit, certificate or tags countersigned by him if he has left or been discharged from the employ of an electrical contractor or owner, provided he sends a notice in writing to that effect within 5 days to the state electrical board and the bureau or certified local code enforcement jurisdiction.~~

(10) through (12) will remain the same as proposed.

3. No comments or testimony were received.

STATE ELECTRICAL BOARD
CHARLES T. SWEET, CHAIRMAN

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, April 4, 1994.

BEFORE THE BOARD OF SANITARIANS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT OF
of a rule pertaining to regis-) 8.60.408 MINIMUM STANDARDS
tration certificate) FOR REGISTRATION CERTIFI-
) CATE

TO: All Interested Persons:

1. On February 24, 1994, the Board of Sanitarians published a notice of proposed amendment of the above-stated rule at page 349, 1994 Montana Administrative Register, issue number 4.
2. The Board has amended the rule ~~exactly~~ as proposed.
3. No comments or testimony were received.

BOARD OF SANITARIANS
JOANNE CHANCE, CHAIRMAN

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, April 4, 1994.

BEFORE THE BANKING AND FINANCIAL INSTITUTIONS DIVISION
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT OF
of a rule pertaining to dollar) 8.80.307 DOLLAR AMOUNTS TO
amounts to which consumer loan) WHICH CONSUMER LOAN RATES
rates are to be applied) ARE TO BE APPLIED

TO: All Interested Persons:

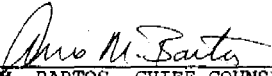
1. On February 24, 1994, the Banking and Financial Institutions Division published a notice of public hearing on the proposed amendment of the above-stated rule at page 359, 1994 Montana Administrative Register, issue number 4. The hearing was held on March 16, 1994, at 10:00 a.m., in the downstairs conference room of the Department of Commerce building, Helena, Montana.

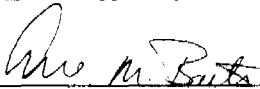
2. The Banking and Financial Institutions Division has adopted the rule exactly as proposed.

3. No comments or testimony were received.

BANKING AND FINANCIAL
INSTITUTIONS DIVISION
DON HUTCHINSON, COMMISSIONER

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, April 4, 1994.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the) NOTICE OF ADOPTION
adoption of a new rule) OF 10.57.110 AREA OF
pertaining to Teacher) SPECIALIZED COMPETENCY
Certification
To: All Interested Persons

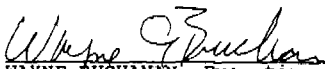
1. On February 10, 1994 the Board of Public Education published notice of the proposed new rule Area of Specialized competency noticed on page 237 of the Montana Administrative Register, issue # 3.

2. The board has adopted the proposed new rule as proposed with the following changes:

10.57.110 AREA OF PERMISSIVE SPECIALIZED COMPETENCY (1)
A holder of a Montana teaching certificate may apply for a statement of specialized competency to appear on the certificate. A certificate holder may qualify for a statement of competency by the completion of a minimum of ~~the equivalent of 20 semester college credit hours in a specific academic area and the recommendation of an appropriate teacher education official. The teacher education official may consider skills or competencies, acquired by the applicant from sources other than higher education, for a portion or all of the 20 hour requirement, or equivalency in a specific academic area as approved by the Board of Public Education.~~

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

3. The board proposed this rule in order to identify specialized areas of competency, in which some teachers have been prepared, but which the board feels should not be mandated as necessary to receive a teaching certificate. There is presently no means of identifying these areas on the teaching certificate.


WAYNE BUCHANAN, Executive Secretary
Board of Public Education

Certified to the Secretary of State on 4/4/94.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF AMENDMENT TO ARM
amendment of a rule	)	10.57.501 SCHOOL PSYCHOLOGISTS,
pertaining to Teacher	)	SCHOOL COUNSELORS, SCHOOL
Certification	)	SOCIAL WORKERS, NURSES AND
	)	SPEECH AND HEARING THERAPISTS

To: All Interested Persons

1. On February 10, 1994, the Board published notice on the proposed amendments to ARM 10.57.501 School Psychologists, School Counselors, School Social Workers, Nurses and Speech and Hearing Therapists published on pages 234 - 236 of the Montana Administrative Register, issue #3.

2. The board has amended the rule as proposed with the following changes:

10.57.501 SCHOOL PSYCHOLOGISTS, SCHOOL COUNSELORS, SOCIAL WORKERS, NURSES AND SPEECH AND HEARING THERAPISTS (1) through (5)(a) will remain the same.

(b) Basic education: Master's degree in school guidance and counseling (K-12) or master's degree with equivalent graduate level school counseling content. The program must include a supervised internship of at least 600 hours in a school or school related setting, or appropriate waiver.


(5)(c) through (5)(d) will remain the same.

(i) For reinstatement of lapsed certificates ~~for~~ initial certification for applicants with training more than 5 but less than 15 years old, a class 6 certificate cannot be issued until the required number of credits are presented. Reinstatement credits must supplement, strengthen and update the specialist preparation.

(ii) through (v) will remain the same.

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

3. This change will add another route to school counselor certification which will not require a teaching degree, thus allowing counselors prepared in other states to qualify in Montana.


WAYNE BUCHANAN, Executive Secretary
Board of Public Education

Certified to the Secretary of State on 4/4/94.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF EMERGENCY
adoption of an emergency rule	)	ADOPTION
on school bus body standards)	

TO: All Interested Persons.

1. The board has recently had cause to believe that a conflict exists in school bus body standards as they relate to aisle width and emergency exits. On May 2, 1994, a revised federal motor vehicle safety standard (fmvss) 217 of the National Highway Traffic Safety Administration (NHTSA) will go into effect. The approach to determining the number and adequacy of emergency exits on school buses mandated by fmvs 217 is different than the approach used by the standards developed by the Eleventh National Conference on School Transportation in 1990 and adopted by Montana Board of Public Education in 1993. The result is a requirement that a bus sold in Montana will have less passenger capacity than an identical bus sold in another state.

It is in the best interest of the safety and welfare of students to upgrade buses, especially when the bus being replaced is a pre-standard bus built prior to 1977. (A finding of the Transportation Research Board states: "The standards issued by NHTSA in 1977 have substantially improved the crashworthiness of school buses. All states, local school districts, and private contractors that are still operating pre-1977 school buses should replace these vehicles with post-1977 school buses as rapidly as possible.) The state should not unnecessarily hinder the replacement of pre-standard and older worn-out buses.

Reducing the capacity of a bus increases the cost per student and could result in the decision to defer replacement resulting in additional safety risk to students. This risk is unwarranted when the problem is an unintended regulatory conflict. The risk is imminent because decisions about bus purchases are ongoing and will be made between now and the date by which a rule could be adopted under regular procedures. An amendment to the aisle standard will allow the use of flip-up seats next to emergency exit doors as defined in fmvs 217.

Therefore, the board intends to adopt the following emergency rule. The rule as adopted will be mailed to all bus manufacturers who are affected by the rule and who sell buses in Montana. It will be published as an emergency rule in the next issue of the Register.

2. The emergency rule will be effective March 25, 1994.
3. The text of the emergency rule amendment is as follows:

10.64.355 BUS BODY (1) through (1)(g)(i) remains the same.
(h) Aisle

(1) Amend paragraph 1. to: "All emergency doors shall be accessible by a 12-inch minimum aisle."

(2) Remains the same.

AUTH: Sec. 20-2-121

IMP: Sec. 20-10-111

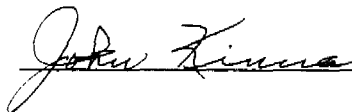
4. The rationale for the emergency rule is as set forth in paragraph 1.

5. A standard rulemaking procedure will be undertaken prior to the expiration of this emergency rule.

6. Interested persons are encouraged to submit their comments during the upcoming standard rulemaking process. If interested persons wish to be personally notified of that rulemaking process, they should submit their names and addresses to David Huff, Pupil Transportation, Office of Public Instruction, PO Box 202501, Helena, MT 59620-2501.

John Kinna, Chairperson

BY:

A handwritten signature in dark ink, appearing to read "John Kinna", is written over a horizontal line.

Certified to the Secretary of State March 25, 1994.

BEFORE THE DEPARTMENT OF
FAMILY SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption)	NOTICE OF ADOPTION OF RULE
of Rule I, and the amendment)	I, AND AMENDMENT OF RULES
of Rules 11.14.226, 11.14.301,)	11.14.226, 11.14.301,
11.14.401, and 11.14.609)	11.14.401, AND 11.14.609
pertaining to day care)	PERTAINING TO DAY CARE
facilities and legally)	FACILITIES AND LEGALLY
unregistered providers)	UNREGISTERED PROVIDERS
participating in day care)	PARTICIPATING IN DAY CARE
benefits' programs.)	BENEFITS' PROGRAMS
)	

TO: All Interested Persons.

1. On January 27, 1994, the Department of Family Services published notice of public hearing on adoption of Rule I [11.14.104], and the amendment of Rules 11.14.226, 11.14.301, 11.14.401, and 11.14.609 pertaining to day care facilities and legally unregistered providers participating in day care benefits' programs, at page 129 of the 1994 Montana Administrative Register, issue number 2.

2. On February 18, 1994 a public hearing was held in the second floor conference room of the Department of Family Services, 48 North Last Chance Gulch, Helena, Montana, to consider the adoption and amendment of the Rules. No verbal or written comment was received at the hearing.

3. The department has amended ARM 11.14.609 as proposed. The department has adopted Rule I [ARM 11.14.104], and amended Rules 11.14.226, 11.14.301, and 11.14.401 as proposed, with the following changes:

I. [11.14.104] PERSONS AFFECTED BY DEPARTMENT RECORDS

Subsections (1) through (5) remain the same.

(6) Decisions on records under this rule may be in addition to, or in conjunction with, contested case proceedings arising from adverse actions affecting licenses or registrations.

AUTH: Section 52-2-704, MCA. IMP: Sections 52-2-702; 52-2-704; 52-2-731, MCA.

11.14.226 DAY CARE CENTERS, STAFFING REQUIREMENTS

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

(4) The provider must assure that each caregiver possesses good character and members of the staff are ~~is~~ physically, mentally and emotionally competent to care for children and free from communicable disease.

(a) The provider shall maintain written records regarding each ~~employee~~ employed caregiver which includes:

(i) a record of training and experience; and

(ii) three references from persons unrelated to the employee employed caregiver attesting to the employee's character and suitability for the job.

(b) ~~Each caregiver staff member, aide, volunteer or other person having direct contact with the children in the center must meet the requirements set forth in ARM 11-14-301 (3) and (4) (a) through (d) must have experience in the care and supervision of children.~~

~~(c) Unless an exception is granted by the regional administrator, no caregiver shall:~~

~~(i) have been convicted or adjudicated of a crime involving harm to children or physical or sexual violence against any person. A caregiver who is charged with a crime involving children or physical or sexual violence against any person and awaiting trial may not provide care or be present in the center pending the outcome of the trial. In excluding from the center any caregiver adjudicated of a crime involving harm to children or physical or sexual violence against any person, the department shall give due regard for the non-criminal nature of such adjudications under 41-5-106, MCA;~~

~~(ii) be currently diagnosed or receiving therapy or medication for a mental illness which might create a risk to children in care. Mental illness which might create a risk to children in care shall be determined by a licensed psychologist or psychiatrist. The department may request that a caregiver obtain a psychological or psychiatric evaluation at his or her own expense if there is reasonable cause to believe such a mental illness exists;~~

~~(iii) be chemically dependent upon drugs or alcohol. Chemical dependence on drugs or alcohol shall be determined by a licensed physician or certified chemical dependency counselor. The department may request the caregiver to obtain an evaluation at his or her own expense if there is reasonable cause to believe chemical dependence exists; or~~

~~(iv) have been named as a perpetrator in a substantiated report of child abuse or neglect.~~

~~(d) The provider is responsible for assuring that the persons covered by this subsection have met these requirements before having direct contact with the children in the center before providing care or within a reasonable time from the date that the person begins providing care. Aides and volunteers lacking the experience with children required by ARM 11-14-301 (3) this rule may obtain such experience through provision of supervised care in the center.~~

Subsections (5) through (8) remain the same.

AUTH: Section 52-2-704, MCA. IMP: Sections 52-2-702; 52-2-704; 52-2-735, MCA.

11-14-301 GROUP DAY CARE HOMES, PROVIDER RESPONSIBILITIES AND QUALIFICATIONS Subsections (1) through (3) remain the same.

(4) The providers and all persons responsible for children in the group day care home shall possess good character, and be

physically, mentally and emotionally competent to care for children and free from communicable disease. The provider and all caregivers shall comply with tuberculosis testing requirements set out in ARM 16.28.1005, and the immunization requirements of ARM 11.14.316.

(5) Unless an exception is granted by the regional administrator, no provider, caregiver or other person present in the home while the children are in care shall:

(a) have been convicted or adjudicated of a crime involving harm to children or physical or sexual violence against any person. Any provider, caregiver or other person charged with a crime involving children or physical or sexual violence against any person and awaiting trial may not provide care or be present in the home pending the outcome of the trial. In excluding from the home any individual adjudicated of a crime involving harm to children or physical or sexual violence against any person, the department shall give due regard for the non-criminal nature of such adjudications under 41-5-106, MCA.

The remaining subsections, formerly subsections (4) (b) through (d), remain the same, except that they are renumbered (5) (b) through (d). Subsections (5) through (10) remain the same except that they are renumbered (6) through (11).

AUTH: Section 52-2-704, MCA. IMP: Sections 52-2-702; 52-2-704; 52-2-723; 52-2-713, MCA.

11.14.401 FAMILY DAY CARE HOMES. PROVIDER RESPONSIBILITIES AND QUALIFICATIONS Subsections (1) through (3) remain the same.

(4) The provider and all persons responsible for children in the day care home shall possess good character, and be physically, mentally and emotionally competent to care for children and free from communicable disease. The provider and all caregivers shall comply with tuberculosis testing requirements set out in ARM 16.28.1005, and the immunization requirements of ARM 11.14.414.

(5) Unless an exception is granted by the regional administrator, no provider, caregiver or other person present in the home while the children are in care shall:

(a) have been convicted or adjudicated of a crime involving children or physical or sexual violence against any person. Any provider, caregiver or other person charged with a crime involving children or physical or sexual violence against any person and awaiting trial may not provide care or be present in the home pending the outcome of the trial. In excluding from the home any individual adjudicated of a crime involving harm to children or physical or sexual violence against any person, the department shall give due regard for the non-criminal nature of such adjudications under 41-5-106, MCA.

The remaining subsections, formerly subsections (4) (b) through (d), remain as proposed except they are renumbered (5) (b) through (d). Subsections (5) through (10) remain the same except that they are renumbered (6) through (11).

AUTH: Section 52-2-704, MCA. IMP: Sections 52-2-702; 52-2-704;

52-2-723; 52-2-713, MCA.

4. The department has thoroughly considered all comments:

COMMENT: (Debra Unruh, Family Resource Specialist, Missoula District Office of the Department of Family Services; Marcia L. Ronck, Program Director, ASUM Childcare and Family Resources, Missoula): The department should not impose ARM 11.14.301(3) and (4)(a) through (d), or the tuberculosis testing requirements of ARM 11.14.301(4), on all persons contacting children in centers. Many who have only incidental contacts or short-term contacts with children in centers would come under the amendments. For example, as many as 200 students attending the University of Montana each semester gain experience in a Missoula center as part of their curriculum. Under the rule as proposed, the provider would be responsible for making sure that each student meets the requirements. Similarly, rest-home residents visiting centers to participate in such activities as Easter-egg dyeing would be required to meet the requirements. The inevitable result of imposing the requirements on these types of contacts would be either the elimination of the contacts, or non-compliance with the requirements.

The department should also change the wording for when the provider must obtain documentation that the persons covered meet the requirements, especially if the amendment is adopted in its present form. There would be no opportunity in cases of incidental or short-term contacts for documentation that the requirements are met prior to the contact. Even where the requirements only apply to staff, there is a high turnover in child care, and often a provider cannot complete and/or produce the required documentation in time to fill positions needed to meet child/staff ratio requirements. The wording of the rule should be changed to "each employed caregiver, staff member, and aid" must meet the requirements with the elimination of the word "before" (suggestion of Debra Unruh); the wording of the rule should be changed to state "each staff member, aide, volunteer or other person responsible for the supervision of the children in the center" must meet the requirements . . . "within a reasonable amount of time after having begun supervision of children in the center" (suggestion of Marcia Ronck).

Response: The department agrees and, with some modifications, has amended the rule as suggested. In regard to who is covered, the term "caregiver" as suggested by Debra Unruh, has been substituted for "staff, aide, volunteer or other person having direct contact with the children in the center." The term caregiver is already defined in ARM 11.14.102 (21), providing: "Caregiver" means a licensee, registrant, employee, aide or volunteer who is responsible for the direct care and supervision of children in a day care facility." The department intends that the definition apply to the amendments. The department also intends that the distinction between "primary caregiver" and "caregivers" in general be maintained notwithstanding the

amendments. In addition, under the amendments, only "employed caregivers" come under ARM 11.14.226(1)(a).

Ms. Ronck's suggestion on when the provider must document that the requirements have been met is also added to the rule by the addition of the language providing that the requirements must be met before or within a reasonable time of hiring. Providers obtaining documentation after hiring are on notice that the department may request exclusion of a caregiver already providing care if proper documentation has not been obtained within a reasonable time.

COMMENT: (Marcia L. Ronck, Program Director, ASUM Childcare and Family Resources, Missoula): It appears that the department is imposing tuberculosis testing requirements on center staff through this rule-making. Is this not the responsibility of the Department of Health and Environmental Sciences?

RESPONSE: The department did not intend to impose the tuberculosis testing requirement of ARM 11.14.301(4) on center staff. The existing version of the rule, and the proposal, referenced only (4)(a) through (d). The TB requirements are in the introductory sentence of subsection (4). At any rate, TB testing requirements for center staff and others in centers are imposed through ARM 16.24.414(7) providing:

each employee, volunteer, or resident at a day care center must:

(a) Have an examination for tuberculosis prior to or within 30 days after commencing work at the day care center . . .

COMMENT: (Deborah Unruh) To eliminate confusion on the introductory matter in subsection (4), the department should separate out the requirements of (a) through (d) by placing them in a separate subsection.

RESPONSE: The department agrees and has amended ARM 11.14.401 and .301 accordingly.

COMMENT: (Babby McCartney, Family Resource Specialist, Department of Family Services Kalispell District Office) Instead of referencing and incorporating the requirements of ARM 11.14.301 into ARM 11.14.226, the department should set out the requirements in the text of ARM 11.14.226. Currently, many centers do not have a copy of ARM 11.14.301. If the text were included in ARM 11.14.226, more center operators would have access to the requirements.

RESPONSE: The department agrees and has added most of the actual text of the requirements from the group home rule, ARM 11.14.301, to ARM 11.14.226. By setting out the text of the requirements in the rule the department hopes to eliminate confusion on the exact requirements for covered persons.

COMMENT: (Department of Family Services, Legal Unit): The provision providing for exclusion of persons "adjudicated" of crimes involving violence against any person or harm to children may, in any particular case, violate the mandate of Montana law that Youth Court adjudications not result in civil disabilities.

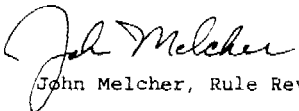
Where the Youth Court has imposed exclusion from day care facilities as part of its disposition upon adjudication, or where the department requests that a Youth Court authorize the exclusion of a Youth who remains under the jurisdiction of the Youth Court, the exclusion would not violate § 41-5-106, MCA. Other exclusions, however, may come within the statutory prohibition, especially where the person excluded is no longer subject to Youth Court jurisdiction. A provision should be added to the rule to allow for a case-by-case determination of whether the exclusion violates the statute.

RESPONSE: The department agrees and has added a provision to address this concern in the rules covering persons who may be present in day care facilities.

DEPARTMENT OF FAMILY SERVICES



Hank Hudson, Director



John Melcher, Rule Reviewer

Certified to the Secretary of State, April 4, 1994.

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

In the Matter of Amendment)	NOTICE OF AMENDMENT TO RULES
and Repeal of Rules Pertaining)	38.3.201 THROUGH 38.3.204
to Registration of Intrastate,))	AND REPEAL OF RULE 38.3.205
Interstate, and Foreign Motor)	
Carriers to Implement New)	
Federal Requirements on)	
Single State Registration.)	


TO: All Interested Persons

1. On February 10, 1994 the Department of Public Service Regulation published notice of the proposals identified in the above titles at pages 275-277, issue number 3 of the 1994 Montana Administrative Register.

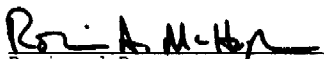
2. The Commission has amended rules 38.3.201 - 38.3.204, as proposed, and repealed 38.3.205, found at page 38-166, Administrative Rules of Montana, as proposed.

3. No written or oral comments to the proposals were received.

4. The authority of the agency to amend and repeal the rules as proposed and the statutes being implemented are set forth in the notice of proposed action identified in paragraph 1.


Bob Anderson, Chairman

CERTIFIED TO THE SECRETARY OF STATE APRIL 4, 1994.


Reviewed By

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

In the Matter of Repeal of	)	NOTICE OF REPEAL OF RULE
a Rule Pertaining to Tariff	)	38.3.2504 AND AMENDMENT OF
Fee and Amendments to Rules	)	RULES 38.3.2603, 38.3.2604,
Pertaining to Tariff Symbols,	)	38.3.2605, 38.3.2607 and
all Relating to Motor	)	38.3.2806
Carriers.)	


TO: All Interested Persons

1. On January 13, 1994 the Department of Public Service Regulation published notice of the proposals identified in the above titles at pages 14-17, issue number 1 of the 1994 Montana Administrative Register.

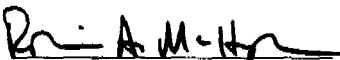
2. The Commission has amended rules 38.3.2603, 38.3.2604, 38.3.2605, 38.3.2607 and 38.3.2806, as proposed, and repealed 38.3.2504, found at page 38-217, Administrative Rules of Montana, as proposed.

3. COMMENTS: Staff of the Administrative Code Committee comments that it is unclear as to what event caused the agency to provide greater flexibility at this time and suggests that the agency clarify its statement of reasonable necessity. In response, the agency has observed an increased and increasing use of computer word processing for storage and amending of tariffs. Apparently, many of the commonly available word processing programs simply do not include the symbols which the rule had prescribed.

4. The authority of the agency to amend and repeal the rules as proposed and the statutes being implemented are set forth in the notice of proposed action identified in paragraph 1.


Bob Anderson, Chairman

CERTIFIED TO THE SECRETARY OF STATE APRIL 4, 1994.


Reviewed By

NOTICE OF FUNCTIONS OF ADMINISTRATIVE CODE COMMITTEE

The Administrative Code Committee reviews all proposals for adoption of new rules, amendment or repeal of existing rules filed with the Secretary of State, except rules proposed by the Department of Revenue. Proposals of the Department of Revenue are reviewed by the Revenue Oversight Committee.

The Administrative Code 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 | 1. Consult ARM topical index. |
| Subject | Update the rule by checking the accumulative |
| Matter | table and the table of contents in the last |
| | Montana Administrative Register issued. |
| Statute | 2. Go to cross reference table at end of each |
| Number and | title which lists MCA section numbers and |
| Department | 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 Administrative Procedure Act for inclusion in the ARM. The ARM is updated through December 31, 1993. This table includes those rules adopted during the period January 1, 1994 through March 31, 1994 and any proposed rule action that was 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, 1993, this table and the table of contents of this issue of the MAR.

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