

223—4.10(17A) Exemptions from public rule-making procedures.

4.10(2) *Categories exempt.* Insert the following sentence for the parenthetical sentences:

These rules shall be those that are mandated by federal law or regulations; where the department has no option but to adopt the rules as specified; where federal funding is contingent upon the adoption of the rules, and the rules are promulgated in accordance with the National Historic Preservation Act of 1966; Federal Regulations 36 CFR Part 61, April 13, 1984, and August 30, 1985; 36 CFR Part 63, September 21, 1977; 36 CFR Part 60, November 16, 1981, and October 2, 1983; 36 CFR Part 67, March 12, 1984; 36 CFR Part 800, September 21, 1986; 26 CFR Parts 1, 20, 25, and 602, October 11, 1988.

Notice and public participation would be unnecessary since the provisions of the law or regulation must be adopted in order to maintain federal funding and the department would have no option in the rule which was adopted.