

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 19

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after print publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 444-2055.

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BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the proposed adoption of)	NOTICE OF PROPOSED
NEW RULE I pertaining to model bylaws	)	ADOPTION, AMENDMENT, AND
and statutory reference for credit unions,	)	REPEAL
the amendment of ARM 2.59.401 and)	
2.59.402 pertaining to supervisory and	)	NO PUBLIC HEARING
examination fees and limited income	)	CONTEMPLATED
persons, and the repeal of 2.59.404)	
pertaining to corporate credit unions)	

TO: All Concerned Persons

1. On November 21, 2016, the Department of Administration proposes to adopt, amend, and repeal the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on November 7, 2016, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 841-2974; facsimile (406) 841-2930; or e-mail to banking@mt.gov.

3. The rule proposed to be adopted provides as follows:

NEW RULE I ADOPTION OF MODEL BYLAWS AND STATUTORY REFERENCE FOR CREDIT UNIONS (1) The division adopts by reference the model bylaws of credit unions dated August 2016 and the model credit union bylaws statutory reference dated August 2016, to be used by incorporators when they want to start a new credit union. Both can be found on the division's web site at <http://banking.mt.gov/Home/Forms#164912241-credit-unions>.

AUTH: 32-3-201, MCA
IMP: 32-3-302, MCA

STATEMENT OF REASONABLE NECESSITY: The division is adopting by reference model bylaws of credit unions and statutory references to reflect the changes made in the 2015 Montana legislative session and to align with the National Credit Union Administration (NCUA) bylaws.

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

2.59.401 CREDIT UNIONS - SUPERVISORY AND EXAMINATION FEES

- (1) ~~A credit union means any credit union other than a corporate credit union.~~
 (2) ~~A corporate credit union is a credit union formed primarily for the purpose of serving other credit unions.~~

(1) The division invoices credit unions for semiannual assessments. The assessment is based on each credit union's total assets provided in its previous March and September financial performance reports.

(2) The fee is calculated based on the total assets of the credit union multiplied by .0000375, plus the flat fee listed in the table below.

<u>Total Assets</u>	<u>Flat Fee (\$)</u>
<u>\$0 to \$50 million</u>	<u>\$0</u>
<u>Over \$50 to \$100 million</u>	<u>\$3,000</u>
<u>Over \$100 to \$250 million</u>	<u>\$5,000</u>
<u>Over \$250 million to \$1 billion</u>	<u>\$7,500</u>
<u>Over \$1 billion</u>	<u>\$15,000</u>

Example: Credit Union A reports total assets of \$36,169,980 x .0000375 plus \$0 equals \$1,356.37.

~~(3) The following annual supervisory fees for both credit unions and corporate credit unions become due and payable on or before February 15 of the next succeeding year.~~

~~(a) Credit unions will be assessed based upon the December 31 total assets of each year.~~

~~(b) Corporate credit unions will be assessed based upon the average of the quarterly total assets as reported on the March 31, June 30, September 30, and December 31 National Credit Union Administration Form 5310 report.~~

<u>Total Assets</u>	<u>Fee</u>
\$2,500,000 or less	0.00030 x total assets
Over \$2,500,000, but not over \$10,000,000	\$750 plus 0.000225 x total assets in excess of \$2,500,000
Over \$10,000,000, but not over \$50,000,000	\$2,437.50 plus 0.0001425 x total assets in excess of \$10,000,000
Over \$50,000,000, but not over \$100,000,000	\$8,137.50 plus 0.00008250 x total assets in excess of \$50,000,000
Over \$100,000,000, but not over \$250,000,000	\$12,262.50 plus 0.00007850 x total assets in excess of \$100,000,000
Over 250,000,000	\$24,037.50 plus 0.00007500 x total assets in excess of \$250,000,000

~~(4) The fee for the regular examination will be calculated according to the following schedule:~~

<u>Total Assets</u>	<u>Fee</u>
\$2,500,000 or less	0.000225 x total assets
Over \$2,500,000, but not over \$5,000,000	\$562.50 plus 0.000215 x total assets in excess of \$2,500,000
Over \$5,000,000, but not over \$15,000,000	\$1,100.00 plus 0.0001875 x total assets in excess of \$5,000,000
Over \$15,000,000, but not over \$50,000,000	\$2,975.00 plus 0.000125 x total assets in excess of \$15,000,000
Over \$50,000,000, but not over \$100,000,000	\$7,350.00 plus 0.000105 x total assets in excess of \$50,000,000
Over 100,000,000, but not over \$250,000,000	\$12,600.00 plus 0.00009 x total assets in excess of \$100,000,000
Over 250,000,000	\$26,100.00 plus 0.000055 x total assets in excess of \$250,000,000

~~(5) A charge of \$25 per hour per examiner engaged in the examination will be made in addition to the above charges. The number of hours charged for examiners in training will be adjusted to exclude time devoted to training.~~

~~(6) Newly chartered credit unions will receive one examination at no cost during the first year of operation. A newly chartered credit union is defined as a credit union which began operation within the past 12 months.~~

~~(7) If a credit union is examined by the department more than once during a calendar year, subsequent examination(s) will be based on examiner(s) time spent at the credit union site and in department offices preparing the examination report. The fee will equal actual working hours, net of any training time, multiplied by the hourly rate of compensation for the personnel involved.~~

AUTH: 32-3-201, MCA
IMP: 32-3-201, MCA

STATEMENT OF REASONABLE NECESSITY: The department has always attempted to correlate the expenses of the department with the supervisory fees it charges state-chartered institutions. For several years now, the department has experienced the retirement of several senior staff and departure of junior staff, which has made budgeting and setting assessments difficult because the department could not plan on salaries and payouts being consistent over time.

The department has recently undertaken a review of both credit union and bank assessments in an effort to make them consistent with each other and set at the proper level to cover department expenses.

Currently, credit unions are assessed both a supervisory fee and an examination fee, while banks are only charged a supervisory fee. The reason for this inequity is unknown. Unfortunately, the current credit union examination fees impose a larger fee burden on smaller credit unions that, arguably, should pay less than larger credit unions based on the relatively less supervisory time spent on them.

The department has determined the budget it will need to supervise credit unions in the future and matched the supervisory assessment to that amount. The rule as proposed deletes the examination fee for credit unions and imposes only a supervisory fee to remove the higher fee for smaller credit unions and to make the credit union fees consistent with the bank fees.

The flat fee is being imposed because larger institutions require more supervisory time than smaller institutions and the flat fee is designed to reflect that.

There are currently nine state-chartered credit unions in Montana. If we use the total assets of these credit unions as of December 31, 2015, the proposed rule will result in a reduction of revenues to the department of approximately \$183,000 annually. The amount that each credit union will pay is an individual calculation based on the total assets of the bank on the date of calculation. Overall, credit unions will pay less in assessments, but since the assessment is an individual calculation for each financial institution, assessments may vary.

2.59.402 CREDIT UNIONS - LIMITED INCOME PERSONS, DEFINITION

(1) A limited income person is defined as an individual whose annual income is less than that specified below based upon family size:

<u>Family Size</u>	<u>Annual Income</u>
1	\$ 11,670 <u>11,880</u>
2	15,730 <u>16,020</u>
3	19,790 <u>20,160</u>
4	23,850 <u>24,300</u>
5	27,910 <u>28,440</u>
6	31,970 <u>32,580</u>
7	36,030 <u>36,730</u>
8	40,090 <u>40,890</u>

For family/household units with more than eight members, add ~~\$4,060~~ 4,160 for each additional member.

(2) through (5) remain the same.

AUTH: 32-3-201, MCA

IMP: 32-3-307, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is being amended to reflect the 2016 Federal Poverty Level Guidelines upon which the annual income is based.

5. The department proposes to repeal the following rule:

2.59.404 CORPORATE CREDIT UNIONS found on ARM page 2-5983.

AUTH: 32-3-803, 32-3-804, MCA

IMP: 32-3-801, 32-3-802, 32-3-803, 32-3-804, MCA

STATEMENT OF REASONABLE NECESSITY: The purpose for the repeal of this rule is that there are no longer corporate credit unions in existence in the state of Montana.

6. Concerned persons may present their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to banking@mt.gov; and must be received no later than 5:00 p.m., November 14, 2016.

7. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in 6 above no later than 5:00 p.m., November 14, 2016.

8. An electronic copy of this proposal notice is available through the department's web site at <http://doa.mt.gov/administrativerules>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a discrepancy exists between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request that includes the name, mailing address, and e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written requests may be mailed or delivered to Wayne Johnston, Division of Banking and Financial Institutions, 301 S. Park, Ste. 316, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the

office at (406) 841-2930; e-mailed to banking@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

11. The department has determined that under 2-4-111, MCA, the proposed rule actions will not significantly and directly affect small businesses.

By: /s/ Sheila Hogan
Sheila Hogan, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State October 3, 2016.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF PROPOSED
2.59.104, 2.59.111, 2.59.125, 2.59.901,) AMENDMENT
2.59.1101, 2.59.1102, and 2.59.1603)
pertaining to semiannual assessment,) NO PUBLIC HEARING
retention of bank records, definitions,) CONTEMPLATED
change in location, application and)
review procedures, and state, county,)
and municipal issues for banks)

TO: All Concerned Persons

1. On November 21, 2016, the Department of Administration proposes to amend the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on November 7, 2016, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 841-2974; facsimile (406) 841-2930; or e-mail to banking@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

2.59.104 SEMIANNUAL ASSESSMENT (1) remains the same.

(2) The fee is calculated based on the total assets of the bank using the table below multiplied by .0000375, plus the flat fee listed below. ~~The fee is then multiplied by the factor of 1.50 and rounded to the next highest dollar to determine the assessment due for the semiannual period.~~

Total Assets (\$ Million)	Base Fee (\$)	Plus Rate per Dollar	Over (\$ Million)
0-1	0	0.00085	0
1-10	850	0.000105	1
10-50	1,795	0.000085	10
50-100	5,195	0.00005	50
over 100	7,695	0.00003	100

<u>Total Assets</u>	<u>Flat Fee (\$)</u>
<u>\$0 to \$50 million</u>	<u>\$0</u>
<u>Over \$50 to \$100 million</u>	<u>\$3,000</u>
<u>Over \$100 to \$250 million</u>	<u>\$5,000</u>
<u>Over \$250 million to \$1 billion</u>	<u>\$7,500</u>
<u>Over \$1 billion</u>	<u>\$15,000</u>

~~Example: Bank A reports total assets of \$8.2 million. Bank A's total assessment is \$2409, based on a base fee of \$850 plus \$756 (\$7.2 million x 0.000105 = \$1606) x 1.5. Bank A reports total assets of \$58,873,000 x .0000375 plus \$3,000 equals \$5,207.74.~~

~~(3) remains the same.~~

~~(4) No fee will be charged for the June 30, 2016, semiannual assessment. This section sunsets August 31, 2016.~~

AUTH: 32-1-213, 32-1-218, MCA

IMP: 32-1-213, 32-1-218, MCA

GENERAL STATEMENT OF REASONABLE NECESSITY: As part of its required biennial review of rules, the Department of Administration has identified necessary changes identified in these proposed amendments.

STATEMENT OF REASONABLE NECESSITY: The division tries to keep its banking assessments in proportion to the costs it spends on supervising Montana banks. However, since 2012, there have been changes in the banking industry and changes at the division that have made budgeting and planning particularly difficult.

The banking industry has gone through the housing crisis and the banking crisis, which resulted in a dramatic increase in regulatory burden and regulatory costs. In many cases, these costs outstrip the ability of small institutions to cover them. This has resulted in an environment in which many institutions are seeking either to merge or be merged.

The division has experienced the retirement of several senior staff members.

The combination of these events, and the division's desire to match its income to its expenses, resulted in the following reductions to the bank assessments:

2012 - 50% cut in the June assessment;
2013 - 50% cut in the June assessment;
2014 - 50% cut in the December assessment;
2015 - 100% cut in the June assessment; and
2016 - 100% cut in the June assessment.

The division has been promising for several years now that it would review the income it brings in from fees and the expenses of supervision and revise the

assessment formula. It has now done so and is proposing this rule to more closely match expected revenues and expenses.

It derived the formula by determining the expenses of supervision of the existing state-chartered banks at current levels and divided those expenses as evenly as possible among the state-chartered banks.

The flat fee is being imposed because larger institutions require more supervisory time than smaller institutions, and the flat fee is designed to reflect that. There are currently 49 state-chartered banks in Montana. If we use the total assets of these banks as of December 31, 2015, the proposed rule will result in a reduction of revenues to the division of approximately \$595,000 annually. The amount that each bank will pay is an individual calculation based on the total assets of the bank on the date of calculation. Overall, banks will pay less in assessments, but since the assessment is an individual calculation for each financial institution, assessments may vary.

2.59.111 RETENTION OF BANK RECORDS (1) and (2) remain the same.

(3) When a bank ~~microfilms, photographs, or uses other electronic or computer-generated data~~ reproduces records in any manner in the regular course of business as permitted by 32-1-492 through 32-1-494, MCA, the retention period of the ~~microfilm, photographs, electronic, or computer-generated data~~ reproduced records ~~is must be~~ the same as specified in Appendix A.

(4) through (7) remain the same.

AUTH: 32-1-491, MCA

IMP: 32-1-218, 32-1-491, 32-1-492, MCA

STATEMENT OF REASONABLE NECESSITY: The division is amending this rule to update the wording to commonly used, current language, to reflect the current methods of document reproduction and to make the wording more concise.

2.59.125 DEFINITIONS APPLICABLE TO DERIVATIVE TRANSACTIONS AND SECURITIES FINANCING TRANSACTIONS (1) through (3)(a)(iii) remain the same.

(iv) advance funds under a standby letter of credit, as defined in 12 CFR 32.2(dd)(ee) and 12 CFR 208.24, a put, or other similar arrangement.

(3)(b) through (15) remain the same.

AUTH: 32-1-432, MCA

IMP: 32-1-432, MCA

STATEMENT OF REASONABLE NECESSITY: The division is amending this rule to correct a citation. The citation, 12 CFR 32.2(dd), has been moved since this rule was adopted. The correct citation now is 12 CFR 32.2(ee).

2.59.901 CHANGE OF LOCATION (1) remains the same.

AUTH: ~~32-1-203~~, 32-1-372, MCA

IMP: 32-1-202, 32-1-372, MCA

STATEMENT OF REASONABLE NECESSITY: This amendment is necessary to reflect the correct authority and implementation citation, 32-1-372, MCA, which pertains to branch banks in this state.

2.59.1101 APPLICATION PROCEDURE FOR APPROVAL TO ESTABLISH A NEW BRANCH BANK (1) through (6) remain the same.

AUTH: 32-1-218, 32-1-372, MCA

IMP: 32-1-218, 32-1-372, MCA

STATEMENT OF REASONABLE NECESSITY: This amendment is necessary to reflect the correct authority and implementation citations pertaining to branch banks in this state.

2.59.1102 REVIEW PROCEDURE FOR APPLICATIONS FOR APPROVAL TO ESTABLISH A NEW BRANCH BANK (1) The division shall process applications ~~Applications~~ for new branch banks ~~will be processed~~ in the order in which they are received ~~by the Division of Banking and Financial Institutions~~. If an application is incomplete, the division shall notify the applicant ~~will be notified~~ by ~~telefax or mail~~ e-mail. An application will not be considered to have been received until it is in a complete form. An application is complete when all information required by the application form has been submitted and received. The division may request additional information from an applicant even if the application is considered complete.

(2) through (7) remain the same.

AUTH: 32-1-372, MCA

IMP: 32-1-372, MCA

STATEMENT OF REASONABLE NECESSITY: The division is amending this rule to update the method by which the division notifies an applicant of an incomplete application and to improve the clarity of the rule. The division no longer uses telefax or U.S. mail to notify applicants. The current practice of the division is to use e-mail to notify applicants of deficiencies in an application.

2.59.1603 STATE, COUNTY, AND MUNICIPAL ISSUES (1) through (3)(b) remain the same.

(c) Banks ~~which that~~ have branch banks in other states, as that term is defined in 32-1-109(4), MCA, may also invest without limitation in general obligations of the political subdivisions of the states in which the offices are located.

(4) remains the same.

(a) Banks ~~which that~~ have branch banks in other states, ~~as that term is defined in 32-1-109(4), MCA~~, may also invest without limitation in revenue bonds issued by those states or their political subdivisions.

(5) and (6) remain the same.

AUTH: 32-1-433, MCA
IMP: 32-1-424, 32-1-433, MCA

STATEMENT OF REASONABLE NECESSITY: The division is amending this rule to remove reference to an incorrect subsection of law and to improve grammar.

4. Concerned persons may present their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to banking@mt.gov; and must be received no later than 5:00 p.m., November 14, 2016.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in 4 above no later than 5:00 p.m., November 14, 2016.

6. If the Division of Banking and Financial Institutions receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review 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 directly affected has been determined to be five persons based on the 49 existing state-chartered banks.

7. An electronic copy of this proposal notice is available through the department's web site at <http://doa.mt.gov/administrativerules>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a discrepancy exists between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request that includes the name, mailing address, and e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written requests may be mailed or delivered to Wayne Johnston, Division of Banking and Financial Institutions, 301

S. Park, Ste. 316, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to banking@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. The department has determined that under 2-4-111, MCA, the proposed rule amendments will not significantly and directly affect small businesses.

By: /s/ Sheila Hogan
Sheila Hogan, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State October 3, 2016.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM	)	NOTICE OF PROPOSED
2.59.301, 2.59.310, and 2.59.318	)	AMENDMENT AND REPEAL
pertaining to advertising, standardized)	
forms and procedures, and the annual	)	NO PUBLIC HEARING
reporting form for consumer loan	)	CONTEMPLATED
licensees, and the repeal of ARM)	
2.59.311 pertaining to the transition of)	
licenses to the NMLS)	

TO: All Concerned Persons

1. On November 21, 2016, the Department of Administration proposes to amend and repeal the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on November 7, 2016, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 841-2974; facsimile (406) 841-2930; or e-mail to banking@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

2.59.301 ADVERTISING (1) through (3) remain the same.

(4) A licensee may not use any advertising ~~which~~ that is inconsistent with the Montana Unfair Trade Practices and Consumer Protection Act, Title 30, chapter 14, parts 1 and 2, MCA, or with federal laws including 15 USC 45(a)(1) ~~or 15 USC 5(a)(1)~~ or the rules promulgated thereunder.

(5) remains the same.

AUTH: 32-5-401, MCA

IMP: 32-5-309, MCA

GENERAL STATEMENT OF REASONABLE NECESSITY: As part of its required biennial review of rules, the Department of Administration has identified necessary changes identified in these proposed amendments and repeal.

STATEMENT OF REASONABLE NECESSITY: It was discovered in this particular rule that federal laws have been amended and 15 USC 5(a)(1) is no longer a valid law. The division is amending this rule to align with federal law and to improve grammar.

2.59.310 ADOPTION OF STANDARDIZED FORMS AND PROCEDURES OF THE NATIONWIDE MULTISTATE LICENSING SYSTEM (NMLS) (1) through (2)(b) remain the same.

(c) NMLS individual form dated ~~April 16, 2012~~ July 30, 2014.

(3) The following state-specific forms on the NMLS are approved and adopted by reference:

~~(a) Montana consumer loan license transition checklist dated June 3, 2014;~~

~~(b)(a)~~ Montana consumer loan license new application checklist dated ~~June 3, 2014~~ August 31, 2015;

~~(c)(b)~~ Montana consumer loan license amendment checklist dated ~~June 2, 2014~~ August 31, 2015;

~~(d)(c)~~ Montana consumer loan license surrender checklist dated ~~May 21, 2014~~ August 31, 2015;

~~(e) Montana consumer loan branch transition checklist dated June 2, 2014;~~

~~(f)(d)~~ Montana consumer loan branch new application checklist dated ~~June 2, 2014~~ August 31, 2015;

~~(g)(e)~~ Montana consumer loan branch amendment checklist dated ~~June 2, 2014~~ August 31, 2015; and

~~(h)(f)~~ Montana consumer loan branch surrender checklist dated ~~June 2, 2014~~ August 31, 2015.

(4) remains the same.

(5) Copies of the standardized NMLS forms are available on the department's web site ~~www.banking.mt.gov for review and informational purposes only~~ NMLS web site at <http://mortgage.nationwidelicensingsystem.org/slr/PublishedStateDocuments/MT-ConsumerLoanLicenseCompanyNewAppChecklist.pdf>. All standardized forms to be submitted to the department must be accessed through NMLS and submitted electronically.

AUTH: 32-5-201, 32-5-209, MCA

IMP: 32-5-201, 32-5-209, MCA

STATEMENT OF REASONABLE NECESSITY: This rule amendment is necessary to reflect the most current forms provided by the NMLS and the most current checklists used by the division. The web site address is being changed from the division web site to the NMLS web site to make it easier for the public to access the forms.

2.59.318 ADOPTION OF ANNUAL REPORT FORM AND DUE DATE

(1) and (2) remain the same.

(3) The Consumer Loan Annual Report of Licensee form, ~~7/1/2015~~ July 1, 2016, edition, is adopted and incorporated by reference.

(4) remains the same.

AUTH: 32-5-308, MCA

IMP: 32-5-308, MCA

STATEMENT OF REASONABLE NECESSITY: This rule amendment is necessary because the current dates in the Consumer Loan Annual Report of Licensee must be amended annually to reflect the licensees' current financial information.

4. The department proposes to repeal the following rule:

2.59.311 TRANSITION, found on ARM page 2-5967.

AUTH: 32-5-209, MCA

IMP: 32-5-201, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is proposed for repeal because all consumer loan licensees required to transition to the NMLS completed the transition during the transition period. There will be no other consumer loan licensees requiring transition because new license applicants will apply for their license directly through the NMLS.

5. Concerned persons may present their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to banking@mt.gov; and must be received no later than 5:00 p.m., November 14, 2016.

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in 5 above no later than 5:00 p.m., November 14, 2016.

7. If the Division of Banking and Financial Institutions receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review 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 directly affected has been determined to be nine persons based on the 92 existing consumer loan licensees.

8. An electronic copy of this proposal notice is available through the department's web site at <http://doa.mt.gov/administrativerules>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a discrepancy exists between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In

addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request that includes the name, mailing address, and e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written requests may be mailed or delivered to Wayne Johnston, Division of Banking and Financial Institutions, 301 S. Park, Ste. 316, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to banking@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

11. The department has determined that under 2-4-111, MCA, the proposed rule amendments and repeal will not significantly and directly affect small businesses.

By: /s/ Sheila Hogan
Sheila Hogan, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State October 3, 2016.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rule I and the amendment of ARM	)	PROPOSED ADOPTION AND
6.6.201, 6.6.202, 6.6.203, 6.6.204,	)	AMENDMENT
6,6,205, 6.6.206, 6.6.207, 6.6.208,)	
and 6.6.209, pertaining to Life)	
Insurance Buyer's Guide)	

TO: All Concerned Persons

1. On November 10, 2016, at 10:00 a.m., the Commissioner of Securities and Insurance, Montana State Auditor (CSI), will hold a public hearing in the 2nd floor conference room, at the Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. The CSI will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the CSI no later than 5:00 p.m., November 3, 2016, to advise us of the nature of the accommodation that you need. Please contact Darla Sautter, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; TDD (406) 444-3246; fax (406) 444-3499; or e-mail dsautter@mt.gov.

3. The new rule as proposed to be adopted provides as follows:

NEW RULE I FUNERAL PREARRANGEMENTS (1) For a prearrangement that is funded or to be funded by a life insurance policy, the following information shall be adequately disclosed at the time an application is made or prior to accepting the applicant's initial premium or deposit:

(a) the fact that a life insurance policy is involved or being used to fund a prearrangement;

(b) the nature of the relationship among the soliciting agent or agents, the provider of the funeral or cemetery merchandise or services, the administrator and any other person;

(c) the relationship of the life insurance policy to the funding of the prearrangement and the nature and existence of any guarantees relating to the prearrangement;

(d) the impact of the prearrangement, including:

(i) any changes in the life insurance policy including, but not limited to, changes in the assignment, beneficiary designation, or use of the proceeds;

(ii) any penalties to be incurred by the policyholder as a result of failure to make premium payments; and

(iii) any penalties to be incurred or monies to be received as a result of cancellation or surrender of the life insurance policy.

(e) a list of the merchandise and services which are applied or contracted for in the prearrangement and all relevant information concerning the price of the funeral services, including an indication that the purchase price is either guaranteed at the time of purchase or to be determined at the time of need;

(f) all relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy and the amount actually needed to fund the prearrangement;

(g) any penalties or restrictions, including, but not limited to geographic restrictions or the inability of the provider to perform, on the delivery of merchandise, services, or the prearrangement guarantee; and

(h) the fact that a sales commission or other form of compensation is being paid and the identity of the individuals or entities to whom it is paid, if applicable.

AUTH: 33-1-313, 33-20-1503, MCA

IMP: 33-18-201, 33-20-1501, MCA

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

6.6.201 AUTHORITY (1) The rules contained in this ~~sub-chapter~~ regulation are adopted and promulgated by the commissioner of ~~in-surance~~ insurance under the authority of ~~Section~~ 33-1-313, MCA.

AUTH: 33-1-313, MCA

IMP: 33-18-201, MCA

6.6.202 PURPOSE (1) The purpose of this ~~sub-chapter~~ is regulation is to require insurers to deliver to purchasers of life insurance information ~~which that~~ which that will improve the buyer's ability to select the most appropriate plan of life insurance for ~~his~~ the buyer's needs, ~~im-prove~~ improve the buyer's understanding of the basic features of the policy ~~which that~~ which that has been purchased or ~~which~~ which is under consideration, and improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance.

(2) This regulation does not prohibit the use of additional material ~~which that~~ which that is not in a violation of this regulation or any other Montana statute or regulation.

AUTH: 33-1-313, MCA

IMP: 33-18-201, MCA

6.6.203 SCOPE (1) Except as ~~hereafter-exempted~~ identified in (2), this ~~sub-chapter~~ regulation shall apply to any solicitation, negotiation, or procurement of life insurance occurring within this state. This ~~sub-chapter~~ regulation shall apply to any issuer of life insurance contracts including fraternal benefit societies.

(2) Unless otherwise specifically included, this regulation shall not apply to:

(a) ~~Annuities.~~ annuities;

(b) ~~Credit~~ credit life insurance-;

(c) ~~Group~~ group life insurance-;

(d) ~~Life~~ life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA)-; or

(e) ~~Variable~~ variable life insurance under which the death benefits and cash values vary in accordance with unit values of ~~invest-ments~~ investments held in a separate account.

AUTH: 33-1-313, MCA

IMP: 33-18-201, MCA

6.6.204 DEFINITIONS For the purposes of this sub-chapter regulation, the following definitions shall apply:

(1) A "buyer's guide" ~~is a document which contains, and is limited to, the~~ means the current Life Insurance Buyer's Guide adopted by the National Association of Insurance Commissioners (NAIC) or language contained in ARM 6.6.209 or language approved by the commissioner of insurance.

(2) A "cash dividend" ~~is the current illustrated dividend which can be applied toward payment of the gross premium.~~ "Current scale of nonguaranteed elements" means a formula or other mechanism that produces values for an illustration as if there is no change in the basis of those values after the time of illustration.

(3) The "equivalent level annual dividend" is calculated by applying the following steps: "Generic name" means a short title that is descriptive of the premium and benefit patterns of a policy or a rider.

(a) ~~Accumulate the annual cash dividends at 5% interest compounded annually to the end of the 10th and 20th policy years.~~

(b) ~~Divide each accumulation of step (a) by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in step (a) over the respective periods stipulated in step (a). If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.~~

(c) ~~Divide the results of step (b) by the number of thousands of the equivalent level death benefit to arrive at the equivalent level annual dividend.~~

(4) The "equivalent level death benefit" of a policy or term life insurance rider is an amount calculated as follows: "Nonguaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges, or elements of formulas used to determine any of these that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

(a) ~~Accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for 10 and 20 years at 5% interest compounded annually to the end of the 10th and 20th policy years respectively.~~

(b) ~~Divide each accumulation of step (a) by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in step (a) over the respective periods stipulated in step~~

(a) . If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

(5) ~~"Generic name" means a short title which is descriptive of the premium and benefit patterns of a policy or a rider. "Policy data" means a display or schedule of numerical values, both guaranteed and nonguaranteed for each policy year or a series of designated policy years of the following information:~~

~~(a) illustrated annual, other periodic, and terminal dividends;~~

~~(b) premiums;~~

~~(c) death benefits; and~~

~~(d) cash surrender values and endowment benefits.~~

(6) ~~"Life insurance cost indexes" includes: "Policy summary" means a written statement describing the elements of the policy, including, but not limited to:~~

~~(a) The "life insurance surrender cost index" is calculated by applying the following steps: a prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION;~~

~~(i) Determine the guaranteed cash surrender value, if any, available at the end of the 10th and 20th policy years.~~

~~(ii) For participating policies, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual cash dividends at 5% interest compounded annually to the end of the period selected and add this sum to the amount determined in step (i).~~

~~(iii) Divide the result of step (ii) (step (i) for guaranteed cost policies) by an interest factor that converts it into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in step (ii) (step (i) for guaranteed cost policies) over the respective periods stipulated in step (i). If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.~~

~~(iv) Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider at 5% interest compounded annually to the end of the period stipulated in step (i) and dividing the result by the respective factors stated in step (iii) (this amount is the annual premium payable for a level premium plan).~~

~~(v) Subtract the result of step (iii) from step (iv).~~

~~(vi) Divide the result of step (v) by the number of thousands of the equivalent level death benefit to arrive at the life insurance surrender cost index.~~

~~(b) The "life insurance net payment cost index" is calculated in the same manner as the comparable life insurance cost index except that the cash surrender value and any terminal dividend are set at zero. the name and address of the insurance agent, or if no agent is involved, a statement of the procedure to be followed in order to receive responses to the inquiries regarding the policy summary;~~

~~(c) the full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written;~~

~~(d) the generic name of the basic policy and each rider; and~~

~~(e) the following amounts, where applicable, for the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns; including at least one age from sixty through sixty-five and policy maturity;~~

- (i) the annual premium for the basic policy;
- (ii) the annual premium for each optional rider;
- (iii) the amount payable upon death at the beginning of the policy year regardless of the cause of death, other than suicide or other specifically enumerated exclusions, that is provided under the basic policy and each optional rider; with benefits provided under the basic policy and each rider shown separately;
- (iv) the total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider; and
- (v) any endowment amounts payable under the policy that are not included under cash surrender values above.
- (f) the effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is adjustable, the policy summary shall also indicate that the annual percentage rate will be determined by the company in accordance with the provisions of the policy and the applicable law; and
- (g) the date on which the policy summary is prepared.
- (7) For the purposes of this sub-chapter, "policy summary" means a written statement describing the elements of the policy including but not limited to: "Prearrangement" means funeral insurance, burial insurance, preneed funeral insurance, prearranged funeral plan, preneed arrangement, or other agreement by or for an individual before that individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services.
- ~~(a) A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.~~
- ~~(b) The name and address of the insurance agent, or, if no agent is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary.~~
- ~~(c) The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.~~
- ~~(d) The generic name of the basic policy and each rider.~~
- ~~(e) The following amounts, where applicable, for the first 5 policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including, but not necessarily limited to, the years for which life insurance cost indexes are displayed and at least one age from 60 through 65 or maturity whichever is earlier:~~
 - ~~(i) The annual premium for the basic policy.~~
 - ~~(ii) The annual premium for each optional rider.~~
 - ~~(iii) Guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide, or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.~~
 - ~~(iv) Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.~~
 - ~~(v) Cash dividends payable at the end of the year with values shown separately for the basic policy and each rider. (Dividends need not be displayed beyond the twentieth policy year).~~

~~(vi) Guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values above.~~

~~(f) The effective policy loan annual percentage interest rate, if the policy contains this provisions, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is variable, the policy summary includes the maximum annual percentage rate.~~

~~(g) Life insurance cost indexes for 10 and 20 years but in no case beyond the premium paying period. Separate indexes are displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor for basic policies or optional riders covering more than one life.~~

~~(h) The equivalent level annual dividend, in the case of participating policies and participating optional term life insurance riders, under the same circumstances and for the same durations at which life insurance cost indexes are displayed.~~

~~(i) A policy summary which includes dividends shall also include a statement that dividends are based on the company's current dividend scale and are not guaranteed in addition to a statement in close proximity to the equivalent level annual dividend as follows: An explanation of the intended use of the equivalent level annual dividend is included in the life insurance buyer's guide.~~

~~(j) A statement in close proximity to the life insurance cost indexes as follows: An explanation of the intended use of these indexes is provided in the life insurance buyer's guide.~~

~~(k) The date on which the policy summary is prepared. The policy summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as to not minimize or render any portion thereof obscure. Any amounts which remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in item (e) of this section shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.~~

AUTH: 33-1-313, 33-20-1503, MCA

IMP: 33-18-201, 33-20-1501, MCA

6.6.205 GENERAL RULES (1) Each insurer shall maintain at its home office or principal office, a complete file ~~contain-ing~~ containing one copy of each document authorized by the insurer for use pursuant to this ~~sub-chapter~~ regulation. Such file shall contain one copy of each authorized form for a period of three years following the date of its last authorized use.

(2) An agent shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that he or she is acting as a life insurance agent and inform the prospective purchaser of the full name of the insurance company

which ~~he~~ the agent is representing to the buyer. In sales situations in which an agent is not involved, the insurer shall ~~identify~~ identify its full name.

(3) Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance agent is generally engaged in an advisory business in which compensation is ~~un-~~ unrelated to sales unless such is actually the case.

(4) Any reference to ~~policy dividends~~ must include a statement that dividends are not guaranteed ~~nonguaranteed elements shall include a statement that the item is not guaranteed~~ and is based on the company's current scale of nonguaranteed elements (use appropriate special terms such as "current dividend" or "current rate" scale). If a nonguaranteed element would be reduced by the existence of a policy loan, a statement to that effect shall be included in any reference to nonguaranteed elements. A presentation or depiction of a policy issued after January 1, 2002, that includes nonguaranteed elements over a period of years shall be governed by ARM 6.6.701 through 6.6.718.

~~(5) A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of two or more life insurance policies. Such a system may be used for the purpose of demonstrating the cash flow pattern of a policy if such presentation is accompanied by a statement disclosing that the presentation does not recognize that, because of interest, a dollar in the future has less value than a dollar today.~~

~~(6) A presentation of benefits shall not display guaranteed and non-guaranteed benefits as a single sum unless they are shown separately in close proximity thereto.~~

~~(7) A statement regarding the use of the life insurance cost indexes shall include an explanation to the effect that the indexes are useful only for the comparison of the relative costs of two or more similar policies.~~

~~(8) A life insurance cost index which reflects dividends or an equivalent level annual dividend shall be accompanied by a statement that it is based on the company's current dividend scale and is not guaranteed.~~

~~(9) For the purposes of this sub-chapter, the annual pre-mium for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.~~

AUTH: 33-1-313, MCA

IMP: 33-18-201, MCA

6.6.206 DISCLOSURE REQUIREMENTS (1) The insurer shall provide, to all prospective purchasers, a buyer's guide and a policy summary prior to accepting the applicant's initial premium or premium deposit, unless the policy for which ~~applica-tion~~ application is made contains an unconditional refund provision of at least 10 days or unless the policy summary contains such an ~~un-conditional~~ unconditional refund offer, in which event the buyer's guide and policy summary must be delivered with the policy or prior to delivery of the policy.

~~(2) The insurer shall provide a buyer's guide and a policy summary to any prospective purchaser upon request.~~ The insurer shall provide a policy summary to

prospective purchasers where the insurer has identified the policy form as one that will not be marketed with an illustration. The policy summary shall show guarantees only. It shall consist of a separate document with all required information set out in a manner that does not minimize or render any portion of the summary obscure. Any amounts that remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in ARM 6.6.204(6)(e) shall be listed in total, not on a per thousand or per unit basis. If more than one insured is covered under one policy or rider, death benefits shall be displayed separately for each insured, or for each class of insureds if death benefits do not differ with the class. Zero amounts shall be displayed as a blank space. Delivery of the policy summary shall be consistent with the time for delivery of the Buyer's Guide as specified in (1).

(3) In the case of policies whose equivalent level death benefit does not exceed \$5,000, the requirement for providing a policy summary will be satisfied by delivery of a written statement containing the information described in 6.6.204 (7), items (b), (c), (d), (e)(i), (e)(ii), (e)(iii), (f), (g), (j), and (k). Upon request by the policyholder, the insurer shall furnish either policy data or an in-force illustration as follows:

(a) For policies issued prior to January 1, 2002, the insurer shall furnish policy data, or, at its option, an in-force illustration meeting the requirements of ARM 6.6.207.

(b) For policies issued after January 1, 2002, that were declared not to be used with an illustration, the insurer shall furnish policy data, limited to guaranteed values, if it has chosen not to furnish an in-force illustration meeting the requirements of this regulation.

(c) If the policy was issued after January 1, 2002, and declared to be used with an illustration, an in-force illustration shall be provided.

(d) Unless otherwise requested, the policy data shall be provided for 20 consecutive years beginning with the previous policy anniversary. The statement of policy data shall include nonguaranteed elements according to the current scale, the amount of outstanding policy loans, and the current policy loan interest rate. Policy values shown shall be based on the current application of nonguaranteed elements in effect at the time of the request. The insurer may charge a commercially reasonable fee for the preparation of the statement.

(4) If a life insurance company changes its method of determining scales of nonguaranteed elements on existing policies, it shall, no later than when the first payment is made on the new basis, advise each affected policy owner residing in this state of this change and of its implication on affected policies. This requirement shall not apply to policies for which the amount payable upon death under the basic policy as of the date when advice would otherwise be required does not exceed \$5,000.

(5) If the insurer makes a material revision in the terms and conditions under which it will limit its right to change a nonguaranteed factor, it shall, no later than the first policy anniversary following the revision, advise each affected policy owner residing in this state.

AUTH: 33-1-313, MCA

IMP: 33-18-201, MCA

6.6.207 FAILURE TO COMPLY (1) Failure of an insurer to ~~pre-vid~~ provide or deliver a buyer's guide or a policy summary as provided in ARM 6.6.206 shall constitute an omission which misrepresents the benefits, advantages, conditions, or terms of an insurance policy.

AUTH: 33-1-313, MCA

IMP: 33-18-201, MCA

6.6.208 EFFECTIVE DATE (1) This ~~sub-chapter~~ regulation shall apply to all solicitations of life insurance which commence on or after December 15, 1978.

AUTH: 33-1-313, MCA

IMP: 33-18-201, MCA

6.6.209 SAMPLE BUYER'S GUIDE (1) The following is a sample form:

~~The face page of the buyer's guide shall read as follows:~~

~~LIFE INSURANCE BUYER'S GUIDE~~

~~This guide can show you how to save money when you shop for life insurance. It helps you to:~~

- ~~---Decide how much life insurance you should buy,~~
- ~~---Decide what kind of life insurance policy you need, and~~
- ~~---Compare the cost of similar life insurance policies.~~

~~Prepared by the National Association of Insurance Commissioners~~

~~Reprinted by (Company Name)
(Month and year of printing)~~

~~The buyer's guide shall contain the following language at the bottom of page 2:~~

~~The National Association of Insurance Commissioners is an association of state insurance regulatory officials. This association helps the various insurance departments to coordinate insurance laws for the benefit of all consumers. You are urged to use this Guide in making a life insurance purchase.~~

~~THIS GUIDE DOES NOT ENDORSE ANY COMPANY OR POLICY.~~

~~The remaining text of buyer's guide shall begin on page 3 as follows:~~

BUYING LIFE INSURANCE

When you buy life insurance, you want a policy which fits your needs without costing too much. Your first step is to decide how much you need, how much you can afford to pay, and the kind of policy you want. Then, find out what various companies charge for that kind of policy. You can find important differences in the cost of life insurance by using the life insurance cost indexes which are described in this guide. A good life insurance agent or company will be able and willing to help you with each of these shopping steps.

If you are going to make a good choice when you buy life insurance, you need to understand which kinds are available. If one kind does not seem to fit your needs, ask about the other kinds which are described in this guide. If you feel that you need more information than is given here, you may want to check with a life insurance agent or company or books on life insurance in your public library.

CHOOSING THE AMOUNT

One way to decide how much life insurance you need is to figure how much cash and income your dependents would need if you were to die. You should think of life insurance as a source of cash needed for expenses of final illnesses, paying taxes, mortgages or other debts. It can also provide income for your family's living expenses, educational costs and other future expenses. Your new policy should come as close as you can afford to making up the difference between (1) what your dependents would have if you were to die now, and (2) what they would actually need.

CHOOSING THE RIGHT KIND

All life insurance policies agree to pay an amount of money if you die. But all policies are not the same. There are three basic kinds of life insurance.

1. Term insurance.
2. Whole life insurance
3. Endowment insurance

Remember, no matter how fancy the policy title or sales presentation might appear, all life insurance policies contain one or more of the three basic kinds. If you are confused about a policy that sounds complicated, ask the agent or company if it combines more than one kind of life insurance. The following is a brief description of the three basic kinds:

Term Insurance

Term insurance is death protection for a "term" of one or more years. Death benefits will be paid only if you die within that term of years. Term insurance generally provides the largest immediate death protection for your premium dollar.

Some term insurance policies are "renewable" for one or more additional terms even if your health has changed. Each time you renew the policy for a new term, premiums will be higher. You should check the premiums at older ages and the length of time the policy can be continued.

Some term insurance policies are also "convertible". This means that before the end of the conversion period, you may trade the term policy for a whole life or

endowment insurance policy even if you are not in good health. Premiums for the new policy will be higher than you have been paying for the term insurance.

Whole Life Insurance

Whole life insurance gives death protection for as long as you live. The most common type is called "straight life" or "ordinary life" insurance, for which you pay the same premiums for as long as you live. These premiums can be several times higher than you would pay initially for the same amount of term insurance. But they are smaller than the premiums you would eventually pay if you were to keep renewing a term insurance policy until your later years.

Some whole life policies let you pay premiums for a shorter period such as 20 years, or until age 65. Premiums for these policies are higher than for ordinary life insurance since the premium payments are squeezed into a shorter period.

Although you pay higher premiums, to begin with, for whole life insurance than for term insurance, whole life insurance policies develop "cash values" which you may have if you stop paying premiums. You can generally either take the cash, or use it to buy some continuing insurance protection. Technically speaking, these values are called "nonforfeiture benefits". This refers to benefits you do not lose (or "forfeit") when you stop paying premiums. The amount of these benefits depends on the kind of policy you have, its size, and how long you have owned it.

A policy with cash values may also be used as collateral for a loan. If you borrow from the life insurance company, the rate of interest is shown in your policy. Any money which you owe on a policy loan would be deducted from the benefits if you were to die, or from the cash value if you were to stop paying premiums.

Endowment Insurance

An endowment insurance policy pays a sum or income to you the policyholder if you live to a certain age. If you were to die before then, the death benefit would be paid to your beneficiary. Premiums and cash values for endowment insurance are higher than for the same amount of whole life insurance. Thus endowment insurance gives you the least amount of death protection for your premium dollar.

FINDING A LOW COST POLICY

After you have decided which kind of life insurance fits your needs, look for a good buy. Your chances of finding a good buy are better if you use two types of index numbers that have been developed to aid in shopping for life insurance. One is called the "Surrender Cost Index" and the other is the "Net Payment Cost Index". It will be worth your time to try to understand how these indexes are used, but in any event, use them only for comparing the relative cost of similar policies. LOOK FOR POLICIES WITH LOW COST INDEX NUMBERS.

What is Cost?

"Cost" is the difference between what you pay and what you get back. If you pay a premium for life insurance and get nothing back, your cost for the death protection is the premium. If you pay a premium and get something back later on, such as a cash value, your cost is smaller than the premium.

The cost of some policies can also be reduced by dividends; these are called "participating" policies. Companies may tell you what their current dividends are, but the size of future dividends is unknown today and cannot be guaranteed. Dividends actually paid are set each year by the company.

Some policies do not pay dividends. These are called "guaranteed cost" or "non-participating" policies. Every feature of a guaranteed cost policy is fixed so that you know in advance what your future cost will be.

The premiums and cash values of a participating policy are guaranteed, but the dividends are not. Premiums for participating policies are typically higher than for guaranteed cost policies, but the cost to you may be higher or lower, depending on the dividends actually paid.

What Are Cost Indexes?

In order to compare the cost of policies, you need to look at:

1. Premiums
2. Cash values
3. Dividends

Cost indexes use one or more of these factors to give you a convenient way to compare relative costs of similar policies. When you compare costs, an adjustment must be made to take into account that money is paid and received at different times. It is not enough to just add up the premiums you will pay and to subtract the cash values and dividends you expect to get back. These indexes take care of the arithmetic for you. Instead of having to add, subtract, multiply and divide many numbers yourself, you just compare the index numbers which you can get from life insurance agents and companies:

1. LIFE INSURANCE SURRENDER COST INDEX-- This index is useful if you consider the level of the cash values to be of primary importance to you. It helps you compare costs if at some future point in time, such as 10 or 20 years, you were to surrender the policy and take its cash value.

2. LIFE INSURANCE NET PAYMENT COST INDEX-- This index is useful if your main concern is the benefits that are to be paid at your death and if the level of cash values is of secondary importance to you. It helps you compare costs at some future point in time, such as 10 or 20 years, if you continue paying premiums on your policy and do not take its cash value.

There is another number called the equivalent level annual dividend. It shows the part dividends play in determining the cost index of a participating policy. Adding a policy's equivalent Level Annual Dividend to its cost index allows you to compare total costs of similar policies before deducting dividends. However, if you make any cost comparisons of a participating policy with a non-participating policy, remember that the total cost of the participating policy will be reduced by dividends, but the cost of the non-participating policy will not change.

How Do I Use Cost Indexes?

The most important thing to remember when using cost indexes is that a policy with a small index number is generally a better buy than a comparable policy with a larger index number. The following rules are also important:

~~(1) Cost comparisons should only be made between similar plans of life insurance. Similar plans are those which provide essentially the same basic benefits and require premium payments for approximately the same period of time. The closer policies are to being identical, the more reliable the cost comparison will be.~~

~~(2) Compare index numbers only for the kind of policy, for your age and for the amount you intend to buy. Since no one company offers the lowest cost for all types of insurance at all ages and for all amounts of insurance, it is important that you get the indexes for the actual policy, age and amount which you intend to buy. Just because a "shopper's guide" tells you that one company's policy is a good buy for a particular age and amount, you should not assume that all of that company's policies are equally good buys.~~

~~(3) Small differences in index numbers could be offset by other policy features or differences in the quality of service you may expect from the company or its agent. Therefore, when you find small differences in the cost indexes, your choice should be based on something other than cost.~~

~~(4) In any event, you will need other information on which to base your purchase decision. Be sure you can afford the premiums, and that you understand its cash values, dividends and death benefits. You should also make a judgement on how well the life insurance company or agent will provide service in the future to you as a policyholder.~~

~~(5) These life insurance cost indexes apply to new policies and should not be used to determine whether you should drop a policy you have already owned for awhile, in favor of a new one. If such a replacement is suggested, you should ask for information from the company which issued the old policy before you take action.~~

~~IMPORTANT THINGS TO REMEMBER -- A SUMMARY~~

~~The first decision you must make when buying a life insurance policy is choosing a policy whose benefits and premiums most closely meet your needs and ability to pay. Next, find a policy which is also a relatively good buy. If you compare surrender cost indexes and net payment cost indexes of similar competing policies, your chances of finding a relatively good buy will be better than if you do not shop. REMEMBER, LOOK FOR POLICIES WITH LOWER COST INDEX NUMBERS. A good life insurance agent can help you to choose the amount of life insurance and kind of policy you want and will give you cost indexes so that you can make cost comparisons of similar policies.~~

~~Don't buy life insurance unless you intend to stick with it. A policy which is a good buy when held for 20 years can be very costly if you quit during the early years of the policy. If you surrender such a policy during the first few years, you may get little or nothing back and much of your premium may have been used for company expenses.~~

~~Read your new policy carefully, and ask the agent or company for an explanation of anything you do not understand. What ever you decide now, it is important to review your life insurance program every few years to keep up with changes in your income and responsibilities.~~

(a) The face page of the Buyer's Guide shall read as follows:

Life Insurance Buyer's Guide

This guide can help you when you shop for life insurance. It discusses how to:

find a policy that meets your needs and fits your budget
decide how much insurance you need
make informed decisions when you buy a policy

Prepared by the National Association of Insurance Commissioners

The National Association of Insurance Commissioners is an association of state insurance regulatory officials. This association helps the various insurance departments to coordinate insurance laws for the benefit of all consumers.

This guide does not endorse any company or policy
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IMPORTANT THINGS TO CONSIDER

1. Review your own insurance needs and circumstances. Choose the kind of policy that has benefits that most closely fit your needs. Ask an agent or company to help you.
2. Be sure that you can handle premium payments. Can you afford the initial premium? If the premium increases later and you still need insurance, can you still afford it?
3. Don't sign an insurance application until you review it carefully to be sure all the answers are complete and accurate.
4. Don't buy life insurance unless you intend to stick with your plan. It may be very costly if you quit during the early years of the policy.
5. Don't drop one policy and buy another without a thorough study of the new policy and the one you have now. Replacing your insurance may be costly.
6. Read your policy carefully. Ask your agent or company about anything that is not clear to you.
7. Review your life insurance program with your agent or company every few years to keep up with changes in your income and your needs.

Buying Life Insurance

When you buy life insurance you want coverage that fits your needs.

First, decide how much you need--and for how long--and what you can afford to pay. Keep in mind the major reason you buy life insurance is to cover the financial effects of unexpected or untimely death. Life insurance can also be one of many ways you plan for the future.

Next, learn what kinds of policies will meet your needs and pick the one that best suits you.

Then, choose the combination of policy premium and benefits that emphasizes protection in case of early death, or benefits in case of long life, or a combination of both.

It makes good sense to ask a life insurance agent or company to help you. An agent can help you review your insurance needs and give you information about the available policies. If one kind of policy doesn't seem to fit your needs, ask about others.

This guide provides only basic information. You can get more facts from a life insurance agent or company or from your public library.

What About the Policy You Have Now?

If you are thinking about dropping a life insurance policy, here are some things you should consider:

If you decide to replace your policy, don't cancel your old policy until you have received the new one. You then have a minimum period to review your new policy and decide if it is what you wanted.

It may be costly to replace a policy. Much of what you paid in the early years of the policy you have now, paid for the company's cost of selling and issuing the policy. You may pay this type of cost again if you buy a new policy.

Ask your tax advisor if dropping your policy could affect your income taxes.

If you are older or your health has changed, premiums for the new policy will often be higher. You will not be able to buy a new policy if you are not insurable.

You may have valuable rights and benefits in the policy you now have that are not in the new one.

If the policy you have now no longer meets your needs, you may not have to replace it. You might be able to change your policy or add to it to get the coverage or benefits you now want.

At least in the beginning, a policy may pay no benefits for some causes of death covered in the policy you have now.

In all cases, if you are thinking of buying a new policy, check with the agent or company that issued you the one you have now. When you bought your old policy, you may have seen an illustration of the benefits of your policy. Before replacing your policy, ask your agent or company for an updated illustration. Check to see how the policy has performed and what you might expect in the future, based on the amounts the company is paying now.

How Much Do You Need?

Here are some questions to ask yourself:

How much of the family income do I provide? If I were to die early, how would my survivors, especially my children, get by? Does anyone else depend on me financially, such as a parent, grandparent, brother, or sister?

Do I have children for whom I'd like to set aside money to finish their education in the event of my death?

How will my family pay final expenses and repay debts after my death?

Do I have family members or organizations to whom I would like to leave money?

Will there be estate taxes to pay after my death?

How will inflation affect future needs?

As you figure out what you have to meet these needs, count the life insurance you have now, including any group insurance where you work or veteran's insurance. Don't forget Social Security, and pension plan survivor's benefits. Add other assets you have: savings, investments, real estate, and personal property. Which assets would your family sell or cash in to pay expenses after your death?

What Is the Right Kind of Life Insurance?

All policies are not the same. Some give coverage for your lifetime and others cover you for a specific number of years. Some build up cash values and others do not. Some policies combine different kinds of insurance, and others let you change from one kind of insurance to another. Some policies may offer other benefits while you are still living. Your choice should be based on your needs and what you can afford.

There are two basic types of life insurance: **term insurance** and **cash value insurance**. Term insurance generally has lower premiums in the early years, but does not build up cash values that you can use in the future. You may combine cash value life insurance with term insurance for the period of your greatest need for life insurance to replace income.

Term Insurance covers you for a term of one or more years. It pays a death benefit only if you die in that term. Term insurance generally offers the largest insurance protection for your premium dollar. It generally does not build up cash value.

You can renew most term insurance policies for one or more terms, even if your health has changed. Each time you renew the policy for a new term, premiums may be higher. Ask what the premiums will be if you continue to renew the policy. Also ask if you will lose the right to renew the policy at some age. For a higher premium, some companies will give you the right to keep the policy in force for a guaranteed period at the same price each year. At the end of that time you may need to pass a physical examination to continue coverage, and premiums may increase.

You may be able to trade many term insurance policies for a cash value policy during a conversion period even if you are not in good health. Premiums for the new policy will be higher than you have been paying for the term insurance.

Cash Value Life Insurance is a type of insurance where the premiums charged are higher at the beginning than they would be for the same amount of term insurance. The part of the premium that is not used for the cost of insurance is invested by the company and builds up a cash value that may be used in a variety of ways. You may borrow against a policy's cash value by taking a policy loan. If you don't pay back the loan and the interest on it, the amount you owe will be subtracted from the benefits when you die, or from the cash value if you stop paying premiums and take out the remaining cash value. You can also use your cash value to keep insurance protection for a limited time or to buy a reduced amount without having to pay more premiums. You also can use the cash value to increase your income in retirement or to help pay for needs such as a child's tuition without canceling the policy. However, to build up this cash value, you must pay higher premiums in the earlier years of the policy. Cash value life insurance may be one of several types; whole life, universal life, and variable life are all types of cash value insurance.

Whole Life Insurance covers you for as long as you live if your premiums are paid. You generally pay the same amount in premiums for as long as you live. When you first take out the policy, premiums can be several times higher than you would pay initially for the same amount of term insurance. But they are smaller than the premiums you eventually pay if you were to keep renewing a term policy until your later years.

Some whole life policies let you pay premiums for a shorter period such as 20 years, or until age 65. Premiums for these policies are higher since the premium payments are made during a shorter period.

Universal Life Insurance is a kind of flexible policy that lets you vary your premium payments. You can also adjust the face amount of your coverage. Increases may require proof that you qualify for the new death benefit. The premiums you pay (less expense charges) go into a policy account that earns interest. Charges are deducted from the account. If your yearly premium payment plus the interest your account earns is less than the charges, your account value will become lower. If it keeps dropping, eventually your coverage will end. To prevent that, you may need to start making premium payments, or increase your premium payments, or lower your death benefits. Even if there is enough in your account to pay the premiums, continuing to pay premiums yourself means that you build up more cash value.

Variable Life Insurance is a kind of insurance where the death benefits and cash values depend on the investment performance of one or more separate accounts, which may be invested in mutual funds or other investments allowed under the policy. Be sure to get the prospectus from the company when buying this kind of policy and study it carefully. You will have higher death benefits and cash value if the underlying investments do well. Your benefits and cash value will be lower or may disappear if the investments you chose didn't do as well as you expected. You may pay an extra premium for a guaranteed death benefit.

Life Insurance Illustrations

You may be thinking of buying a policy where cash values, death benefits, dividends, or premiums may vary based on events or situations the company does not guarantee (such as interest rates). If so, you may get an illustration from the agent or company that helps explain how the policy works. The illustration will show how the benefits that are not guaranteed will change as interest rates and other factors change. The illustration will show you what the company guarantees. It will also show you what could happen in the future. Remember that nobody knows what will happen in the future. You should be ready to adjust your financial plans if the cash value doesn't increase as quickly as shown in the illustration. You will be asked to sign a statement that says you understand that some of the numbers in the illustration are not guaranteed.

Finding a Good Value in Life Insurance

After you have decided which kind of life insurance is best for you, compare similar policies from different companies to find which one is likely to give you the best value for your money. A simple comparison of the premiums is not enough. There are other things to consider. For example:

Do premiums or benefits vary from year to year?

How much do the benefits build up in the policy?

What part of the premiums or benefits is not guaranteed?

What is the effect of interest on money paid and received at different times on the policy?

Remember that no one company offers the lowest cost at all ages for all kinds and amounts of insurance. You should also consider other factors.

How quickly does the cash value grow? Some policies have low cash values in the early years that build quickly later on. Other policies have a more level cash value build-up. A year-by-year display of values and benefits can be very helpful. (The agent or company will give you a policy summary or an illustration that will show benefits and premiums for selected years.)

Are there special policy features that particularly suit your needs?

How are nonguaranteed values calculated? For example, interest rates are important in determining policy returns. In some companies increases reflect the average interest earnings on all of the company's policies regardless of when issued. In others, the return for policies issued in a recent year, or a group of years, reflects the interest earnings on that group of policies; in this case, amounts paid are likely to change more rapidly when interest rates change.

AUTH: 33-1-313, 33-20-1503, MCA
IMP: 33-18-201, 33-20-150, 33-20-1501, MCA

5. STATEMENT OF REASONABLE NECESSITY: The Montana State Auditor, Commissioner of Securities and Insurance, Monica J. Lindeen (commissioner), is the statewide elected official responsible for administering the Montana Insurance Code and regulating the insurance industry in the state of Montana.

The commissioner is a member, a former Vice President, and former President of the National Association of Insurance Commissioners (NAIC). The NAIC is an organization of insurance regulators from the 50 states, the District of Columbia, and the U.S. Territories. The NAIC provides a forum for the development of uniform policy and regulation when uniformity is appropriate.

The rules relating to life insurance solicitation contained in ARM Title 6, chapter 6, subchapter 2 have not been updated or amended since 1978. Since then, there have been various intervening changes to the industry at large, and particularly with respect to life insurance. The commissioner seeks to adopt the NAIC model regulations relating to solicitation of life insurance to update the regulations and to bring Montana regulations into uniformity with those in other states.

In 2007, the legislature enacted Title 33, chapter 20, part 15, MCA, which regulates funeral insurance. Also, in 2007, the legislature granted the commissioner rulemaking authority to adopt rules to regulate funeral insurance including, but not limited to, rules regarding licensure of producers, form review, and consumer protection pursuant to 33-20-1503, MCA. The commissioner has determined that the new rule be proposed in accord with that section, and that the life insurance rules be amended to reflect industry changes and to establish uniformity with other states that have already made these changes.

NEW RULE I is proposed to be adopted in order to promote transparency in funeral insurance transactions in the special circumstance where the funeral insurance is funded by a life insurance policy. To that end, the rule imposes various up-front consumer disclosure requirements including, but not limited to, the requirement that the consumer be informed that a life insurance contract is funding the arrangement, the type of relationship between the soliciting producer and the funeral service or merchandise provider, penalties that may be incurred for failure to make premium payments, and other disclosures designed to render such transactions transparent to the insurance consumer. The language of New Rule I is adapted from an NAIC model rule, and therefore has the added benefit of greater consistency with the regulations of other states.

The following amendments are reasonably necessary to update and correct errors to the regulations.

ARM 6.6.201 is proposed to be amended to use contemporary rule language and format and to correct a typo.

ARM 6.6.202 is proposed to be amended to use contemporary rule writing language and to make grammatical corrections.

ARM 6.6.203 is proposed to be amended to use contemporary rule writing language, to amend format, and to correct a typo.

ARM 6.6.204 is proposed to be amended to more clearly identify the Life Insurance Buyer's Guide, to conform the language of the rule to the Buyer's Guide, to simplify and bring language to contemporary standards, and to add the definition of funeral insurance.

ARM 6.6.205 is proposed to be amended to eliminate archaic language, correct typographical errors, and to make the rules consistent with the current Buyer's Guide.

ARM 6.6.206 is proposed to be amended to eliminate archaic language, correct typographical errors, and to make the rules consistent with the current Buyer's Guide.

ARM 6.6.207 is proposed to be amended to correct a typographical error and a citation error.

ARM 6.6.208 is proposed to be amended to use contemporary rule writing language.

ARM 6.6.209 is proposed to be amended to replace the old Life Insurance Buyer's Guide with the new Life Insurance Buyer's Guide.

6. Concerned persons may submit their data, views, or arguments concerning the proposed actions either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Michael Winsor, Attorney, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-2004; fax (406) 444-5223; or e-mail mwinsor@mt.gov, and must be received no later than 5:00 p.m., November 18, 2016.

7. Michael Winsor, Attorney, has been designated to preside over and conduct this hearing.

8. The CSI maintains a list of concerned persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list may sign up by clicking on the blue button on the CSI's web site at: <http://csimt.gov/law-rules/> to specify for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Requests may also be sent to the CSI in writing. Such written request may be mailed or delivered to the contact information in 2 above, or may be made by completing a request form at any rules hearing held by the CSI.

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of

State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

10. Pursuant to 2-4-302, MCA, the bill sponsor contact requirements do not apply.

11. With regard to the requirements of 2-4-111, MCA, these rules may impact small businesses, in that they affect solicitations of life insurance or funeral prearrangements. With respect to life insurance in general, the amendments do not impose any new procedures or restrictions; they simply update the language of the rules to make them more readable, and update the language in the life insurance buyer's guide to be more consistent with other states. With respect to the funeral prearrangement disclosure requirements, those disclosures are only triggered in the special circumstance of a funeral prearrangement funded by a life insurance policy, and are reasonably necessary to ensure that consumers are fully aware of the details of any funeral prearrangements they purchase, in keeping with the legislative mandate of 33-20-501, MCA, et seq.

/s/ Michael A. Kakuk
Michael A. Kakuk
Rule Reviewer

/s/ Jesse Laslovich
Jesse Laslovich
Chief Legal Counsel

Certified to the Secretary of State October 3, 2016.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 10.57.101, 10.57.102,	)	PROPOSED AMENDMENT AND
10.57.107, 10.57.109, 10.57.201A,	)	REPEAL
10.57.215, 10.57.218, 10.57.410)	
through 10.57.421, 10.57.424,)	
10.57.427 through 10.57.433,)	
10.57.435, 10.57.438, 10.57.601B,)	
and 10.57.602 and the repeal of ARM)	
10.57.201 pertaining to educator)	
licensure)	

TO: All Concerned Persons

1. On November 9, 2016, at 10:00 a.m., the Board of Public Education will hold a public hearing in the Superintendent's conference room at 1227 11th Avenue, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Education no later than 5:00 p.m. on November 2, 2016, to advise us of the nature of the accommodation that you need. Please contact Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted mater interlined:

10.57.101 REVIEW OF POLICY (1) and (2) remain the same.

(3) The Superintendent of Public Instruction shall provide an annual report to the Board of Public Education on the number of Montana educator licenses issued, licensure denials, number of emergency authorizations of employment, and other relevant, available data pertaining to recruitment and retention of educators in Montana.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

10.57.102 DEFINITIONS The following definitions apply to this chapter.

(1) through (12) remain the same.

(13) "Year of administrative experience" means employment at any level within a state accredited P-12 school system, or in an educational institution

specified in 20-9-707, MCA, as a licensed administrator for the equivalent of at least .5 full-time employee (FTE) ~~for at least 1080 hours or 180 school days or a 1.0 FTE for at least 540 hours or 90 school days~~ the duration of a school year. Experience gained prior to ~~eligibility~~ for initial licensure is not considered. Experience as a County Superintendent may be considered as "administrative" experience with evidence of the following:

(a) and (b) remain the same.

(14) "Year of teaching experience" means employment at any level within a state accredited P-12 school system, or in an educational institution specified in 20-9-707, MCA, as licensed instructional staff for the equivalent of at least .5 FTE during for the duration of a school fiscal year ~~for at least 1080 hours or 180 school days or a 1.0 FTE for at least 540 hours or 90 school days~~. Experience gained prior to ~~eligibility~~ for initial licensure is not considered.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, MCA

10.57.107 EMERGENCY AUTHORIZATION OF EMPLOYMENT (1) through (1)(b) remain the same.

(c) The individual for whom the emergency authorization is being sought shall not be currently licensed ~~or eligible for a license~~ endorsed in the area of requested authorization and shall:

(i) have previously held a teacher or specialist license; or

(ii) ~~hold a bachelor's degree related to the area for which the emergency authorization of employment is being sought; or~~

(iii) provide acceptable evidence of academic qualifications and or significant experience related to the area for which the emergency authorization of employment is being sought.

~~(d) The individual for whom the emergency authorization is being sought shall not have held a Class 5 license within the year preceding the year for which emergency authorization of employment is being sought.~~

(2) An emergency authorization of employment is valid for one year.

(3) Experience as a classroom teacher when authorized pursuant to this rule qualifies as teaching experience as defined in ARM 10.57.102(14).

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-111, MCA

10.57.109 UNUSUAL CASES (1) The Board of Public Education is aware that these licensure rules cannot cover all the special circumstances that can arise. Therefore, the ~~Superintendent of Public Instruction~~ Board of Public Education is authorized to exercise judgment in unusual cases upon recommendation by the Superintendent of Public Instruction ~~and report any such actions to the Board of Public Education on a regular basis.~~

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

10.57.201A CRIMINAL HISTORY BACKGROUND CHECK (1) through (4) remain the same.

(5) To initiate the criminal history background check process, the applicant must submit a set of fingerprints on the appropriate form to the Montana Department of Justice for the purpose of licensure. Criminal background checks submitted for other purposes will not be accepted for licensure.

(6) through (9) remain the same.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-103, 20-4-104, MCA

10.57.215 RENEWAL REQUIREMENTS (1) ~~All Montana educator licenses~~ Class 1, 2, 3, and 6 educator licenses may be renewed with verification of 60 renewal units earned during the five years of validity through August 31 of the year the license expires.

(2) and (3) remain the same.

(4) Activities acceptable to renew licenses are professional development, training, workshops, or coursework consistent with PK-12 public school curriculum and may include:

(a) and (b) remain the same.

(c) other professional development activities offered by providers who have not been approved as a renewal unit provider pursuant to ARM 10.57.216, when licensees have received approval for the professional development activity from the Superintendent of Public Instruction ~~or submit acceptable evidence of the professional development activity with their application for renewal;~~

(d) remains the same.

(e) the instruction of a relevant college or university course, ~~based upon the academic credit of the course,~~ by a Montana licensee who has achieved a graduate degree in an endorsed field of specialization; or

(f) and (5) remain the same.

AUTH: Mont. Const. Art. X, sec. 9, 20-2-121, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-102, 20-4-108, MCA

10.57.218 RENEWAL UNIT VERIFICATION (1) and (2) remain the same.

(3) Failure to respond within the time allowed to a request for renewal unit activities in connection with an audit may result in denial of license renewal.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-108, MCA

10.57.410 CLASS 2 STANDARD TEACHER'S LICENSE (1) remains the same.

(2) Applicants for an initial Montana Class 1, 2, or 3 license whose degree is more than five years old and who do not have current out-of-state licensure must have earned six semester credits from a regionally accredited college or university

within the five-year period preceding the effective date of the license. For the purposes of this provision, current licensure does not include provisional, restricted, or lifetime licenses.

(3) To obtain a Class 2 standard teacher's license an applicant must submit verification of all of the following:

(a) remains the same.

(b) completion of an accredited professional educator preparation program including appropriate supervised teaching experience as the terms are defined in ARM 10.57.102 with a recommendation for the license requested from the appropriate official from the educator preparation program; and

(c) qualification for one or more endorsement as outlined in ARM 10.57.412; or

(d) a current license from the National Board for Professional Teaching Standards in an area approved for endorsement in Montana.

~~(3)~~ (4) If the educator preparation program completed by the applicant is not in Montana, upon initial application of a Class 1, Class 2, or Class 3 license, the applicant must provide:

(a) proof of a minimum passing score on the PRAXIS II Subject Assessment applicable to the requested endorsement as established by the Office of Public Instruction and approved by the Board of Public Education;

(b) verified completion of the online course "An Introduction to Indian Education for All in Montana"; and

(c) verified completion of an accredited professional educator preparation program including appropriate supervised teaching experience as the terms are defined in ARM 10.57.102; or

(d) verified completion of an educator preparation program, a current standard, unrestricted out-of-state educator license, and five years of successful teaching experience as defined in ARM 10.57.102 and appropriately aligned to ARM 10.58.501 as documented by a recommendation from the out-of-state state accredited P-12 school employer on a form prescribed by the Superintendent of Public Instruction.

(4) and (5) remain the same but are renumbered (5) and (6).

AUTH: Mont. Const. Art. X, sec. 9, 20-2-121, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-102, 20-4-103, 20-4-106, 20-4-108, MCA

10.57.411 CLASS 1 PROFESSIONAL TEACHER'S LICENSE (1) and (2) remain the same.

(a) eligibility for the Class 2 standard teacher's license as set forth in ARM 10.57.410, including proof of a minimum passing score on the PRAXIS Subject Assessment applicable to the requested endorsement and "An Introduction to Indian Education for All in Montana" online course if the educator preparation program completed by the applicant is not in Montana;

(b) through (4) remain the same.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.412 CLASS 1 AND 2 ENDORSEMENTS (1) remains the same.

(2) Areas approved for endorsement on Class 1 and 2 licenses include the following: agriculture, art K-12, biology, business and information technology education, chemistry, communication, computer science K-12, early childhood (age 3 to grade 3), earth science, economics, elementary education (K-8), English, English as a second language K-12, family and consumer sciences, geography, health, health enhancement and physical education K-12, history, industrial trades and technology education, journalism, library K-12, ~~marketing~~, mathematics, middle grades (4-8), music K-12, physical education K-12, physics, political science, psychology, reading K-12, school counseling K-12, science (broadfield), social studies (broadfield), sociology, special education P-12, special education P-12 hearing impairment, special education P-12 vision impairment, theater, traffic education, and world languages K-12.

(3) As appropriate, grade level endorsements may be issued as consistent with the educator preparation program completed by the applicant.

(4) Permissive special competencies or endorsements identified on an educator license, but no longer offered, may be retained as long as the licensee continues to renew the license.

(4) and (5) remain the same but are renumbered (5) and (6).

(a) completion of an ~~NCATE or CAEP~~ accredited professional educator preparation program at the grade level(s) identified by the program, including supervised teaching experience, or a waiver of this requirement on the university recommendation if the applicant has previously had supervised teaching experience; or

~~(b) for those applicants completing an educator preparation program at a regionally accredited college or university approved or accredited by a state board of education or a state agency:~~

~~(i) 30 semester credits in an approved major and 20 semester credits in an approved minor; or~~

~~(ii) 40 semester credits in an extended major; and~~

~~(iii) supervised teaching experience.~~ completion of an educator preparation program, a current standard, unrestricted out-of-state educator license, and five years of successful teaching experience as defined in ARM 10.57.102 documented by a recommendation from a state accredited P-12 school employer on a form prescribed by the Superintendent of Public Instruction.

(6) remains the same but is renumbered (7).

(a) completion of an ~~NCATE or CAEP~~ accredited professional educator preparation program; or

(b) and (c) remain the same.

(7) remains the same but is renumbered (8).

~~(8)~~ (9) Applicants who have completed accredited professional educator preparation programs outside of Montana and hold endorsements in specific disability areas (for example, early childhood special education, autism, hearing impaired) in another state may not qualify for a special education P-12 endorsement in hearing and vision upon verification of program completion and proof of a minimum passing score on the PRAXIS Subject Assessment applicable to the

special education endorsement.

(9) remains the same but is renumbered (10).

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.413 CLASS 3 ADMINISTRATIVE LICENSE (1) through (3) remain the same.

(4) An applicant for a Class 3 administrative license who completed an educator preparation program which does not meet the definition in ARM 10.57.102(2), who is currently licensed in another state at the same level of licensure, may be considered for licensure with verification of five years of successful administrative experience as defined in ARM 10.57.102 as documented by a recommendation from a state accredited P-12 school employer on a form prescribed by the Superintendent of Public Instruction. The additional requirements set forth in ARM 10.57.414 through 10.57.418 must also be met.

(4) and (5) remain the same but are renumbered (5) and (6).

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.414 CLASS 3 ADMINISTRATIVE LICENSE – SUPERINTENDENT ENDORSEMENT (1) remains the same.

(a) an education specialist, master's, or doctoral degree from a regionally accredited college or university in education or education leadership;

(b) and (c) remain the same.

(d) a minimum of three years of teaching experience as an appropriately licensed teacher or specialist;

(e) and (f) remain the same.

(2) Applicant must also submit a recommendation for the endorsement requested from the appropriate official from an accredited professional educator superintendent program.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.415 CLASS 3 ADMINISTRATIVE LICENSE – ELEMENTARY PRINCIPAL ENDORSEMENT (1) remains the same.

(a) a minimum of three years of teaching experience as an appropriately licensed and assigned Class 1 or 2 teacher with a standard, unrestricted license at the elementary level;

(b) a master's degree in educational leadership from an accredited professional educator preparation program as defined in ARM 10.57.102 or a master's degree related to education from a regionally accredited college or university;

(c) and (d) remain the same.

(e) recommendation for the endorsement from the appropriate official from

an accredited professional educator principal program.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.416 CLASS 3 ADMINISTRATIVE LICENSE – SECONDARY PRINCIPAL ENDORSEMENT (1) remains the same.

(a) a minimum of three years of teaching experience ~~as an appropriately licensed and assigned Class 1 or 2 teacher~~ with a standard, unrestricted license at the secondary level;

(b) a master's degree in educational leadership from an accredited professional educator preparation program as defined in ARM 10.57.102 or a master's degree related to education from a regionally accredited college or university;

(c) and (d) remain the same.

(e) recommendation for the endorsement from the appropriate official from an accredited professional educator principal program.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.417 CLASS 3 ADMINISTRATIVE LICENSE – K-12 PRINCIPAL ENDORSEMENT (1) remains the same.

(a) a master's degree in educational leadership from an accredited professional educator preparation program as defined in ARM 10.57.102 or a master's degree related to education from a regionally accredited college or university;

(b) remains the same.

(c) a minimum of three years of teaching experience ~~as an appropriately licensed and assigned Class 1 or 2 teacher~~ with a standard, unrestricted license;

(d) remains the same.

(e) recommendation for the endorsement from the appropriate official from an accredited professional educator K-12 principal program.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.418 CLASS 3 ADMINISTRATIVE LICENSE – SUPERVISOR ENDORSEMENT (1) remains the same.

(a) of completion of an accredited educator preparation program;

(a) and (b) remain the same but are renumbered (b) and (c).

~~(c) (d)~~ of three years of teaching experience ~~as an appropriately licensed and assigned teacher~~ with a standard, unrestricted license;

(d) remains the same but is renumbered (e).

~~(e) (f)~~ of recommendation for the endorsement from the appropriate official from an accredited professional educator supervisor program.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.419 CLASS 3 ADMINISTRATIVE LICENSE – SPECIAL EDUCATION SUPERVISOR ENDORSEMENT (1) through (1)(b) remain the same.

(c) three years of teaching experience in an accredited school setting ~~as an appropriately licensed and assigned teacher with a standard, unrestricted license~~, or five years of experience in an accredited school setting as a fully licensed and assigned related services provider;

(d) three semester credits in special education law;

(e) a supervised practicum/internship ~~in an accredited professional educator preparation program~~ from an accredited special education supervisor program; and

(f) recommendation for the endorsement from the appropriate official from an accredited ~~professional educator preparation~~ special education supervisor program.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.420 CLASS 4 CAREER AND TECHNICAL EDUCATION LICENSE

(1) through (2)(a) remain the same.

(b) A Class 4B license issued to individuals with at least a bachelor's degree from a regionally accredited college or university, but who do not hold a valid Montana teaching license with the appropriate career and technical education endorsement; and

(c) through (4) remain the same.

(a) Class 4A licenses shall be renewable by earning 60 renewal units. Endorsement related technical studies may be accepted. ~~The~~ Additionally, the first renewal must show evidence of renewal units earned in each of the following ~~content~~ areas:

(i) and (ii) remain the same.

(b) Class 4B or 4C licenses shall be renewable by earning 60 renewal units. The first renewal must show evidence of renewal units earned in the following ~~content~~ areas:

(i) through (5) remain the same.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.421 CLASS 4 ENDORSEMENTS (1) Recognized occupations eligible for a Class 4 license shall be evaluated on an annual basis by the Superintendent of Public Instruction. Appropriate career and technical education areas acceptable for endorsement on the Class 4 license include but are not limited to the following: ~~automotive technology, welding, auto body, industrial mechanics, agriculture business (marketing and communications), livestock production, plant and soil sciences, small engines, heavy equipment operations, electronics, horticulture, agriculture mechanics, building trades, building maintenance, culinary arts, metals, drafting, computer information systems, graphic arts, aviation, health science~~

education, machining, diesel mechanics, videography, and stagecraft agriculture business, agriculture mechanics, auto body, automotive technology, aviation, building maintenance, building trades, business marketing, computer information systems, culinary arts, diesel mechanics, drafting, electronics, engineering, graphic arts, health science education, heavy equipment operations, horticulture, industrial mechanics, livestock production, machining, metals, plant and soil sciences, Reserve Officer Training Corps (ROTC) instruction, small engines, stagecraft, videography, and welding.

(2) and (3) remain the same.

(4) ~~for~~ For health science education, engineering, or computer information systems, an alternative to the above requirement of 10,000 hours of work experience may be substituted as approved by the Superintendent of Public Instruction as follows:

(a) and (a)(i) remain the same.

(ii) ~~verification of participation in or completion of an approved internship program in a medical setting~~ provide verification of successful completion of a blended learning professional development course of at least 80 hours by a provider recognized both nationally and by the Office of Public Instruction; and

(iii) successful completion of coursework in human biology ~~and~~ or anatomy and physiology; or

(iv) hold a current professional license ~~or certificate~~ in a related health occupation field;.

(b) For engineering:

(i) hold a Class 1 or 2 license with an endorsement in math or science; and

(ii) provide verification of successful completion of a blended learning professional development course of at least 80 hours by a provider recognized both nationally and by the Office of Public Instruction.

~~(b) (c)~~ For computer information systems an individual may provide verification of completion of an approved technical program in a recognized training institution and hold a professional license or recognized industry standard certificate.

(5) remains the same.

(6) To qualify for a ROTC instructor endorsement the applicant must provide evidence of certification by the appropriate branch of the U.S. military and successful completion of a criminal background check pursuant to ARM 10.57.201A. This endorsement does not require verification of 10,000 hours of work experience and may not be issued as a Class 4C license. A Class 4A or 4B license with a ROTC endorsement may be renewed every five years with resubmission of certification by the appropriate branch of the U.S. military.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.424 CLASS 5 PROVISIONAL LICENSE (1) A Class 5 provisional license is valid for a term of three years, is not renewable, and may not be reinstated. A Montana educator may be issued only one Class 5 provisional license per teaching license (Class 1 or 2), administrator license (Class 3), or specialist license (Class 6). A Class 5 provisional license is not available for an initial Class 4

license or a Class 7 or 8 license.

(2) remains the same.

(3) An applicant for a Class 5 provisional license who has graduated from an educator preparation program outside of Montana ~~and does not meet the testing requirements of ARM 10.57.410(3)~~, must provide proof of a minimum passing score on the Praxis Subject Assessment applicable to the requested endorsement and a current Montana address or job offer from an accredited or state-funded P-12 school in Montana.

(4) remains the same.

~~(5) When the endorsement-specific requirement in ARM 10.57.425 through 10.57.432 requires a master's degree, master's degrees which do not meet the specific requirement may be accepted with university approval as evidenced by enrollment in the accredited professional educator preparation program.~~

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.427 CLASS 5 PROVISIONAL LICENSE – SUPERINTENDENT ENDORSEMENT (1) remains the same.

(a) a master's degree in educational leadership from an accredited professional educator preparation program ~~or equivalent~~ as defined in ARM 10.57.102;

(b) eligibility for a Class 1, 2, or 5 teaching license or a current standard, unrestricted out-of-state license and five years of successful supervisory experience as a licensed administrator as defined in ARM 10.57.102, documented by a recommendation from a state accredited P-12 school employer on a form prescribed by the Superintendent of Public Instruction;

(c) through (f) remain the same.

(2) Applicants required to complete coursework other than Montana school law, Montana collective bargaining and employment law, and Montana school finance ~~must be enrolled in a Board of Public Education-approved internship program as outlined in ARM 10.55.607~~ are not eligible for a Class 5 provisional license, but may enroll in an internship program pursuant to ARM 10.55.607.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.428 CLASS 5 PROVISIONAL LICENSE – ELEMENTARY PRINCIPAL ENDORSEMENT (1) and (1)(a) remain the same.

(b) eligibility for a Class 1, 2, or 5 teaching license at the elementary level or a current standard, unrestricted out-of-state license and five years of successful supervisory experience as a licensed administrator as defined in ARM 10.57.102 as documented by a recommendation from a state accredited P-12 school employer on a form prescribed by the Superintendent of Public Instruction; and

(c) a minimum of three years of experience as an appropriately licensed and assigned teacher at the elementary level; ~~and~~

~~(d) for those applicants who have not completed an accredited professional~~

educator preparation program, a plan of study from an accredited professional educator preparation program verifying that the applicant:

(i) ~~can meet the requirements for full licensure within the three-year valid period of the license; and~~

(ii) ~~meets the professional educator preparation program's admission requirements.~~

(2) Applicants required to complete coursework other than Montana school law, including special education law ~~must submit written evidence of enrollment in an accredited professional educator preparation program leading to the elementary principal endorsement and enrollment in the Board of Public Education approved~~ are not eligible for a Class 5 provisional license, but may enroll in an internship program ~~as outlined in~~ pursuant to ARM 10.55.607.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.429 CLASS 5 PROVISIONAL LICENSE – SECONDARY PRINCIPAL ENDORSEMENT (1) and (1)(a) remain the same.

(b) eligibility for a Class 1, 2, or 5 teaching license at the secondary level or a current standard, unrestricted out-of-state license and five years of successful administrative experience as a licensed administrator as defined in ARM 10.57.102, documented by a recommendation from a state accredited P-12 school employer on a form prescribed by the Superintendent of Public Instruction; and

(c) a minimum of three years of experience as an appropriately licensed and assigned teacher at the secondary level; and

(d) ~~for those applicants who have not completed an accredited professional educator preparation program, a plan of study from an accredited professional educator preparation program verifying that the applicant:~~

(i) ~~can meet the requirements for full licensure within the three-year valid period of the license; and~~

(ii) ~~meets the professional educator preparation program's admission requirements.~~

(2) Applicants required to complete coursework other than Montana school law, including special education law ~~must submit written evidence of enrollment in an accredited professional educator preparation program leading to the secondary principal endorsement and enrollment in the Board of Public Education approved~~ are not eligible for a Class 5 provisional license, but may enroll in an internship program ~~as outlined in~~ pursuant to ARM 10.55.607.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.430 CLASS 5 PROVISIONAL LICENSE – K-12 PRINCIPAL ENDORSEMENT (1) and (1)(a) remain the same.

(b) eligibility for a Class 1, 2, or 5 teaching license at any level within K-12 or current standard, unrestricted out-of-state licensure and five years of successful supervisory experience as a licensed administrator as documented by a

recommendation from a state accredited P-12 school employer on a form prescribed by the Superintendent of Public Instruction; and

(c) a minimum of three years of experience as an appropriately licensed and assigned teacher at any level within K-12; and

~~(d) for those applicants who have not completed an accredited professional educator preparation program, a plan of study from an accredited professional educator preparation program verifying that the applicant:~~

~~(i) can meet the requirements for full licensure within the three-year valid period of the license; and~~

~~(ii) meets the professional educator preparation program's admission requirements.~~

(2) Applicants required to complete coursework other than Montana school law, including special education law ~~must submit written evidence of enrollment in an accredited professional educator preparation program leading to the K-12 principal endorsement and enrollment in the Board of Public Education approved~~ are not eligible for a Class 5 provisional license, but may enroll in an internship program as outlined in pursuant to ARM 10.55.607.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.431 CLASS 5 PROVISIONAL LICENSE – SUPERVISOR ENDORSEMENT (1) To obtain a ~~e~~Class 5 provisional license with a supervisor endorsement, an applicant must provide verification of:

(a) a master's degree from an regionally accredited college or university in the area requested for supervisory endorsement; and

(b) three years of appropriately licensed experience as a teacher in the area requested for supervisory endorsement or five years of experience in a school setting as a fully licensed and appropriately assigned related services provider; and

(c) a plan of study from an accredited professional educator preparation program verifying that the applicant:

(i) can meet the requirements for full licensure within the three-year valid period of the license; and

(ii) meets the professional educator preparation program's admission requirements.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.432 CLASS 5 PROVISIONAL LICENSE – SPECIALIST ENDORSEMENT (1) remains the same.

(a) verification of a master's degree or greater in school psychology or related field from a regionally accredited ~~program~~ college or university; and

(b) and (2) remain the same.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.433 CLASS 6 SPECIALIST LICENSE (1) and (2) remain the same.

(3) Applicants for an initial Montana Class 6 license with a degree more than five years old and who do not have current out-of-state licensure must have earned six graduate semester credits from a regionally accredited college or university within the five-year period preceding the effective date of the license. For the purposes of this provision, current licensure does not include provisional, restricted, or lifetime licenses.

(3) through (5) remain the same but are renumbered (4) through (6).

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.435 CLASS 6 SPECIALIST LICENSE – SCHOOL COUNSELOR

(1) remains the same.

(a) a master's degree from a regionally accredited college or university; and

(b) and (c) remain the same.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.438 CLASS 8 DUAL CREDIT POSTSECONDARY FACULTY LICENSE ENDORSEMENTS (1) Areas approved for endorsement on Class 8 dual credit-only postsecondary faculty licenses are listed in ARM 10.57.412 and 10.57.421.

(2) remains the same.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-106, 20-4-108, MCA

10.57.601B REVIEW (1) and (2) remain the same.

~~(3) After receiving a response from the licensee, the board may request further information to ensure the preliminary review properly reflects the facts and position of each party.~~

~~(4) If the board determines there is sufficient cause to believe that professional misconduct occurred, the board shall provide notice to the licensee of a hearing on possible disciplinary action as provided in ARM 10.57.602.~~

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-110, MCA

10.57.602 NOTICE OF HEARING (1) ~~The~~ Upon notice of a request for disciplinary action pursuant to ARM 10.57.601 and determination of sufficient cause, the Board of Public Education shall provide notice of a pending disciplinary action to the licensee, by certified mail not less than 30 days prior to the date of the hearing.

(a) through (3) remain the same.

AUTH: Mont. Const. Art. X, sec. 9, 20-4-102, MCA

IMP: Mont. Const. Art. X, sec. 9, 20-4-110, MCA

4. The board proposes to repeal the following rule:

10.57.201 GENERAL PROVISIONS TO ISSUE LICENSES, AUTH: 20-4-102, MCA; IMP: 20-4-103, MCA

5. The Board of Public Education proposes that the amendments to ARM 10.57.107 be effective upon adoption and the amendments to the remaining rules be effective January 1, 2017.

6. Statement of Reasonable Necessity: The Board of Public Education has determined it is reasonable and necessary to repeal ARM 10.57.201 and move relevant requirements to other applicable sections for clarification. Amendments to other rules are necessary for clarification of interpretation, consistency, and to correct errors and omissions. It is appropriate and reasonably necessary for the board to receive certain annual reports on licensing activities and to approve exceptions to the licensing requirements. It is also appropriate and reasonably necessary to assist with recruitment of qualified educators by allowing consideration of the experience of applicants who completed non-accredited educator preparation programs within strict parameters of quality assurance. Additional flexibility in emergency authorization for the hiring of staff in vacant positions is also appropriate and reasonably necessary.

The addition of a Class 4 endorsement of ROTC instructors allows those courses to be taught for student credit.

The board also proposes to include in the authorizing and implementing statutes a citation to its constitutional authority requiring the board "to exercise general supervision over the public school system." This inclusion would recognize the board's constitutional authority to conduct rulemaking.

7. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov and must be received no later than 5:00 p.m., November 14, 2016.

8. Peter Donovan has been designated to preside over and conduct this hearing.

9. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which

program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 7 above or may be made by completing a request form at any rules hearing held by the board.

10. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

11. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

12. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Peter Donovan
Peter Donovan
Rule Reviewer

/s/ Sharon Carroll
Sharon Carroll
Board Chair
Board of Public Education

Certified to the Secretary of State October 3, 2016.

BEFORE THE BOARD OF PLUMBERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.180.2102 continuing	)	PROPOSED AMENDMENT AND
education requirements, and the	)	REPEAL
repeal of ARM 24.180.203 board)	
meetings, 24.180.413 general)	
responsibilities, 24.180.601)	
investigation, 24.180.2101 renewals,)	
and 24.180.2401 complaint)	
procedure)	

TO: All Concerned Persons

1. On November 15, 2016, at 9:30 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Plumbers (board) no later than 5:00 p.m., on November 9, 2016, to advise us of the nature of the accommodation that you need. Please contact Jason Steffins, Board of Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdpplu@mt.gov (board's e-mail).

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

24.180.2102 CONTINUING EDUCATION REQUIREMENTS (1) through (2)(a)(vi) remain the same.

~~(b) Course sponsors are responsible for ensuring that instructors are credentialed as one or more of the following:~~

~~(i) a Montana licensed journeyman or master plumber, with additional training in related subject areas;~~

~~(ii) a certified teacher with board approved plumbing credentials;~~

~~(iii) a certified journeyman and apprentice plumbing instructor;~~

~~(iv) a plumbing inspector possessing a state journeyman or master plumber's license; or~~

~~(v) continuing education instructor from another state or jurisdiction who is approved by the board.~~

(b) Course instructors shall be, as of the date of the course approval application and at all times while providing continuing education instruction:

(i) a certified continuing education instructor employed by the International Association of Plumbing and Mechanical Officials;

(ii) a plumbing continuing education instructor approved in a state that has a plumbing license reciprocity agreement with the board, if the instructor has also successfully completed the International Association of Plumbing and Mechanical Officials' "train the trainer" course for the Uniform Plumbing Code; or

(iii) licensed as a journeyman or master plumber in a state or jurisdiction that has adopted the uniform plumbing code, if the instructor:

(A) has no former or pending disciplinary actions against the instructor's plumbing license in any jurisdiction, unless the board is satisfied that the conduct has been adequately addressed through compliance with sanctions imposed; and

(B) either:

(I) is a uniform plumbing code inspector for an authority having jurisdiction, as that term is defined in the uniform plumbing code;

(II) is an apprenticeship training instructor for a union in a jurisdiction that has adopted the Uniform Plumbing Code;

(III) is certified as a plumbing inspector by the International Association of Plumbing and Mechanical Officials; or

(IV) has successfully completed the International Association of Plumbing and Mechanical Officials' "train the trainer" course for the Uniform Plumbing Code.

(c) through (6) remain the same.

AUTH: 37-1-319, ~~37-69-202~~, MCA

IMP: 37-1-141, 37-1-306, 37-1-319, MCA

REASON: The board frequently reviews applications for continuing education providers whose proposed instructors have qualifications that the board must review on a case-by-case basis and approve at their discretion. While the current rule provides board flexibility to consider all proposed instructor qualifications, the number of proposals that fail to include properly qualified instructors, of late, coupled with a recent complaint that the board may not be reviewing instructor qualifications objectively, lead the board to conclude it is reasonably necessary to amend this rule to provide more concrete, objective criteria for instructor qualifications.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

4. The rules proposed to be repealed are as follows:

24.180.203 BOARD MEETINGS

AUTH: 37-69-202, MCA

IMP: 37-69-202, MCA

REASON: The board is repealing this rule as unnecessary and outdated, noting that the department assists all boards in setting and scheduling meetings, and

acknowledging that boards can follow Roberts Rules without adopting them in administrative rule.

24.180.413 GENERAL RESPONSIBILITIES

AUTH: 37-69-202, MCA

IMP: 37-69-202, MCA

REASON: The board is repealing this unnecessary rule because the provisions regarding carrying proof of licensure are adequately addressed in statute at 37-69-301, MCA, and should not be unnecessarily repeated in rule per the Montana Administrative Procedure Act.

24.180.601 INVESTIGATION

AUTH: 37-69-202, MCA

IMP: 37-1-308, 37-69-304, 37-69-305, MCA

REASON: The board is repealing this unnecessary rule because the department, in providing administrative services, provides consistent investigation services for all professional and occupational licensure boards.

24.180.2101 RENEWALS

AUTH: 37-1-101, 37-1-141, 37-69-202, MCA

IMP: 37-1-141, MCA

REASON: The board is repealing this unnecessary rule because the department administers a standardized renewal process for all professional and occupational licensure boards.

24.180.2401 COMPLAINT PROCEDURE

AUTH: 37-69-202, MCA

IMP: 37-1-308, 37-1-309, MCA

REASON: The board is repealing this unnecessary rule, because the complaint procedure is adequately addressed in standardized department processes and statute, and should not be unnecessarily repeated in rule per the Montana Administrative Procedure Act.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdpplu@mt.gov, and must be received no later than 5:00 p.m., November 15, 2016.

6. An electronic copy of this notice of public hearing is available at www.plumber.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdpplu@mt.gov; or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.180.2102 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.180.203, 24.180.413, 24.180.601, 24.180.2101, and 24.180.2401 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations are available upon request to the Board of Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdpplu@mt.gov.

10. Jason Steffins, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF PLUMBERS
TIM REGAN, PRESIDING OFFICER

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 3, 2016

BEFORE THE BOARD OF VETERINARY MEDICINE
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.225.425 nonroutine	)	PROPOSED AMENDMENT AND
applications and 24.225.550	)	REPEAL
unprofessional conduct, and the)	
repeal of 24.225.510 renewals)	

TO: All Concerned Persons

1. On November 10, 2016, at 10:00 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Veterinary Medicine (board) no later than 5:00 p.m., on November 3, 2016, to advise us of the nature of the accommodation that you need. Please contact Lucy Richards, Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdrv@mt.gov (board's email).

3. The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.225.425 NONROUTINE APPLICATIONS (1) ~~All~~ The board will review as nonroutine all applications for licensure containing a "yes" response to any question regarding applicant conduct will be considered nonroutine in nature and will be reviewed and approved by the board prior to issuance of the license.

AUTH: 37-1-131, 37-18-202, MCA

IMP: 37-1-101, 37-1-131, 37-18-301, MCA

REASON: The board has determined it is reasonably necessary to revise this rule and further implement 37-1-101, MCA, which states the department will process routine licensure applications on behalf of the licensing boards. Currently the board reviews all applications as "nonroutine." The board concluded that this change will increase efficiencies in the application and licensing process by allowing department staff to process routine applications per the specific criteria outlined in this rule.

24.225.550 UNPROFESSIONAL CONDUCT (1) through (1)(d) remain the same.

- (e) dispensing or prescribing a veterinary prescription drug or veterinary feed directive drug without a valid veterinarian/client/patient relationship;
- (f) through (p) remain the same.

AUTH: 37-1-131, 37-1-319, ~~37-18-202~~, MCA

IMP: 37-1-131, 37-1-141, 37-1-316, 37-1-319, MCA

REASON: On June 3, 2015, the federal Food and Drug Administration (FDA) published the final rule amending the Veterinary Feed Directive drug (VFD) regulation (21 CFR 558.6) to state: "(b)...(1) In order for a VFD to be lawful, the veterinarian issuing the VFD must: (i) Be licensed to practice veterinary medicine; and (ii) Be operating in the course of the veterinarian's professional practice and in compliance with all applicable veterinary licensing and practice requirements, including issuing the VFD in the context of a veterinarian-client patient relationship (VCPR) as defined by the State. If applicable VCPR [veterinarian/client/patient relationship] requirements as defined by such State do not include the key elements of a valid VCPR as defined in § 530.3(i) of this chapter, the veterinarian must issue the VFD in the context of a valid VCPR ..."

To conform to federal law and reflect that the VFD amendment requires a VCPR when issued by a veterinarian, it is reasonably necessary for the board to amend this rule and specify that dispensing or prescribing a veterinary feed directive drug without a VCPR license is unprofessional conduct. By including this language in the rule, the FDA will defer to Montana's criteria regarding acceptable veterinary professional conduct. If the language is not included in the board rule, the FDA would require adherence to the federally defined VCPR.

Authority citations are being amended to accurately provide the sources of the board's rulemaking authority for this rule.

- 4. The rule proposed to be repealed is as follows:

24.225.510 RENEWALS

AUTH: 37-1-141, 37-18-202, MCA

IMP: 37-1-141, MCA

REASON: The board is repealing this unnecessary rule because the department administers a standardized renewal process for all professional and occupational licensure boards, and this rule merely references the department rules on renewals.

- 5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdvet@mt.gov, and must be received no later than 5:00 p.m., November 14, 2016.

6. An electronic copy of this notice of public hearing is available at www.vet.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdrvvet@mt.gov; or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.225.425 and 24.225.550 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.225.510 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; facsimile (406) 841-2305; or e-mail dlibsdrvvet@mt.gov.

10. Lucy Richards, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF VETERINARY MEDICINE
JEAN LINDLEY, DVM, PRESIDENT

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 3, 2016

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.86.2928 pertaining to) PROPOSED AMENDMENT
inpatient hospital reimbursement)

TO: All Concerned Persons

1. On November 3, 2016, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on October 26, 2016, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.86.2928 INPATIENT HOSPITAL REIMBURSEMENT, HOSPITAL
REIMBURSEMENT ADJUSTOR (1) and (2) remain the same.

(3) Part 2 of the HRA payment will be based upon total hospital Medicaid charges, and will be computed as follows: $HRA2 = (I \div D) \times P$.

(a) remains the same.

(b) The numbers used in (2) through (3)(a)(iv) must be from the department's paid claims data from for the most recent calendar year ~~that ended at least 12 months prior to the calculation of the HRA payments.~~

(c) remains the same.

AUTH: 2-4-201, 53-2-201, 53-6-113, MCA

IMP: 2-4-201, 53-2-201, 53-6-101, 53-6-111, 53-6-113, 53-6-149, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing amendments to ARM 37.86.2928.

In 2015, the Montana Legislature passed Senate Bill 405 enacting the Montana Health and Economic Livelihood Partnership (HELP) Program. The HELP Program, which began on January 1, 2016, expanded Medicaid health insurance coverage in Montana to adults with incomes up to 138 percent of the federal poverty level.

The proposed rule amendment provides that Medicaid paid claims data from the most recent calendar year must be used to calculate HRA payments. The amendment is necessary so that paid claims data from the first year of the HELP Program will be included in the next HRA methodology calculation. Under the terms of the existing rule, the 2016 paid claims data from the HELP plan could not be used to calculate HRA payments.

ARM 37.86.2928

The proposed amendment will revise the period in which paid claims data will be retrieved from to calculate hospital reimbursement adjustor (HRA) payments.

Fiscal Impact

The proposed amendment will not have a state fiscal impact.

5. The department intends to adopt these rule amendments effective January 1, 2017.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., November 11, 2016.

7. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all

concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

12. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are appropriate for performance-based measurement and therefore are subject to the performance-based measures requirement of 53-6-196, MCA.

The department will monitor and compare hospital utilization prior to and after the implementation of the HELP Act to determine if the HELP Act had a direct relation to hospital utilization.

/s/ Brenda K. Elias
Brenda K. Elias, Attorney
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State October 3, 2016.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of)
ARM 37.81.304 pertaining to)
maximum Big Sky Rx premium)
change)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On November 3, 2016, at 9:00 a.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on October 26, 2016, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.81.304 AMOUNT OF THE BIG SKY RX BENEFIT (1) An applicant eligible for the Big Sky Rx PDP premium assistance may receive a benefit not to exceed ~~\$30.90~~ \$34.00 per month. The benefit amount will not exceed ~~\$30.90~~ \$34.00 regardless of the cost of the premium for the PDP the individual chooses.

(a) If a portion of the applicant's PDP premium is paid through the Extra Help Program, the Big Sky Rx Program will pay the applicant's portion of the PDP premium up to ~~\$30.90~~ \$34.00 per month.

(b) remains the same.

(c) All expenditures are contingent on legislative appropriation. The amount of the monthly benefit, ~~\$30.90~~ \$34.00, extends the Social Security Extra Help benefit amount to Montana residents with income up to 200% FPL. The department's total expenditure for the program will be based on appropriation and the number of enrolled applicants.

AUTH: 53-2-201, 53-6-1004, MCA

IMP: 53-2-201, 53-6-1001, 53-6-1004, 53-6-1005, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.81.304 to update the rule to match the Low Income Subsidy (LIS) for Medicare Part D for this region.

The proposed amendments are necessary to ensure the monthly benefit does not exceed the Low Income Subsidy set for this region. Since the inception of Big Sky Rx the benefit has mirrored the LIS to ensure a reasonable and prudent monthly benefit for enrolled members.

ARM 37.81.304

This proposed amendment changes the monthly maximum benefit from \$30.90 to \$34.00.

These rules are being updated to match the federal monthly benefit benchmark as set forth in the Centers for Medicare and Medicaid (CMS) letter dated July 29, 2016. The current rule amendments attempt to clearly communicate to the public program rules and guidelines. These amendments were proposed only after extensive consideration of their impact on recipients.

Fiscal Impact

The number of people affected by the increase of maximum premium from \$30.90 to \$34.00 is 5,742. This would increase the monthly benefit by \$17,800.20 and yearly benefit by \$213,602.40.

5. The department intends to adopt these rule amendments effective January 1, 2017.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., November 11, 2016.

7. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or

delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

12. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

/s/ Brenda K. Elias
Brenda K. Elias, Attorney
Rule Reviewer

/s/ Richard H. Oppen
Richard H. Oppen, Director
Public Health and Human Services

Certified to the Secretary of State October 3, 2016.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rule I, the amendment of ARM	)	PROPOSED ADOPTION,
42.18.122, 42.18.134, 42.18.135, and	)	AMENDMENT, AND REPEAL
42.18.136, and the repeal of ARM)	
42.18.133 pertaining to property)	
reappraisal)	

TO: All Concerned Persons

1. On November 9, 2016, at 2 p.m., the Department of Revenue will hold a public hearing in the Third Floor East Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed adoption, amendment, and repeal of the above-stated rules. The hearing room is most readily accessed by entering through the east doors of the building facing Sanders Street.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5 p.m. on October 31, 2016, to advise us of the nature of the accommodation you need. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

3. The rule proposed to be adopted provides as follows:

NEW RULE I AGRICULTURAL LAND REAPPRAISAL (1) The department will value all agricultural land in accordance with the 2017-2018 Montana Agricultural Land Classification Manual, published on September 23, 2016, and available at revenue.mt.gov. Agricultural land values will reflect productivity values as required by 15-7-201 and 15-44-103, MCA.

(2) The reappraisal of agricultural land improvements consists of:

- (a) field reviews of each property, which will be kept to a minimum, including:
 - (i) determination of the accuracy of existing information in the CAMA system and on the property record card (PRC);
 - (ii) observation of condition;
 - (iii) review of quality of construction and depreciation assignment; and
 - (iv) collection of additional data as needed;
- (b) collection, verification, and analysis of agricultural property data; and
- (c) entry of data into the CAMA system including:
 - (i) correcting, updating, or adding property data;
 - (ii) reviewing edit reports; and
 - (iii) adding supplementary data, including outbuildings.

(3) This rule applies to tax years January 1, 2017, through December 31, 2018.

AUTH: 15-1-201, 15-7-111, MCA

IMP: 15-7-111, 15-7-112, 15-7-201, 15-9-101, MCA

REASON: The department proposes adopting New Rule I to provide a dedicated rule for the agricultural valuation process due to the passage of Senate Bill 157 L. 2015, which changed the reappraisal cycle for agricultural land to two years and left forest lands on a six-year reappraisal cycle. When both land types were on the same six-year reappraisal cycle, the information could be located together in a single rule. The legislative change necessitates that the department separate the information into two rules for the purpose of timely providing updated reappraisal information for each reappraisal cycle for both property types. Forest land reappraisal will remain in ARM 42.18.135, as amended to apply only to that property type.

The department also proposes adopting the more comprehensive 2017-2018 Montana Agricultural Land Classification Manual by reference in this rule, because this manual guides the valuation of all agricultural land in Montana.

4. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

42.18.122 2015-2020 2017-2018 MONTANA REAPPRAISAL PLAN, APPRAISAL GUIDE, AND 2017-2018 MONTANA AGRICULTURAL LAND CLASSIFICATION MANUALS MANUAL (1) For the reappraisal cycle beginning January 1, ~~2015~~ 2017, and ending December 31, ~~2020~~ 2018, the department will use the ~~plan and manuals~~ 2017-2018 Montana Reappraisal Plan, published on September 23, 2016, at revenue.mt.gov and identified referenced in this rule to value all:

- (a) residential land and improvements;
- (b) commercial land and improvements;
- (c) industrial land and improvements; and
- ~~(d) new residential, commercial, and industrial construction;~~
- ~~(e) changes in use of land or improvements;~~
- ~~(f)(d)~~ agricultural land; and
- ~~(g) forest land.~~

(2) The department shall also use the ~~2015-2020 Montana Reappraisal Plan, published on October 10, 2014, to value residential, commercial, and industrial land and improvements~~ Appraisal Guide, adopted in ARM 42.18.134, to value properties identified in (1)(a) through (c). If the ~~2015-2020 2017-2018 Montana Reappraisal Plan or Appraisal Guide~~ does not provide information necessary to value a specific property, the department shall use other construction cost manuals, such as Marshall & Swift, Richardson Engineering Services, Inc. or RSMeans, with a publication date as close to the ~~2015-2020 Montana Reappraisal Plan~~ January 1, 2016 valuation date as possible, such as Marshall Valuation Service, Richardson Engineering Services, Inc., or R.S. Means Company, Inc. The cost base schedules

set out in those publications will be considered to reflect January 1, 2014 2016, cost information.

(3) The department shall also use the ~~2015-2020~~ 2017-2018 Montana Agricultural Land Classification Manual, published on October 10, 2014, adopted in [NEW RULE I], to value agricultural land the property identified in (1)(d).

~~(a) Current land use classification, productivity levels, and assessed values per acre are adopted in ARM 42.20.660, 42.20.665, 42.20.670, 42.20.675, and 42.20.680.~~

~~(b) Taxable values for each land use classification and productivity level will be phased in pursuant to 15-7-111, MCA, and ARM 42.20.503.~~

~~(4) The department shall use the 2015-2020 Montana Forest Land Classification Manual, published on October 10, 2014, to value forest land.~~

~~(a) Current land use classification, productivity levels, and assessed values per acre are adopted in ARM 42.20.705, 42.20.710, 42.20.715, 42.20.720, 42.20.725, and 42.20.730.~~

~~(b) Taxable values for each land use classification and productivity level will be phased in or phased down pursuant to 15-7-111, MCA, and ARM 42.20.503.~~

~~(5)(4)~~ The 2015-2020 reappraisal plan, guide, and manuals manual may be reviewed in the department's field offices, at the central office at 125 North Roberts Street, Helena, Montana, or on the department's web site at revenue.mt.gov/home/property/resources-laws-rules revenue.mt.gov.

~~(6)(5)~~ A taxpayer may purchase the a CD containing a PDF version of the manual any documents referenced in this rule for \$3 by sending a written request to the Department of Revenue, Property Assessment Division, P.O. Box 8018, Helena, Montana 59604-8018.

~~(7)(6)~~ A taxpayer may purchase copies of any portion of the manual documents referenced in this rule for \$.50 per page by sending a written request to the Department of Revenue, Property Assessment Division, P.O. Box 8018, Helena, Montana 59604-8018.

~~(8)(7)~~ This rule applies to tax years January 1, ~~2015~~ 2017, through December 31, ~~2020~~ 2018.

AUTH: 15-1-201, 15-7-111, MCA

IMP: 15-7-111, MCA

REASON: The department proposes amending ARM 42.18.122 to update the rule with the upcoming reappraisal cycle calendar-year references to capture the changes enacted by Senate Bill 157 L. 2015, which shortened the reappraisal cycle for class three and four property from six years to two years; and to provide the current publication date for the updated Montana Reappraisal Plan.

The department proposes amending the rule to clarify that the 2017-2018 Montana Reappraisal Plan is a general document that guides reappraisal of all residential, commercial, industrial, and agricultural properties, and that the Appraisal Guide and the 2017-2018 Montana Agricultural Land Classification Manual are more detailed documents that apply specifically to the appraisal of residential, commercial, and industrial properties, and agricultural land, respectively.

The department proposes amending (1) by striking (d) and (e) to remove

language that is repetitive of (a) through (c), renumbering existing (f) as new (d), and striking the current references to forest land in (d). The department further proposes striking all of (4) because the appraisal of forest land is now addressed separately in ARM 42.18.135, as proposed to be amended in this same notice.

In addition to updating the calendar year reference in (2), the department proposes making language amendments to update the publications referenced with their current names and to make the section easier to read and understand.

The department proposes amending (3) to add a reference to New Rule I, which is proposed to be adopted in this same notice. Because the proposed new rule covers the details of agricultural reappraisal, (a) and (b) are no longer needed in this rule and are therefore proposed to be stricken.

The department also proposes amending newly numbered (4) to remove an unnecessary reference to the cycle years, to add a reference to the guide, and to update the department's web site address. The department further proposes amending the language in newly numbered (5) and (6) to encompass all documents referenced in the rule instead of referencing only the manual, and proposes amending newly numbered (8) to update the calendar-year reference for the upcoming reappraisal cycle that begins in 2017.

The department further proposes amending the rule title to include more specific references to the rule content as amended and to update the calendar year reference for the upcoming reappraisal cycle.

42.18.134 2015 2017-2018 RESIDENTIAL AND COMMERCIAL REAPPRAISAL PLAN (1) The department will implement its reappraisal plan in ARM 42.18.122 to include procedures throughout the process that accomplish the statewide equalization of values. The reappraisal of class four residential and commercial property improvements consists of:

- (a) through (c) remain the same.
- (d) data entry in the CAMA system, including:
 - (i) through (2) remain the same.

(3) The collection, verification, analysis, and data entry of cost information, sales information, and income and expense information is an important component of the CAMA system. The department shall formulate procedures for collection, verification, and validation of cost information, sales information, and income and expense information. Accuracy of cost information, sales information, and income and expense information is critical to the development of:

- (a) through (g) remain the same.

(4) Residential and commercial lots and tracts are valued through the use of land valuation models. Homogeneous areas within each county are geographically defined as neighborhoods. The land valuation models reflect January 1, ~~2014~~ 2016, land market values, and consist of a land valuation method dependent upon the market data available within the neighborhood and deemed comparable. The method(s) the department may utilize for the valuation of land are listed below:

- (a) through (d) remain the same.
- (5) and (5)(a) remain the same.

(b) For the sales comparison models, the key components that influence value and the appropriate level of influence are determined through use of multiple

regression analysis. The department may develop separate sales comparison models and separate income and expense models for each neighborhood and/or market area. If the taxpayer's property has different characteristics, for example, a different quality of construction or square footage than any of the comparable sales properties (comps), the department adjusts the value of the comps. The adjustments reflect how much each of the differences in characteristics affects the value of a property. The adjustments are made based upon information obtained from the market. Once the values of the ~~comps~~ comparable sales have been adjusted to account for the differences in characteristics, the ~~comps'~~ comparable sales values are used to value the subject property.

(c) through (6) remain the same.

(7) The PRC review consists of analyzing and collecting component information such as quality of construction and condition of improvements. This review allows the appraiser to compare property information to an estimate of value. Discrepancies in data or the collection of additional information required by the review results in updating the CAMA system data.

(8) Final determinations of value are conducted once all required field and program needs of the CAMA system are met. The appraised value for residential and commercial property may include the applicable indicators of value using the:

(a) through (9) remain the same.

(10) In appraising residential and commercial properties, the department will utilize the Appraisal Guide, published on September 23, 2016, and located at revenue.mt.gov.

~~(40)(11)~~ This rule applies to tax years January 1, ~~2015~~ 2017, through December 31, ~~2020~~ 2018.

AUTH: 15-1-201, 15-7-111, MCA

IMP: 15-7-111, 15-7-112, 15-7-201, 15-9-101, ~~15-44-103~~, MCA

REASON: The department proposes amending ARM 42.18.134 to remove unnecessary language and include a reference to ARM 42.18.122 in (1) to improve the clarity of that section. The department further proposes updating the market-value calendar-year reference in (4) and the calendar-year reference in (11) for the upcoming reappraisal cycle for residential and commercial property that begins in 2017.

The department also proposes amending (3), (5), (7), and (8) to add the word "system" after CAMA and/or to spell out the word "comps" as "comparable sales" to make the language in these sections more clear.

The department further proposes adding new (10) as a location to adopt, by reference, the comprehensive Appraisal Guide and to provide the online address where the guide can be viewed.

The department proposes striking 15-44-103, MCA, from the implementing section because this statute covers the valuation of forest land, which is not covered in this rule.

The department further proposes striking the word "plan" from the rule title to eliminate potential confusion because the comprehensive reappraisal plan is covered in ARM 42.18.122, while this rule sets forth the reappraisal process for

residential and commercial properties only.

42.18.135 2015 AGRICULTURAL AND FOREST LANDS LAND REAPPRAISAL PLAN (1) For ~~agricultural and forest lands land~~, the ~~department will review will consist of reviewing~~ productivity information on agricultural and forest lands ~~land~~ and the land use type. Class ~~three agricultural and ten forest lands~~ ~~are land~~ is valued in accordance with ARM Title 42, chapter 20. Use changes are updated annually ~~on both agricultural and forest lands~~. For ~~agricultural lands the valuation methodology and agricultural lands valuation schedules are developed in accordance with 15-7-201, MCA. For forest lands the Forest land valuation methodology and forest lands valuation schedules are developed in accordance with 15-44-103, MCA. The agricultural and forest lands Forest land values will reflect productivity values in accordance with 15-7-201 and 15-44-103, MCA.~~

(2) The reappraisal of ~~agricultural and forest land improvements~~ consists of:
(a) through (d) remain the same.

(3) The department will appraise forest land in accordance with the 2015-2020 Montana Forest Land Classification manual, published on October 10, 2014, and located at revenue.mt.gov.

(3) remains the same, but is renumbered (4).

AUTH: 15-1-201, 15-7-111, MCA

IMP: 15-7-111, 15-7-112, 15-7-201, 15-9-101, 15-44-103, MCA

REASON: The department proposes amending ARM 42.18.135 to add clarity to the sentence in (1) regarding who conducts the review referenced in this rule. The department further proposes removing all references to agricultural valuation and leaving only forest land valuation in the rule due to the passage of Senate Bill 157 L. 2015, which changed the reappraisal cycle for agricultural land from six years to two years, but left the six-year reappraisal cycle in place for forest land.

The reappraisal plan identified in ARM 42.18.122, as proposed to be amended in this same notice, and New Rule I, as proposed to be adopted in this same notice, address the two-year reappraisal cycle for agricultural property.

The department also proposes adding new (3) to include a reference to the 2015-2020 Montana Forest Land Classification Manual and to provide the online address where the manual can be viewed.

The department also proposes amending the rule title to remove the reference to agricultural and to change the word "lands" from plural to singular to correspond with the removal of agricultural property from the rule and to strike the word "plan" to eliminate potential confusion because the comprehensive reappraisal plan is covered in ARM 42.18.122 while this rule sets forth the reappraisal process for forest land only.

42.18.136 2015 2017-2018 INDUSTRIAL PROPERTY REAPPRAISAL

(1) and (2) remain the same.

(3) This rule applies to tax years January 1, ~~2015~~ 2017, through December 31, ~~2020~~ 2018.

AUTH: 15-1-201, 15-7-111, MCA

IMP: 15-7-111, MCA

REASON: The department proposes amending ARM 42.18.136 to update the calendar-year reference in the rule title and in (3) for the upcoming reappraisal cycle for industrial property that begins in 2017.

5. The department proposes to repeal the following rule:

42.18.133 2015 MONTANA GENERAL REAPPRAISAL PLAN

AUTH: 15-1-201, 15-7-111, MCA

IMP: 15-7-111, 15-7-112, 15-7-201, 15-9-101, 15-44-103, MCA

REASON: The department proposes repealing ARM 42.18.133 as the rule has been determined to be duplicative of ARM 42.18.122, as proposed to be amended in this same notice, and is therefore no longer necessary.

6. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than November 21, 2016.

7. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

8. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 6 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

9. An electronic copy of this notice is available on the department's web site at revenue.mt.gov/rules. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of Senate Bill 157, L. 2015, Senator Bruce Tutvedt, was contacted by letter on July 16, 2015, and subsequently notified on September 20, 2016.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption, amendment, and repeal of the above-referenced rules will not significantly and directly impact small businesses. Documentation of the department's determination is available at revenue.mt.gov/rules or upon request from the person in 6.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State October 3, 2016.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 42.21.113, 42.21.123,	)	PROPOSED AMENDMENT
42.21.131, 42.21.137, 42.21.138,)	
42.21.139, 42.21.140, 42.21.151,)	
42.21.153, 42.21.155, and)	
42.22.1311 pertaining to the trended)	
depreciation schedules for valuing)	
property)	

TO: All Concerned Persons

1. On November 9, 2016, at 1 p.m., the Department of Revenue will hold a public hearing in the Third Floor East Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The hearing room is most readily accessed by entering through the east doors of the building facing Sanders Street.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5 p.m. on October 31, 2016, to advise us of the nature of the accommodation you need. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY. The department uses data from the guides and valuation manuals listed in its rules to determine the trended depreciation schedules published in those rules. Personal property is valued annually and because the trend tables used to value personal property change from year to year, the department must provide taxpayers with notice of those changes and does so through the rulemaking process. The annual update to the trended depreciation schedules provides taxpayers with the current depreciation percentage for each of the personal property classifications for the upcoming year. The updates also clearly identify for the taxpayer how the department values and depreciates property over time.

ARM 42.21.157 requires the department to update the depreciation schedules of tangible personal property on an annual basis. The annual changes affect all businesses with tangible personal property. By annually updating the depreciation schedules the department accounts for the impact an additional year of wear and tear has on the value of tangible personal property. Small businesses would see a negative impact if these tables were not updated. Therefore, it is reasonably necessary to update the trend tables to reflect any changes for the upcoming year.

This general statement of reasonable necessity applies to all of the following proposed rule amendments. A supplemental statement of reasonable necessity has

been provided for ARM 42.22.1311 only, to explain an additional proposed amendment to that rule.

4. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

42.21.113 LEASED AND RENTAL EQUIPMENT (1) remains the same.

(a) For equipment that has an acquired cost of \$0 to \$500, the department shall use a four-year trended depreciation schedule. The trended schedule will be the same as ARM 42.21.155, category 1.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2015 <u>2016</u>	70%
2014 <u>2015</u>	44%
2013 <u>2014</u>	19%
2012 <u>2013</u>	9%
Older	5%

(b) For equipment that has an acquired cost of \$501 to \$1,500, the department shall use a five-year trended depreciation schedule. The trended schedule will be the same as ARM 42.21.155, category 2.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2015 <u>2016</u>	85%
2014 <u>2015</u>	71% <u>70%</u>
2013 <u>2014</u>	53% <u>54%</u>
2012 <u>2013</u>	33% <u>35%</u>
2011 <u>2012</u>	23%
Older	18%

(c) For equipment that has an acquired cost of \$1,501 to \$5,000, the department shall use a ten-year trended depreciation schedule. The trended schedule will be the same as ARM 42.21.155, category 8.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2015 <u>2016</u>	92%
2014 <u>2015</u>	86% <u>85%</u>
2013 <u>2014</u>	79% <u>78%</u>
2012 <u>2013</u>	70%
2011 <u>2012</u>	62% <u>61%</u>
2010 <u>2011</u>	53%
2009 <u>2010</u>	42%
2008 <u>2009</u>	35% <u>33%</u>
2007 <u>2008</u>	28%
2006 <u>2007</u>	25%
Older	20%

(d) For equipment that has an acquired cost of \$5,001 to \$15,000, the department shall use the trended depreciation schedule for heavy equipment. The schedule will be the same as ARM 42.21.131.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2016 <u>2017</u>	80%
2015 <u>2016</u>	65%
2014 <u>2015</u>	60%
2013 <u>2014</u>	57% <u>50%</u>
2012 <u>2013</u>	52% <u>47%</u>
2011 <u>2012</u>	48% <u>44%</u>
2010 <u>2011</u>	46% <u>41%</u>
2009 <u>2010</u>	43% <u>39%</u>
2008 <u>2009</u>	38% <u>37%</u>
2007 <u>2008</u>	36% <u>35%</u>
2006 <u>2007</u>	34% <u>33%</u>
2005 <u>2006</u>	33% <u>30%</u>
2004 <u>2005</u>	30% <u>29%</u>
2003 <u>2004</u>	28% <u>29%</u>
2002 <u>2003</u>	26% <u>27%</u>
2001 <u>2002</u>	23% <u>24%</u>
2000 <u>2001</u>	23% <u>22%</u>
1999 <u>2000</u>	21% <u>22%</u>
1998 <u>1999</u>	20% <u>21%</u>
1997 <u>1998</u> and older	20%

(e) For rental video tapes and digital video disks, the following trended depreciation schedule will be used:

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2015 <u>2016</u>	25%
2014 <u>2015</u>	15%
2013 <u>2014</u> and older	10%

(2) through (4) remain the same.

(5) This rule is effective for tax years beginning after December 31, ~~2015~~ 2016.

AUTH: 15-1-201, 15-23-108, MCA

IMP: 15-6-135, 15-6-138, 15-6-202, 15-6-219, MCA

42.21.123 FARM MACHINERY AND EQUIPMENT (1) through (7) remain the same.

(8) The trended depreciation schedule referred to in (2) through (6) is listed below and shall be used for tax year ~~2016~~ 2017. The schedule is derived by using

the guide listed in (2) as the data base. The values derived through use of the trended depreciation schedule will approximate average wholesale value.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD WHOLESALE</u>
2016 <u>2017</u>	80%
2015 <u>2016</u>	75%
2014 <u>2015</u>	66% <u>65%</u>
2013 <u>2014</u>	61% <u>59%</u>
2012 <u>2013</u>	55% <u>52%</u>
2011 <u>2012</u>	53% <u>49%</u>
2010 <u>2011</u>	51% <u>45%</u>
2009 <u>2010</u>	44% <u>43%</u>
2008 <u>2009</u>	44% <u>39%</u>
2007 <u>2008</u>	45% <u>40%</u>
2006 <u>2007</u>	40%
2005 <u>2006</u>	38% <u>37%</u>
2004 <u>2005</u>	36% <u>34%</u>
2003 <u>2004</u>	32% <u>33%</u>
2002 <u>2003</u>	28% <u>30%</u>
2001 <u>2002</u>	25%
2000 <u>2001</u> and older	20%

(9) remains the same.

(10) This rule is effective for tax years beginning after December 31, ~~2015~~ 2016.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, MCA

42.21.131 HEAVY EQUIPMENT (1) through (3) remain the same.

(4) The wholesale market value of heavy equipment that cannot be valued under (1), (2), or (3) shall be the acquired cost, as certified by the owner or applicant to the department as applied to the depreciation schedule in (5). The department may require proof from the taxpayer to certify the accuracy of the acquired cost.

(5) The trended depreciation schedule referred to in (2), (3), and (4) is listed below and shall be used for tax year ~~2016~~ 2017. The values derived through the use of these percentages approximate the "quick sale" values provided in the guide listed in (1).

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD WHOLESALE</u>
2016 <u>2017</u>	80%
2015 <u>2016</u>	65%
2014 <u>2015</u>	60%
2013 <u>2014</u>	57% <u>50%</u>

2012 <u>2013</u>	52% <u>47%</u>
2011 <u>2012</u>	48% <u>44%</u>
2010 <u>2011</u>	46% <u>41%</u>
2009 <u>2010</u>	43% <u>39%</u>
2008 <u>2009</u>	38% <u>37%</u>
2007 <u>2008</u>	36% <u>35%</u>
2006 <u>2007</u>	34% <u>33%</u>
2005 <u>2006</u>	33% <u>30%</u>
2004 <u>2005</u>	30% <u>29%</u>
2003 <u>2004</u>	28% <u>29%</u>
2002 <u>2003</u>	26% <u>27%</u>
2001 <u>2002</u>	23% <u>24%</u>
2000 <u>2001</u>	23% <u>22%</u>
1999 <u>2000</u>	21% <u>22%</u>
1998 <u>1999</u>	20% <u>21%</u>
1997 <u>1998</u> and older	20%

(6) This rule is effective for tax years beginning after December 31, ~~2015~~ 2016, and applies to all heavy equipment.

AUTH: 15-1-201, 15-23-108, MCA

IMP: 15-6-135, 15-6-138, 15-6-219, MCA

42.21.137 SEISMOGRAPH UNITS AND ALLIED EQUIPMENT

(1) through (3) remain the same.

(4) The trended depreciation schedules referred to in (1) through (3) are listed below and shall be used for tax year ~~2016~~ 2017.

SEISMOGRAPH UNIT

<u>YEAR</u> <u>NEW/ACQUIRED</u>	<u>%</u> <u>GOOD</u>	<u>TREND</u> <u>FACTOR</u>	<u>TRENDED</u> <u>% GOOD</u>	<u>WHOLESALE</u> <u>FACTOR</u>	<u>WHOLESALE</u> <u>% GOOD</u>
2016 <u>2017</u>	100%	1.000	100%	80%	80%
2015 <u>2016</u>	85%	1.000	85%	80%	68%
2014 <u>2015</u>	69%	1.009 <u>0.988</u>	70% <u>68%</u>	80%	56% <u>55%</u>
2013 <u>2014</u>	52%	1.021 <u>0.996</u>	53% <u>52%</u>	80%	42% <u>41%</u>
2012 <u>2013</u>	34%	1.023 <u>1.008</u>	35% <u>34%</u>	80%	28% <u>27%</u>
2011 <u>2012</u>	23%	1.051 <u>1.009</u>	24% <u>23%</u>	80%	19%
2010 <u>2011-2006</u>	18%	1.079 <u>1.037</u>	19%	80%	16% <u>15%</u>
2005 and older	5%				5%

SEISMOGRAPH ALLIED EQUIPMENT

<u>YEAR NEW/</u> <u>ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED %</u> <u>GOOD</u>
2016 <u>2017</u>	100%	1.000	100%
2015 <u>2016</u>	85%	1.000	85%

2014 <u>2015</u>	69%	1.009 <u>0.988</u>	70% <u>68%</u>
2013 <u>2014</u>	52%	1.024 <u>0.996</u>	53% <u>52%</u>
2012 <u>2013</u>	34%	1.023 <u>1.008</u>	35% <u>34%</u>
2011 <u>2012</u>	23%	1.054 <u>1.009</u>	24% <u>23%</u>
2010 <u>2011-2006</u>	18%	1.079 <u>1.037</u>	19%
2005 and older	5%		5%

(5) This rule is effective for tax years beginning after December 31, ~~2015~~ 2016.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-219, MCA

42.21.138 OIL AND GAS FIELD MACHINERY AND EQUIPMENT

(1) and (2) remain the same.

(3) The trended depreciation schedule referred to in (1) and (2) is listed below and shall be used for tax year ~~2016~~ 2017.

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2016 <u>2017</u>	100%	1.000	100%
2015 <u>2016</u>	95%	1.000	95%
2014 <u>2015</u>	90%	1.009 <u>0.988</u>	91% <u>89%</u>
2013 <u>2014</u>	85%	1.024 <u>0.996</u>	87% <u>85%</u>
2012 <u>2013</u>	79%	1.023 <u>1.008</u>	81% <u>80%</u>
2011 <u>2012</u>	73%	1.054 <u>1.009</u>	77% <u>74%</u>
2010 <u>2011</u>	68%	1.079 <u>1.037</u>	73% <u>70%</u>
2009 <u>2010</u>	62%	1.064 <u>1.065</u>	66% <u>66%</u>
2008 <u>2009</u>	55%	1.104 <u>1.050</u>	61% <u>58%</u>
2007 <u>2008</u>	49%	1.154 <u>1.087</u>	56% <u>53%</u>
2006 <u>2007</u>	43%	1.219 <u>1.136</u>	52% <u>49%</u>
2005 <u>2006</u>	37%	1.284 <u>1.203</u>	47% <u>45%</u>
2004 <u>2005</u>	31%	1.390 <u>1.264</u>	43% <u>39%</u>
2003 <u>2004</u>	26%	1.438 <u>1.371</u>	37% <u>36%</u>
2002 <u>2003</u>	23%	1.467 <u>1.419</u>	34% <u>33%</u>
2001 <u>2002</u> and older	21%	1.475 <u>1.447</u>	31% <u>30%</u>

(4) and (5) remain the same.

(6) This rule is effective for tax years beginning after December 31, ~~2015~~ 2016.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-213, 15-6-219, MCA

42.21.139 WORK-OVER AND SERVICE RIGS (1) through (4) remain the same.

(5) The trended depreciation schedule referred to in (2) and (4) is listed below and shall be used for tax year ~~2016~~ 2017.

<u>YEAR/NEW</u> <u>ACQUIRED</u>	<u>% GOOD</u>	<u>TREND</u> <u>FACTOR</u>	<u>WHOLESALE</u> <u>FACTOR</u>	<u>TRENDED</u> <u>WHOLESALE</u> <u>% GOOD</u>
2016 <u>2017</u>	100%	1.000	80%	80%
2015 <u>2016</u>	92%	1.000	80%	74%
2014 <u>2015</u>	84%	1.009 <u>0.988</u>	80%	68% <u>66%</u>
2013 <u>2014</u>	76%	1.021 <u>0.996</u>	80%	62% <u>61%</u>
2012 <u>2013</u>	67%	1.023 <u>1.008</u>	80%	55% <u>54%</u>
2011 <u>2012</u>	58%	1.051 <u>1.009</u>	80%	49% <u>47%</u>
2010 <u>2011</u>	49%	1.079 <u>1.037</u>	80%	42% <u>41%</u>
2009 <u>2010</u>	39%	1.064 <u>1.065</u>	80%	33%
2008 <u>2009</u>	30%	1.101 <u>1.050</u>	80%	26% <u>25%</u>
2007 <u>2008</u>	24%	1.151 <u>1.087</u>	80%	22% <u>21%</u>
2006 <u>2007</u> and older	21%	1.219 <u>1.136</u>	80%	20% <u>19%</u>

(6) This rule is effective for tax years beginning after December 31, ~~2015~~ 2016.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-219, MCA

42.21.140 OIL DRILLING RIGS (1) remains the same.

(2) The department shall prepare a ten-year trended depreciation schedule for oil drilling rigs. The trended depreciation schedule shall be derived from depreciation factors published in the Marshall & Swift Valuation Service Guide. The "% good" for all drill rigs less than one year old shall be 100 percent. The trended depreciation schedule for tax year ~~2016~~ 2017 is listed below.

<u>YEAR NEW/</u> <u>ACQUIRED</u>	<u>% GOOD</u>	<u>TREND</u> <u>FACTOR</u>	<u>TRENDED</u> <u>% GOOD</u>
2016 <u>2017</u>	100%	1.000	100%
2015 <u>2016</u>	92%	1.000	92%
2014 <u>2015</u>	84%	1.009 <u>0.988</u>	85% <u>83%</u>
2013 <u>2014</u>	76%	1.021 <u>0.996</u>	78% <u>76%</u>
2012 <u>2013</u>	67%	1.023 <u>1.008</u>	69% <u>68%</u>
2011 <u>2012</u>	58%	1.051 <u>1.009</u>	61% <u>59%</u>
2010 <u>2011</u>	49%	1.079 <u>1.037</u>	53% <u>51%</u>
2009 <u>2010</u>	39%	1.064 <u>1.065</u>	41% <u>42%</u>
2008 <u>2009</u>	30%	1.101 <u>1.050</u>	33% <u>31%</u>
2007 <u>2008</u>	24%	1.151 <u>1.087</u>	28% <u>26%</u>
2006 <u>2007</u> and	21%	1.219 <u>1.136</u>	26% <u>24%</u>

older

(3) remains the same.

(4) This rule is effective for tax years beginning after December 31, ~~2015~~ 2016.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-219, MCA

42.21.151 LOCALLY ASSESSED CABLE TELEVISION SYSTEMS

(1) through (3) remain the same.

(4) The trended depreciation schedules referred to in (2) and (3) are listed below and shall be in effect for tax year ~~2016~~ 2017.

FIVE-YEAR "DISHES"

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2015 <u>2016</u>	85%	1.000	85%
2014 <u>2015</u>	69%	1.010 <u>0.990</u>	70% <u>68%</u>
2013 <u>2014</u>	52%	1.023 <u>0.999</u>	53% <u>52%</u>
2012 <u>2013</u>	34%	1.032 <u>1.012</u>	35% <u>34%</u>
2011 <u>2012</u> and older	23%	1.064 <u>1.021</u>	24% <u>23%</u>

TEN-YEAR "TOWERS"

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2015 <u>2016</u>	92%	1.000	92%
2014 <u>2015</u>	84%	1.010 <u>0.990</u>	85% <u>83%</u>
2013 <u>2014</u>	76%	1.023 <u>0.999</u>	78% <u>76%</u>
2012 <u>2013</u>	67%	1.032 <u>1.012</u>	69% <u>68%</u>
2011 <u>2012</u>	58%	1.064 <u>1.021</u>	62% <u>59%</u>
2010 <u>2011</u>	49%	1.094 <u>1.050</u>	54% <u>51%</u>
2009 <u>2010</u>	39%	1.086 <u>1.083</u>	42% <u>42%</u>
2008 <u>2009</u>	30%	1.117 <u>1.074</u>	34% <u>32%</u>
2007 <u>2008</u>	24%	1.164 <u>1.105</u>	28% <u>27%</u>
2006 <u>2007</u> and older	21%	1.225 <u>1.149</u>	26% <u>24%</u>

(5) This rule is effective for tax years beginning after December 31, ~~2015~~ 2016.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-219, MCA

42.21.153 SKI LIFT EQUIPMENT (1) through (3) remain the same.

(4) The trend and depreciation schedule referred to in (2) and (3) is listed below.

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2015 2016</u>	92%	1.000	92%
<u>2014 2015</u>	84%	1.010 <u>0.990</u>	85% <u>83%</u>
<u>2013 2014</u>	76%	1.023 <u>0.999</u>	78% <u>76%</u>
<u>2012 2013</u>	67%	1.032 <u>1.012</u>	69% <u>68%</u>
<u>2011 2012</u>	58%	1.064 <u>1.021</u>	62% <u>59%</u>
<u>2010 2011</u>	49%	1.094 <u>1.050</u>	54% <u>51%</u>
<u>2009 2010</u>	39%	1.086 <u>1.083</u>	42% <u>42%</u>
<u>2008 2009</u>	30%	1.117 <u>1.074</u>	34% <u>32%</u>
<u>2007 2008</u>	24%	1.164 <u>1.105</u>	28% <u>27%</u>
<u>2006 2007 and older</u>	21%	1.225 <u>1.149</u>	26% <u>24%</u>

(a) and (b) remain the same.

(5) This methodology is effective for tax years beginning after December 31, ~~2015~~ 2016.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-219, MCA

42.21.155 DEPRECIATION SCHEDULES (1) remains the same.

(2) The trended depreciation schedules for tax year ~~2016~~ 2017 are listed below. The categories are explained in ARM 42.21.156. The trend factors are derived according to ARM 42.21.156 and 42.21.157.

CATEGORY 1

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2015 2016</u>	70%	1.000	70%
<u>2014 2015</u>	45%	0.979 <u>0.969</u>	44%
<u>2013 2014</u>	20%	0.966 <u>0.948</u>	19%
<u>2012 2013</u>	10%	0.945 <u>0.935</u>	9%
Older			5%

CATEGORY 2

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2015 2016</u>	85%	1.000	85%
<u>2014 2015</u>	69%	1.024 <u>1.015</u>	71% <u>70%</u>
<u>2013 2014</u>	52%	1.022 <u>1.040</u>	53% <u>54%</u>

<u>2012 2013</u>	34%	0.984 <u>1.038</u>	33% <u>35%</u>
<u>2011 2012</u>	23%	0.997 <u>0.999</u>	23%
Older			18%

CATEGORY 3

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2015 2016</u>	85%	1.000	85%
<u>2014 2015</u>	69%	0.995 <u>0.988</u>	69% <u>68%</u>
<u>2013 2014</u>	52%	0.994 <u>0.983</u>	52% <u>51%</u>
<u>2012 2013</u>	34%	0.979 <u>0.982</u>	33%
<u>2011 2012</u>	23%	0.950 <u>0.966</u>	22%
Older			18%

CATEGORY 4

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2015 2016</u>	85%	1.000	85%
<u>2014 2015</u>	69%	0.989 <u>1.002</u>	68% <u>69%</u>
<u>2013 2014</u>	52%	0.985 <u>0.992</u>	51% <u>52%</u>
<u>2012 2013</u>	34%	0.984 <u>0.988</u>	33% <u>34%</u>
<u>2011 2012</u>	23%	0.984 <u>0.987</u>	23%
Older			18%

CATEGORY 5

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2015 2016</u>	85%	1.000	85%
<u>2014 2015</u>	69%	1.013 <u>1.005</u>	70% <u>69%</u>
<u>2013 2014</u>	52%	1.021 <u>1.018</u>	53%
<u>2012 2013</u>	34%	1.033 <u>1.026</u>	35%
<u>2011 2012</u>	23%	1.064 <u>1.037</u>	24%
Older			18%

CATEGORY 6

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2015 2016</u>	85%	1.000	85%
<u>2014 2015</u>	69%	1.016 <u>1.019</u>	70%
<u>2013 2014</u>	52%	1.030 <u>1.035</u>	54%
<u>2012 2013</u>	34%	1.051 <u>1.049</u>	36%
<u>2011 2012</u>	23%	1.088 <u>1.071</u>	25%

Older

18%

CATEGORY 7

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2015 <u>2016</u>	92%	1.000	92%
2014 <u>2015</u>	84%	1.012 <u>1.008</u>	85%
2013 <u>2014</u>	76%	1.026 <u>1.020</u>	78% <u>77%</u>
2012 <u>2013</u>	67%	1.043 <u>1.034</u>	70% <u>69%</u>
2011 <u>2012</u>	58%	1.075 <u>1.052</u>	62% <u>61%</u>
2010 <u>2011</u>	49%	1.092 <u>1.083</u>	53%
2009 <u>2010</u>	39%	1.086 <u>1.100</u>	42% <u>43%</u>
2008 <u>2009</u>	30%	1.120 <u>1.094</u>	34% <u>33%</u>
2007 <u>2008</u>	24%	1.140 <u>1.129</u>	27%
2006 <u>2007</u>	21%	1.165 <u>1.149</u>	24%
Older			20%

CATEGORY 8

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2015 <u>2016</u>	92%	1.000	92%
2014 <u>2015</u>	84%	1.023 <u>1.006</u>	86% <u>85%</u>
2013 <u>2014</u>	76%	1.037 <u>1.030</u>	79% <u>78%</u>
2012 <u>2013</u>	67%	1.042 <u>1.044</u>	70%
2011 <u>2012</u>	58%	1.071 <u>1.047</u>	62% <u>61%</u>
2010 <u>2011</u>	49%	1.082 <u>1.079</u>	53%
2009 <u>2010</u>	39%	1.087 <u>1.089</u>	42%
2008 <u>2009</u>	30%	1.155 <u>1.094</u>	35% <u>33%</u>
2007 <u>2008</u>	24%	1.181 <u>1.163</u>	28%
2006 <u>2007</u>	21%	1.214 <u>1.188</u>	25%
Older			20%

(3) This rule is effective for tax years beginning after December 31, ~~2015~~ 2016.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-219, MCA

42.22.1311 INDUSTRIAL MACHINERY AND EQUIPMENT TREND

FACTORS (1) remains the same.

(2) Life expectancies for industrial machinery and equipment are shown in the trend table below.

INDUSTRIAL MACHINERY AND EQUIPMENT TREND FACTORS

<u>Description</u>	<u>Trend Table</u>	<u>Life</u>
(a) through (cf) remain the same.		
(cg) <u>Wind Renewable Energy</u> Generation	(11)	20
(ch) through (cj) remain the same.		

Note: 1. Lab equipment is included in its related industry's table at ten-year life expectancy.

(3) Tables 1 through 32 represent the yearly trend factors for each of the categories.

<u>YEAR</u>	<u>TABLE 1</u> <u>Airplane Mfg.</u>	<u>TABLE 2</u> <u>Baking</u>	<u>TABLE 3</u> <u>Bottling</u>	<u>TABLE 4</u> <u>Brew/Dis.</u>	<u>TABLE 5</u> <u>Candy Confect.</u>
2015	1.000	1.000	1.000	1.000	1.000
2014	1.006	1.012	1.009	1.011	1.012
2013	1.015	1.026	1.022	1.025	1.027
2012	1.016	1.035	1.027	1.034	1.037
2011	1.046	1.064	1.055	1.061	1.066
2010	1.085	1.099	1.089	1.090	1.101
2009	1.067	1.090	1.079	1.084	1.094
2008	1.097	1.117	1.107	1.115	1.120
2007	1.142	1.162	1.156	1.164	1.165
2006	1.206	1.244	1.225	1.234	1.251
2005	1.268	1.302	1.288	1.297	1.308
2004	1.373	1.400	1.396	1.401	1.406
2003	1.426	1.452	1.448	1.449	1.457
2002	1.452	1.477	1.474	1.475	1.482
2001	1.457	1.487	1.481	1.485	1.491
2000	1.467	1.503	1.494	1.501	1.508
1999	1.494	1.534	1.523	1.529	1.538
1998	1.495	1.539	1.526	1.537	1.543
1997	1.507	1.555	1.537	1.552	1.560
1996	1.525	1.581	1.561	1.577	1.588
1995	1.546	1.605	1.585	1.607	1.613
<u>2016</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2015</u>	<u>0.983</u>	<u>0.990</u>	<u>0.986</u>	<u>0.992</u>	<u>0.990</u>
<u>2014</u>	<u>0.986</u>	<u>1.000</u>	<u>0.994</u>	<u>1.003</u>	<u>1.001</u>
<u>2013</u>	<u>0.996</u>	<u>1.014</u>	<u>1.007</u>	<u>1.016</u>	<u>1.016</u>
<u>2012</u>	<u>0.997</u>	<u>1.023</u>	<u>1.011</u>	<u>1.025</u>	<u>1.026</u>
<u>2011</u>	<u>1.026</u>	<u>1.052</u>	<u>1.039</u>	<u>1.052</u>	<u>1.055</u>
<u>2010</u>	<u>1.064</u>	<u>1.086</u>	<u>1.073</u>	<u>1.081</u>	<u>1.089</u>
<u>2009</u>	<u>1.047</u>	<u>1.078</u>	<u>1.063</u>	<u>1.075</u>	<u>1.082</u>
<u>2008</u>	<u>1.077</u>	<u>1.104</u>	<u>1.090</u>	<u>1.105</u>	<u>1.108</u>
<u>2007</u>	<u>1.121</u>	<u>1.149</u>	<u>1.138</u>	<u>1.154</u>	<u>1.153</u>
<u>2006</u>	<u>1.183</u>	<u>1.230</u>	<u>1.207</u>	<u>1.223</u>	<u>1.238</u>
<u>2005</u>	<u>1.244</u>	<u>1.287</u>	<u>1.269</u>	<u>1.286</u>	<u>1.294</u>
<u>2004</u>	<u>1.347</u>	<u>1.384</u>	<u>1.376</u>	<u>1.390</u>	<u>1.391</u>

<u>2003</u>	<u>1.398</u>	<u>1.436</u>	<u>1.426</u>	<u>1.437</u>	<u>1.441</u>
<u>2002</u>	<u>1.424</u>	<u>1.460</u>	<u>1.452</u>	<u>1.463</u>	<u>1.466</u>
<u>2001</u>	<u>1.429</u>	<u>1.470</u>	<u>1.459</u>	<u>1.472</u>	<u>1.475</u>
<u>2000</u>	<u>1.439</u>	<u>1.486</u>	<u>1.472</u>	<u>1.488</u>	<u>1.492</u>
<u>1999</u>	<u>1.465</u>	<u>1.516</u>	<u>1.500</u>	<u>1.516</u>	<u>1.522</u>
<u>1998</u>	<u>1.467</u>	<u>1.521</u>	<u>1.503</u>	<u>1.524</u>	<u>1.527</u>
<u>1997</u>	<u>1.478</u>	<u>1.537</u>	<u>1.514</u>	<u>1.539</u>	<u>1.543</u>
<u>1996</u>	<u>1.496</u>	<u>1.563</u>	<u>1.537</u>	<u>1.564</u>	<u>1.571</u>

<u>YEAR</u>	<u>TABLE 6</u> <u>Cement Mfg.</u>	<u>TABLE 7</u> <u>Chemical Mfg.</u>	<u>TABLE 8</u> <u>Clay Mfg.</u>	<u>TABLE 9</u> <u>Contractor Eq.</u>	<u>TABLE 10</u> <u>Creamery/Dairy</u>
2015	1.000	1.000	1.000	1.000	1.000
2014	1.008	1.009	1.010	1.012	1.013
2013	1.021	1.021	1.023	1.026	1.027
2012	1.031	1.023	1.035	1.046	1.037
2011	1.067	1.051	1.069	1.080	1.065
2010	1.097	1.079	1.101	1.111	1.099
2009	1.082	1.064	1.093	1.107	1.095
2008	1.131	1.101	1.143	1.140	1.119
2007	1.182	1.152	1.192	1.176	1.167
2006	1.244	1.219	1.256	1.218	1.249
2005	1.305	1.281	1.316	1.272	1.310
2004	1.418	1.390	1.420	1.359	1.410
2003	1.475	1.438	1.471	1.399	1.459
2002	1.505	1.467	1.500	1.420	1.483
2001	1.514	1.475	1.511	1.432	1.493
2000	1.529	1.489	1.527	1.440	1.510
1999	1.555	1.514	1.553	1.465	1.541
1998	1.561	1.521	1.558	1.477	1.547
1997	1.578	1.537	1.575	1.494	1.562
1996	1.597	1.556	1.599	1.523	1.589
1995	1.627	1.587	1.630	1.548	1.617

<u>2016</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2015</u>	<u>0.992</u>	<u>0.988</u>	<u>0.994</u>	<u>0.997</u>	<u>0.991</u>
<u>2014</u>	<u>0.999</u>	<u>0.996</u>	<u>1.003</u>	<u>1.009</u>	<u>1.003</u>
<u>2013</u>	<u>1.012</u>	<u>1.008</u>	<u>1.017</u>	<u>1.023</u>	<u>1.017</u>
<u>2012</u>	<u>1.022</u>	<u>1.009</u>	<u>1.029</u>	<u>1.043</u>	<u>1.027</u>
<u>2011</u>	<u>1.057</u>	<u>1.037</u>	<u>1.062</u>	<u>1.077</u>	<u>1.055</u>
<u>2010</u>	<u>1.087</u>	<u>1.065</u>	<u>1.094</u>	<u>1.108</u>	<u>1.089</u>
<u>2009</u>	<u>1.073</u>	<u>1.050</u>	<u>1.086</u>	<u>1.104</u>	<u>1.084</u>
<u>2008</u>	<u>1.121</u>	<u>1.087</u>	<u>1.135</u>	<u>1.136</u>	<u>1.108</u>
<u>2007</u>	<u>1.171</u>	<u>1.136</u>	<u>1.184</u>	<u>1.173</u>	<u>1.155</u>
<u>2006</u>	<u>1.233</u>	<u>1.203</u>	<u>1.248</u>	<u>1.214</u>	<u>1.237</u>
<u>2005</u>	<u>1.293</u>	<u>1.264</u>	<u>1.307</u>	<u>1.269</u>	<u>1.298</u>
<u>2004</u>	<u>1.406</u>	<u>1.371</u>	<u>1.411</u>	<u>1.355</u>	<u>1.397</u>
<u>2003</u>	<u>1.462</u>	<u>1.419</u>	<u>1.462</u>	<u>1.395</u>	<u>1.445</u>
<u>2002</u>	<u>1.492</u>	<u>1.447</u>	<u>1.490</u>	<u>1.416</u>	<u>1.469</u>

<u>2001</u>	<u>1.501</u>	<u>1.455</u>	<u>1.501</u>	<u>1.427</u>	<u>1.479</u>
<u>2000</u>	<u>1.515</u>	<u>1.469</u>	<u>1.517</u>	<u>1.436</u>	<u>1.495</u>
<u>1999</u>	<u>1.541</u>	<u>1.493</u>	<u>1.543</u>	<u>1.461</u>	<u>1.526</u>
<u>1998</u>	<u>1.547</u>	<u>1.500</u>	<u>1.548</u>	<u>1.473</u>	<u>1.532</u>
<u>1997</u>	<u>1.564</u>	<u>1.516</u>	<u>1.564</u>	<u>1.489</u>	<u>1.548</u>
<u>1996</u>	<u>1.583</u>	<u>1.535</u>	<u>1.589</u>	<u>1.519</u>	<u>1.574</u>

<u>YEAR</u>	<u>TABLE 11</u> <u>Elec. Pwr.</u> <u>Eq.</u>	<u>TABLE 12</u> <u>Elec. Eq.</u> <u>Mfg.</u>	<u>TABLE 13</u> <u>Cannery/Fish</u>	<u>TABLE 14</u> <u>Flour, Cer.</u> <u>Feed</u>	<u>TABLE 15</u> <u>Cannery/Fruit</u>
2015	1.000	1.000	1.000	1.000	1.000
2014	0.998	1.001	1.012	1.011	1.013
2013	1.000	1.007	1.027	1.024	1.029
2012	0.988	1.000	1.036	1.032	1.041
2011	1.010	1.026	1.065	1.062	1.070
2010	1.066	1.076	1.100	1.097	1.105
2009	1.058	1.061	1.091	1.088	1.100
2008	1.062	1.078	1.119	1.116	1.122
2007	1.120	1.131	1.164	1.164	1.164
2006	1.213	1.210	1.247	1.240	1.240
2005	1.301	1.285	1.304	1.303	1.294
2004	1.423	1.400	1.405	1.406	1.388
2003	1.489	1.459	1.459	1.458	1.439
2002	1.513	1.484	1.485	1.483	1.462
2001	1.507	1.483	1.495	1.491	1.473
2000	1.518	1.493	1.511	1.507	1.488
1999	1.548	1.520	1.541	1.537	1.519
1998	1.541	1.515	1.546	1.544	1.524
1997	1.544	1.522	1.562	1.559	1.538
1996	1.552	1.536	1.590	1.582	1.569
1995	1.565	1.553	1.614	1.607	1.590

<u>2016</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2015</u>	<u>0.970</u>	<u>0.975</u>	<u>0.989</u>	<u>0.989</u>	<u>0.991</u>
<u>2014</u>	<u>0.966</u>	<u>0.974</u>	<u>0.999</u>	<u>0.999</u>	<u>1.003</u>
<u>2013</u>	<u>0.967</u>	<u>0.979</u>	<u>1.014</u>	<u>1.012</u>	<u>1.018</u>
<u>2012</u>	<u>0.956</u>	<u>0.972</u>	<u>1.023</u>	<u>1.020</u>	<u>1.031</u>
<u>2011</u>	<u>0.977</u>	<u>0.998</u>	<u>1.052</u>	<u>1.050</u>	<u>1.059</u>
<u>2010</u>	<u>1.031</u>	<u>1.046</u>	<u>1.087</u>	<u>1.084</u>	<u>1.094</u>
<u>2009</u>	<u>1.023</u>	<u>1.032</u>	<u>1.077</u>	<u>1.075</u>	<u>1.089</u>
<u>2008</u>	<u>1.027</u>	<u>1.049</u>	<u>1.105</u>	<u>1.104</u>	<u>1.111</u>
<u>2007</u>	<u>1.083</u>	<u>1.100</u>	<u>1.150</u>	<u>1.151</u>	<u>1.153</u>
<u>2006</u>	<u>1.173</u>	<u>1.177</u>	<u>1.232</u>	<u>1.226</u>	<u>1.228</u>
<u>2005</u>	<u>1.258</u>	<u>1.250</u>	<u>1.288</u>	<u>1.288</u>	<u>1.281</u>
<u>2004</u>	<u>1.377</u>	<u>1.362</u>	<u>1.388</u>	<u>1.390</u>	<u>1.374</u>
<u>2003</u>	<u>1.440</u>	<u>1.419</u>	<u>1.441</u>	<u>1.442</u>	<u>1.425</u>
<u>2002</u>	<u>1.464</u>	<u>1.444</u>	<u>1.467</u>	<u>1.466</u>	<u>1.448</u>
<u>2001</u>	<u>1.458</u>	<u>1.442</u>	<u>1.476</u>	<u>1.474</u>	<u>1.458</u>

<u>2000</u>	<u>1.468</u>	<u>1.452</u>	<u>1.492</u>	<u>1.490</u>	<u>1.473</u>
<u>1999</u>	<u>1.498</u>	<u>1.479</u>	<u>1.522</u>	<u>1.520</u>	<u>1.504</u>
<u>1998</u>	<u>1.491</u>	<u>1.474</u>	<u>1.526</u>	<u>1.526</u>	<u>1.509</u>
<u>1997</u>	<u>1.493</u>	<u>1.480</u>	<u>1.542</u>	<u>1.541</u>	<u>1.522</u>
<u>1996</u>	<u>1.501</u>	<u>1.494</u>	<u>1.570</u>	<u>1.564</u>	<u>1.553</u>

<u>YEAR</u>	<u>TABLE 16</u> <u>Packing/</u> <u>Fruit</u>	<u>TABLE 17</u> <u>Laundry/</u> <u>Clean</u>	<u>TABLE 18</u> <u>Logging Eq.</u>	<u>TABLE 19</u> <u>Packing/</u> <u>Meat</u>	<u>TABLE 20</u> <u>Metal</u> <u>Work</u>
<u>2015</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2014</u>	<u>1.014</u>	<u>1.009</u>	<u>1.008</u>	<u>1.014</u>	<u>1.006</u>
<u>2013</u>	<u>1.032</u>	<u>1.023</u>	<u>1.020</u>	<u>1.029</u>	<u>1.018</u>
<u>2012</u>	<u>1.051</u>	<u>1.030</u>	<u>1.031</u>	<u>1.041</u>	<u>1.017</u>
<u>2011</u>	<u>1.081</u>	<u>1.060</u>	<u>1.062</u>	<u>1.072</u>	<u>1.048</u>
<u>2010</u>	<u>1.113</u>	<u>1.094</u>	<u>1.092</u>	<u>1.104</u>	<u>1.084</u>
<u>2009</u>	<u>1.112</u>	<u>1.084</u>	<u>1.077</u>	<u>1.098</u>	<u>1.063</u>
<u>2008</u>	<u>1.134</u>	<u>1.121</u>	<u>1.113</u>	<u>1.133</u>	<u>1.103</u>
<u>2007</u>	<u>1.173</u>	<u>1.167</u>	<u>1.152</u>	<u>1.178</u>	<u>1.146</u>
<u>2006</u>	<u>1.229</u>	<u>1.231</u>	<u>1.201</u>	<u>1.255</u>	<u>1.210</u>
<u>2005</u>	<u>1.279</u>	<u>1.286</u>	<u>1.254</u>	<u>1.309</u>	<u>1.263</u>
<u>2004</u>	<u>1.366</u>	<u>1.387</u>	<u>1.348</u>	<u>1.403</u>	<u>1.363</u>
<u>2003</u>	<u>1.413</u>	<u>1.437</u>	<u>1.396</u>	<u>1.450</u>	<u>1.406</u>
<u>2002</u>	<u>1.434</u>	<u>1.464</u>	<u>1.417</u>	<u>1.475</u>	<u>1.429</u>
<u>2001</u>	<u>1.447</u>	<u>1.472</u>	<u>1.426</u>	<u>1.486</u>	<u>1.432</u>
<u>2000</u>	<u>1.459</u>	<u>1.484</u>	<u>1.434</u>	<u>1.502</u>	<u>1.441</u>
<u>1999</u>	<u>1.490</u>	<u>1.512</u>	<u>1.460</u>	<u>1.530</u>	<u>1.461</u>
<u>1998</u>	<u>1.496</u>	<u>1.515</u>	<u>1.466</u>	<u>1.538</u>	<u>1.461</u>
<u>1997</u>	<u>1.508</u>	<u>1.527</u>	<u>1.478</u>	<u>1.555</u>	<u>1.475</u>
<u>1996</u>	<u>1.544</u>	<u>1.551</u>	<u>1.501</u>	<u>1.583</u>	<u>1.494</u>
<u>1995</u>	<u>1.563</u>	<u>1.575</u>	<u>1.522</u>	<u>1.611</u>	<u>1.520</u>
<u>2016</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2015</u>	<u>0.995</u>	<u>0.989</u>	<u>0.987</u>	<u>0.994</u>	<u>0.984</u>
<u>2014</u>	<u>1.009</u>	<u>0.997</u>	<u>0.994</u>	<u>1.007</u>	<u>0.989</u>
<u>2013</u>	<u>1.027</u>	<u>1.010</u>	<u>1.006</u>	<u>1.023</u>	<u>1.000</u>
<u>2012</u>	<u>1.046</u>	<u>1.018</u>	<u>1.017</u>	<u>1.035</u>	<u>1.000</u>
<u>2011</u>	<u>1.075</u>	<u>1.047</u>	<u>1.047</u>	<u>1.065</u>	<u>1.030</u>
<u>2010</u>	<u>1.108</u>	<u>1.081</u>	<u>1.077</u>	<u>1.097</u>	<u>1.065</u>
<u>2009</u>	<u>1.107</u>	<u>1.072</u>	<u>1.062</u>	<u>1.091</u>	<u>1.045</u>
<u>2008</u>	<u>1.129</u>	<u>1.108</u>	<u>1.098</u>	<u>1.126</u>	<u>1.084</u>
<u>2007</u>	<u>1.168</u>	<u>1.154</u>	<u>1.136</u>	<u>1.171</u>	<u>1.126</u>
<u>2006</u>	<u>1.223</u>	<u>1.216</u>	<u>1.184</u>	<u>1.247</u>	<u>1.189</u>
<u>2005</u>	<u>1.273</u>	<u>1.271</u>	<u>1.236</u>	<u>1.301</u>	<u>1.241</u>
<u>2004</u>	<u>1.359</u>	<u>1.371</u>	<u>1.329</u>	<u>1.394</u>	<u>1.339</u>
<u>2003</u>	<u>1.406</u>	<u>1.420</u>	<u>1.376</u>	<u>1.441</u>	<u>1.382</u>
<u>2002</u>	<u>1.427</u>	<u>1.446</u>	<u>1.398</u>	<u>1.466</u>	<u>1.404</u>
<u>2001</u>	<u>1.440</u>	<u>1.454</u>	<u>1.407</u>	<u>1.477</u>	<u>1.407</u>
<u>2000</u>	<u>1.451</u>	<u>1.467</u>	<u>1.415</u>	<u>1.493</u>	<u>1.417</u>
<u>1999</u>	<u>1.482</u>	<u>1.494</u>	<u>1.440</u>	<u>1.521</u>	<u>1.436</u>

<u>1998</u>	<u>1.489</u>	<u>1.497</u>	<u>1.446</u>	<u>1.528</u>	<u>1.436</u>
<u>1997</u>	<u>1.501</u>	<u>1.509</u>	<u>1.458</u>	<u>1.545</u>	<u>1.450</u>
<u>1996</u>	<u>1.537</u>	<u>1.533</u>	<u>1.481</u>	<u>1.573</u>	<u>1.468</u>
<u>YEAR</u>	<u>TABLE 21</u>	<u>TABLE 22</u>	<u>TABLE 23</u>	<u>TABLE 24</u>	<u>TABLE 25</u>
	<u>Mine</u>	<u>Paint</u>			<u>Paper</u>
	<u>Mill</u>	<u>Mfg.</u>	<u>Petroleum</u>	<u>Printing</u>	<u>Mfg.</u>
<u>2015</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2014</u>	<u>1.012</u>	<u>1.009</u>	<u>1.009</u>	<u>1.005</u>	<u>1.011</u>
<u>2013</u>	<u>1.026</u>	<u>1.022</u>	<u>1.020</u>	<u>1.013</u>	<u>1.025</u>
<u>2012</u>	<u>1.046</u>	<u>1.027</u>	<u>1.027</u>	<u>1.017</u>	<u>1.034</u>
<u>2011</u>	<u>1.092</u>	<u>1.058</u>	<u>1.057</u>	<u>1.044</u>	<u>1.065</u>
<u>2010</u>	<u>1.128</u>	<u>1.093</u>	<u>1.084</u>	<u>1.076</u>	<u>1.100</u>
<u>2009</u>	<u>1.127</u>	<u>1.080</u>	<u>1.067</u>	<u>1.066</u>	<u>1.088</u>
<u>2008</u>	<u>1.179</u>	<u>1.118</u>	<u>1.111</u>	<u>1.089</u>	<u>1.123</u>
<u>2007</u>	<u>1.228</u>	<u>1.167</u>	<u>1.166</u>	<u>1.127</u>	<u>1.168</u>
<u>2006</u>	<u>1.282</u>	<u>1.235</u>	<u>1.240</u>	<u>1.190</u>	<u>1.227</u>
<u>2005</u>	<u>1.345</u>	<u>1.297</u>	<u>1.313</u>	<u>1.237</u>	<u>1.283</u>
<u>2004</u>	<u>1.458</u>	<u>1.406</u>	<u>1.426</u>	<u>1.319</u>	<u>1.390</u>
<u>2003</u>	<u>1.513</u>	<u>1.460</u>	<u>1.477</u>	<u>1.357</u>	<u>1.444</u>
<u>2002</u>	<u>1.543</u>	<u>1.490</u>	<u>1.506</u>	<u>1.379</u>	<u>1.471</u>
<u>2001</u>	<u>1.561</u>	<u>1.498</u>	<u>1.521</u>	<u>1.381</u>	<u>1.484</u>
<u>2000</u>	<u>1.572</u>	<u>1.512</u>	<u>1.540</u>	<u>1.393</u>	<u>1.493</u>
<u>1999</u>	<u>1.598</u>	<u>1.541</u>	<u>1.562</u>	<u>1.412</u>	<u>1.523</u>
<u>1998</u>	<u>1.606</u>	<u>1.545</u>	<u>1.570</u>	<u>1.413</u>	<u>1.527</u>
<u>1997</u>	<u>1.623</u>	<u>1.560</u>	<u>1.591</u>	<u>1.421</u>	<u>1.540</u>
<u>1996</u>	<u>1.649</u>	<u>1.583</u>	<u>1.618</u>	<u>1.444</u>	<u>1.571</u>
<u>1995</u>	<u>1.676</u>	<u>1.611</u>	<u>1.651</u>	<u>1.466</u>	<u>1.592</u>
<u>2016</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2015</u>	<u>0.996</u>	<u>0.988</u>	<u>0.988</u>	<u>0.986</u>	<u>0.988</u>
<u>2014</u>	<u>1.007</u>	<u>0.996</u>	<u>0.996</u>	<u>0.990</u>	<u>0.998</u>
<u>2013</u>	<u>1.022</u>	<u>1.009</u>	<u>1.007</u>	<u>0.998</u>	<u>1.012</u>
<u>2012</u>	<u>1.042</u>	<u>1.014</u>	<u>1.014</u>	<u>1.002</u>	<u>1.021</u>
<u>2011</u>	<u>1.088</u>	<u>1.045</u>	<u>1.044</u>	<u>1.028</u>	<u>1.052</u>
<u>2010</u>	<u>1.124</u>	<u>1.079</u>	<u>1.071</u>	<u>1.060</u>	<u>1.086</u>
<u>2009</u>	<u>1.123</u>	<u>1.067</u>	<u>1.054</u>	<u>1.050</u>	<u>1.074</u>
<u>2008</u>	<u>1.174</u>	<u>1.103</u>	<u>1.097</u>	<u>1.073</u>	<u>1.108</u>
<u>2007</u>	<u>1.223</u>	<u>1.152</u>	<u>1.151</u>	<u>1.110</u>	<u>1.153</u>
<u>2006</u>	<u>1.277</u>	<u>1.219</u>	<u>1.225</u>	<u>1.172</u>	<u>1.211</u>
<u>2005</u>	<u>1.340</u>	<u>1.280</u>	<u>1.297</u>	<u>1.219</u>	<u>1.266</u>
<u>2004</u>	<u>1.452</u>	<u>1.388</u>	<u>1.409</u>	<u>1.299</u>	<u>1.372</u>
<u>2003</u>	<u>1.507</u>	<u>1.441</u>	<u>1.459</u>	<u>1.337</u>	<u>1.426</u>
<u>2002</u>	<u>1.536</u>	<u>1.470</u>	<u>1.487</u>	<u>1.359</u>	<u>1.453</u>
<u>2001</u>	<u>1.555</u>	<u>1.479</u>	<u>1.503</u>	<u>1.360</u>	<u>1.465</u>
<u>2000</u>	<u>1.566</u>	<u>1.492</u>	<u>1.521</u>	<u>1.372</u>	<u>1.474</u>
<u>1999</u>	<u>1.592</u>	<u>1.521</u>	<u>1.543</u>	<u>1.391</u>	<u>1.503</u>
<u>1998</u>	<u>1.599</u>	<u>1.525</u>	<u>1.551</u>	<u>1.392</u>	<u>1.507</u>
<u>1997</u>	<u>1.617</u>	<u>1.540</u>	<u>1.572</u>	<u>1.400</u>	<u>1.520</u>

<u>1996</u>	<u>1.643</u>	<u>1.563</u>	<u>1.598</u>	<u>1.423</u>	<u>1.551</u>
<u>YEAR</u>	<u>TABLE 26</u>	<u>TABLE 27</u>	<u>TABLE 28</u>	<u>TABLE 29</u>	<u>TABLE 30</u>
	<u>Refrigeration</u>	<u>Rubber</u>	<u>Steam Power</u>	<u>Textile</u>	<u>Warehousing</u>
2015	1.000	1.000	1.000	1.000	1.000
2014	1.010	1.008	1.006	1.008	1.012
2013	1.024	1.020	1.017	1.020	1.026
2012	1.031	1.020	1.017	1.026	1.042
2011	1.062	1.048	1.046	1.052	1.072
2010	1.098	1.078	1.083	1.078	1.103
2009	1.091	1.063	1.073	1.063	1.097
2008	1.128	1.101	1.109	1.096	1.131
2007	1.177	1.144	1.162	1.134	1.171
2006	1.245	1.206	1.241	1.183	1.214
2005	1.306	1.256	1.307	1.227	1.256
2004	1.408	1.347	1.424	1.314	1.344
2003	1.458	1.394	1.477	1.352	1.391
2002	1.488	1.423	1.507	1.372	1.408
2001	1.500	1.427	1.512	1.378	1.413
2000	1.514	1.439	1.524	1.388	1.421
1999	1.544	1.460	1.548	1.409	1.447
1998	1.550	1.466	1.549	1.411	1.449
1997	1.566	1.482	1.561	1.423	1.454
1996	1.591	1.503	1.577	1.447	1.478
1995	1.619	1.531	1.603	1.467	1.491

<u>2016</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2015</u>	<u>0.991</u>	<u>0.990</u>	<u>0.984</u>	<u>0.986</u>	<u>0.993</u>
<u>2014</u>	<u>1.000</u>	<u>0.997</u>	<u>0.989</u>	<u>0.992</u>	<u>1.004</u>
<u>2013</u>	<u>1.014</u>	<u>1.008</u>	<u>0.999</u>	<u>1.004</u>	<u>1.018</u>
<u>2012</u>	<u>1.020</u>	<u>1.009</u>	<u>0.999</u>	<u>1.010</u>	<u>1.034</u>
<u>2011</u>	<u>1.051</u>	<u>1.036</u>	<u>1.027</u>	<u>1.035</u>	<u>1.064</u>
<u>2010</u>	<u>1.087</u>	<u>1.066</u>	<u>1.064</u>	<u>1.061</u>	<u>1.095</u>
<u>2009</u>	<u>1.080</u>	<u>1.051</u>	<u>1.054</u>	<u>1.047</u>	<u>1.088</u>
<u>2008</u>	<u>1.117</u>	<u>1.089</u>	<u>1.090</u>	<u>1.079</u>	<u>1.122</u>
<u>2007</u>	<u>1.165</u>	<u>1.131</u>	<u>1.142</u>	<u>1.116</u>	<u>1.162</u>
<u>2006</u>	<u>1.233</u>	<u>1.192</u>	<u>1.219</u>	<u>1.164</u>	<u>1.204</u>
<u>2005</u>	<u>1.292</u>	<u>1.241</u>	<u>1.284</u>	<u>1.208</u>	<u>1.246</u>
<u>2004</u>	<u>1.394</u>	<u>1.331</u>	<u>1.399</u>	<u>1.293</u>	<u>1.334</u>
<u>2003</u>	<u>1.444</u>	<u>1.378</u>	<u>1.451</u>	<u>1.331</u>	<u>1.381</u>
<u>2002</u>	<u>1.473</u>	<u>1.407</u>	<u>1.480</u>	<u>1.350</u>	<u>1.397</u>
<u>2001</u>	<u>1.485</u>	<u>1.411</u>	<u>1.485</u>	<u>1.356</u>	<u>1.402</u>
<u>2000</u>	<u>1.499</u>	<u>1.423</u>	<u>1.497</u>	<u>1.367</u>	<u>1.410</u>
<u>1999</u>	<u>1.528</u>	<u>1.444</u>	<u>1.520</u>	<u>1.387</u>	<u>1.436</u>
<u>1998</u>	<u>1.534</u>	<u>1.450</u>	<u>1.522</u>	<u>1.389</u>	<u>1.438</u>
<u>1997</u>	<u>1.550</u>	<u>1.465</u>	<u>1.533</u>	<u>1.400</u>	<u>1.443</u>
<u>1996</u>	<u>1.575</u>	<u>1.486</u>	<u>1.549</u>	<u>1.425</u>	<u>1.466</u>

<u>YEAR</u>	<u>TABLE 31</u> <u>Woodworking</u>	<u>TABLE 32</u> <u>Glass Mfg.</u>
2015	1.000	1.000
2014	1.019	1.008
2013	1.037	1.019
2012	1.055	1.024
2011	1.083	1.055
2010	1.116	1.091
2009	1.107	1.080
2008	1.133	1.115
2007	1.170	1.167
2006	1.217	1.236
2005	1.263	1.303
2004	1.349	1.418
2003	1.390	1.474
2002	1.411	1.503
2001	1.424	1.510
2000	1.425	1.525
1999	1.449	1.554
1998	1.451	1.558
1997	1.458	1.570
1996	1.494	1.591
1995	1.509	1.618
<u>2016</u>	<u>1.000</u>	<u>1.000</u>
<u>2015</u>	<u>0.996</u>	<u>0.988</u>
<u>2014</u>	<u>1.014</u>	<u>0.994</u>
<u>2013</u>	<u>1.032</u>	<u>1.005</u>
<u>2012</u>	<u>1.050</u>	<u>1.011</u>
<u>2011</u>	<u>1.078</u>	<u>1.041</u>
<u>2010</u>	<u>1.111</u>	<u>1.076</u>
<u>2009</u>	<u>1.102</u>	<u>1.065</u>
<u>2008</u>	<u>1.128</u>	<u>1.100</u>
<u>2007</u>	<u>1.165</u>	<u>1.151</u>
<u>2006</u>	<u>1.212</u>	<u>1.220</u>
<u>2005</u>	<u>1.257</u>	<u>1.286</u>
<u>2004</u>	<u>1.343</u>	<u>1.399</u>
<u>2003</u>	<u>1.384</u>	<u>1.454</u>
<u>2002</u>	<u>1.405</u>	<u>1.483</u>
<u>2001</u>	<u>1.417</u>	<u>1.490</u>
<u>2000</u>	<u>1.419</u>	<u>1.505</u>
<u>1999</u>	<u>1.443</u>	<u>1.533</u>
<u>1998</u>	<u>1.445</u>	<u>1.537</u>
<u>1997</u>	<u>1.451</u>	<u>1.549</u>
<u>1996</u>	<u>1.487</u>	<u>1.570</u>

AUTH: 15-1-201, MCA
IMP: 15-6-138, 15-8-111, MCA

REASON: The department proposes further amending ARM 42.22.1311(2)(cg) to change the description of Wind Generation to Renewable Energy Generation to include solar and other types of renewable energy generating equipment in this category. The department conducted research pertaining to the life of the solar energy generation equipment, in particular, which supports using the same life expectancy and trend factors as are used for wind energy generation equipment.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than November 21, 2016.

6. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

7. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 5 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

8. An electronic copy of this notice is available on the department's web site at revenue.mt.gov/rules. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses. Documentation of the department's determination is available at revenue.mt.gov/rules or upon request from the person in 5.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State October 3, 2016.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.20.660, 42.20.665,) PROPOSED AMENDMENT
42.20.670, 42.20.675, 42.20.680, and)
42.20.681 pertaining to agricultural)
land valuation)

TO: All Concerned Persons

1. On November 9, 2016, at 3 p.m., the Department of Revenue will hold a public hearing in the Third Floor East Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rule. The hearing room is most readily accessed by entering through the east doors of the building facing Sanders Street.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5 p.m. on October 31, 2016, to advise us of the nature of the accommodation you need. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

3. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

42.20.660 NONIRRIGATED SUMMER FALLOW FARM LAND

(1) Nonirrigated summer fallow farm land productivity values for each year of ~~the reappraisal cycle beginning January 1, 2015,~~ are:

(a) remains the same.

(b) ~~For the reappraisal cycle beginning January 1, 2015, the~~ The per acre nonirrigated summer fallow farm land value is calculated as follows:

(i) through (iii) remain the same.

AUTH: 15-1-201, MCA

IMP: 15-7-103, 15-7-201, MCA

REASON: The department proposes amending ARM 42.20.660 to strike language relating to specific reappraisal cycles, because the various processes contained in this rule do not change from cycle to cycle. Removing this language and the calendar years will eliminate the need to amend this rule for each new reappraisal cycle in the future.

42.20.665 NONIRRIGATED, CONTINUOUSLY CROPPED FARM LAND

(1) Nonirrigated continuously cropped fallow farm land productivity values for each year ~~of the reappraisal cycle beginning January 1, 2015~~, are:

(a) remains the same.

(b) ~~For the reappraisal cycle beginning January 1, 2015, the~~ The per acre nonirrigated continuously cropped farm land value is calculated as follows:

(i) through (iii) remain the same.

AUTH: 15-1-201, MCA

IMP: 15-7-103, 15-7-201, MCA

REASON: The department proposes amending ARM 42.20.665 to strike language relating to specific reappraisal cycles, because the various processes contained in this rule do not change from cycle to cycle. Removing this language and the calendar years will eliminate the need to amend this rule for each new reappraisal cycle in the future.

42.20.670 NONIRRIGATED CONTINUOUSLY CROPPED HAY LAND

(1) Nonirrigated continuously cropped hay land productivity values for each year ~~of the reappraisal cycle beginning January 1, 2015~~, are:

(a) remains the same.

(b) ~~For the reappraisal cycle beginning January 1, 2015, the~~ The per acre nonirrigated continuously cropped hay land value is calculated as follows:

(i) through (iii) remain the same.

AUTH: 15-1-201, MCA

IMP: 15-7-103, 15-7-201, MCA

REASON: The department proposes amending ARM 42.20.670 to strike language relating to specific reappraisal cycles, because the various processes contained in this rule do not change from cycle to cycle. Removing this language and the calendar years will eliminate the need to amend this rule for each new reappraisal cycle in the future.

42.20.675 IRRIGATED FARM LAND (1) Irrigated farm land values for each year ~~of the reappraisal cycle beginning January 1, 2015~~, are:

(a) remains the same.

(b) ~~For the reappraisal cycle beginning January 1, 2015, the~~ The per acre irrigated farm land value is calculated as follows:

(i) through (9) remain the same.

AUTH: 15-1-201, MCA

IMP: 15-7-103, 15-7-201, MCA

REASON: The department proposes amending ARM 42.20.675 to strike language relating to specific reappraisal cycles, because the various processes contained in this rule do not change from cycle to cycle. Removing this language

and the calendar years will eliminate the need to amend this rule for each new reappraisal cycle in the future.

42.20.680 GRAZING LAND (1) Grazing land productivity values for each year of the reappraisal cycle beginning January 1, 2015, are:

- (a) remains the same.
- (b) ~~For the reappraisal cycle beginning January 1, 2015, the~~ The per acre grazing land value is calculated by:
 - (i) through (iv) remain the same.

AUTH: 15-1-201, MCA

IMP: 15-7-103, 15-7-201, MCA

REASON: The department proposes amending ARM 42.20.680 to strike language relating to specific reappraisal cycles, because the various processes contained in this rule do not change from cycle to cycle. Removing this language and the calendar years will eliminate the need to amend this rule for each new reappraisal cycle in the future.

42.20.681 AGRICULTURAL COMMODITY PRICES AND VALUES

(1) Commodity prices for the ~~2015~~ 2017 appraisal cycle used for the determination of income are calculated using a 10-year Olympic average of prices from Montana Agricultural Statistics for the years ~~2004-2013~~ 2006-2015. An Olympic average throws out the high and low years and averages the remaining 8 ~~eight~~ years. The prices used for valuing agricultural land for the ~~2015~~ 2017 appraisal cycle are as follows:

- (a) Spring wheat price used in the valuation of nonirrigated summer fallow and nonirrigated continuous cropped farm lands = ~~\$6.36~~ \$6.67 per bushel.
- (b) Alfalfa hay price, reduced by 20 percent as required by 15-7-201, MCA, used in the valuation of irrigated and nonirrigated hay lands = ~~\$76.50~~ \$86.20 per ton.
- (c) Private grazing fees used in the valuation of grazing lands = ~~\$18.08~~ \$19.53 per Animal Unit Month (AUM).

(2) The minimum value of irrigated land as determined by the methodology detailed in ARM 42.20.675 = ~~\$571.41~~ \$599.26 per acre.

(3) remains the same.

(4) For the ~~2015~~ 2017 appraisal cycle the capitalization rate for Class 3 agricultural land, which is used to convert an ongoing income stream into an estimate of value = 6.4 percent.

(5) For the ~~2015~~ 2017 appraisal cycle the highest productivity of nonirrigated continuously cropped farmland is ~~55~~ 60 bushels per acre, and is used in calculating the values of specialty crop land.

(6) For the 2017 appraisal cycle, the value of the one acre beneath a residence on agricultural land is \$2,302.

(7) For the 2017 appraisal cycle, the minimum carrying capacity for grazing land to be eligible for agricultural classification is 31 AUMs as determined by the Montana State University College of Agriculture in accordance with ARM 42.20.620.

AUTH: 15-1-201, MCA

IMP: 15-6-133, 15-7-201, 15-7-202, 15-7-203, 15-7-206, 15-7-207, 15-7-208, 15-7-209, 15-7-210, 15-7-212, MCA

REASON: The department proposes amending ARM 42.20.681 to update the years, prices, and values for the upcoming reappraisal cycle that begins in 2017.

The department proposes amending ARM 42.20.681(1)(a) through (c) to update the rule with the current commodity price and production data for the base period, as published by and obtained from the Montana Agricultural Statistics and to be used for valuing agricultural lands in the upcoming reappraisal cycle. The department's use of the Montana Agricultural Statistics as its data source is required by 15-7-201, MCA.

The department further proposes amending (2), to update the minimum value of irrigated land for the upcoming reappraisal cycle based on the new commodity price, as provided by Montana Agricultural Statistics in accordance with 15-7-201, MCA, and proposes amending (5) to update the productivity of nonirrigated continuously cropped farmland that the department will use for valuing specialty crops in the upcoming reappraisal cycle, from 55 bushels to 60 bushels per acre, in accordance with 15-7-201, MCA.

Section 15-7-206, MCA, requires the department to value the one acre beneath a residence on agricultural land at the class with the highest productive value and production capacity. The department proposes adding new (6) to include all prices for agricultural land in one rule for transparency and convenience for taxpayers.

Section 15-7-202, MCA, requires the department to use a minimum carrying capacity of animal unit month (AUM) for grazing land to qualify as agricultural land. Therefore, the department proposes adding new (7) to provide the AUM that will be used for the upcoming reappraisal cycle in the rule for transparency and convenience for taxpayers.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than November 21, 2016.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

6. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 4

above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

7. An electronic copy of this notice is available on the department's web site at revenue.mt.gov/rules. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses. Documentation of the department's determination is available at revenue.mt.gov/rules or upon request from the person in 4.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State October 3, 2016.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF AMENDMENT
2.21.4002, 2.21.4005, 2.21.4008,)
2.21.4013, 2.21.4020, and 2.21.4028)
pertaining to equal employment)
opportunity, nondiscrimination, and)
harassment prevention)

TO: All Concerned Persons

1. On April 22, 2016, the Department of Administration published MAR Notice No. 2-21-545 regarding a public hearing on the proposed amendment of the above-stated rules at page 617 of the 2016 Montana Administrative Register, Issue Number 8.

2. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: The department received a recommendation to expand the statement of reasonable necessity for ARM 2.21.4005. The commenter suggested the department provide specific examples of LGBT-related claims that the Equal Employment Opportunity Commission (EEOC) views as unlawful sex discrimination. Examples included firing an employee because the employee is planning or has made a gender transition; denying an employee equal access to a common restroom corresponding to the employee's gender identity; or harassing an employee by intentionally or persistently failing to use the name and gender pronoun that correspond to the employee's gender identity.

RESPONSE #1: While the comment does not address the content of the rule, the department will include these and other examples of LGBT-related discrimination in fact sheets, training materials, and other department resources.

COMMENT #2: The department received comments concerning the requirement for agency EO officers to update agency EEO action plans under ARM 2.21.4008(2)(a)(v). Commenters indicated the wording of the proposed rule caused confusion and implied agencies did not need to update their annual EEO action plans or affirmative action plans unless required by a federal department.

RESPONSE #2: The department has modified the rule to clarify the department's expectation that agencies shall update annual EEO action plans unless they have a federal requirement to develop an affirmative action plan. Agencies are not required to have an EEO action plan if they have a federal requirement to develop an affirmative action plan that extends to the entire department.

COMMENT #3: The department received comments concerning the reliability of demographic data used to update agency EEO action plans under ARM 2.21.4008(2)(a)(v). Commenters had concerns about using this data to develop strategies, goals, and objectives for evaluating the effectiveness of the agency's EEO action plan under ARM 2.21.4008(2)(a)(vi). Commenters also expressed concerns that the demographic data has not been reliable in the past and requested the department not impose these requirements until the department can provide reliable demographic data.

RESPONSE #3: The department has implemented new procedures for collecting employee demographic data. The new procedures, described in the following paragraphs, will enhance the accuracy and reliability of demographic data collected.

The department has updated demographic categories in the Statewide Accounting, Budgeting, and Human Resource System (SABHRS) to reflect the Hispanic and Latino designation and five race categories the department must report to the EEOC beginning in 2017. Federal laws and regulations require the department to collect and report the demographic data of all state employees to the EEOC on a biennial basis.

In October 2016, the department began requesting current employees review their Hispanic and Latino designation and race selections for accuracy and make corrections, as needed, using the employee self-service function in SABHRS. Employees may select from one or more of the categories provided. New employees have the opportunity to make a selection upon hire.

Since the EEOC expects employers to report data on all employees, agency human resource staffs may use a visual determination to make a selection in SABHRS if an employee chooses not to self-identify. Employees have the opportunity to review and update their demographic in self-service at any time.

The department will use the updated demographic data to create agency utilization analysis reports by January 2017, with the expectation that agencies will update EEO action plans, if required, by March 31 of each year.

Utilization analysis reports consist of agency demographic data collected by the department and external demographic data from the U.S. Census Bureau's [EEO Tabulation](#). The EEO Tabulation serves as the primary external benchmark U.S. employers use to compare the demographic makeup of their internal workforce with the relevant labor market by race, ethnicity, gender, geographic region, and occupation.

The department will assist agency representatives with interpreting internal and external demographic data and provide tools and resources for developing robust and sustainable EEO action plans to fulfill this requirement.

The department has also modified ARM 2.21.4008(2)(a)(vi) to clarify that agencies shall develop strategies, goals, and objectives for evaluating the effectiveness of the agency's EEO action plan or affirmative action plan, if an affirmative action plan is required.

COMMENT #4: The department received comments concerning the requirement in ARM 2.21.4008(3)(c) for managers to provide reasonable

accommodations, upon request, for pregnancy-related disabilities and the interaction of pregnancy with an underlying impairment. Commenters indicated the rule did not afford managers the ability to deny an accommodation request if the requested accommodation would create an undue hardship. Commenters indicated by not including an exception for undue hardship, the rule suggested a different standard than applied to disability-related accommodations under the state's Reasonable Accommodation and Equal Access Policy (ARM Title 2, chapter 21, subchapter 41). Commenters also questioned the need to address accommodations for pregnancy-related disabilities under this policy and indicated the rule may imply preferential treatment toward women who are pregnant.

RESPONSE #4: The department believes this rule is important to promote compliance with federal law because it aligns the state's policy with the EEOC's enforcement guidance, [Pregnancy Discrimination and Related Issues](#), released on June 25, 2015. The department has, however, modified the rule to include an exception for undue hardship. Including this exception makes the rule consistent with reasonable accommodation requirements under ARM 2.21.4008(3)(b), which requires managers to provide reasonable accommodations to qualified individuals with disabilities and employees based on their religious practices, unless doing so would create an undue hardship. The revision also aligns the rule with requirements under the Reasonable Accommodation and Equal Access Policy. The department does not believe the rule implies preferential treatment toward pregnant women.

COMMENT #5: The department received comments concerning the proposed requirement in ARM 2.21.4008(3)(d) for agency managers to develop internal procedures for providing meaningful access (interpreters, translators, etc.) to programs, services, and activities for customers with limited English proficiency. Commenters questioned whether the department's intent was to require all agencies to develop such procedures or only those with a federal requirement.

RESPONSE #5: The department's intent is for all state agencies to provide limited English proficiency (LEP) individuals with meaningful access to programs, services, and activities provided.

The department has modified the rule to require managers to ensure employees provide meaningful access to LEP individuals and moved the proposed requirement to develop internal procedures under EO officer responsibilities to ARM 2.21.4008(2)(a)(viii).

The extent to which EO officers develop internal procedures will vary from agency to agency based on the programs, services, and activities provided, customers served, and whether the agency has a federal requirement.

Employees must respond to the unique language needs of customers and provide meaningful access to all programs and services the agency offers. This may include providing documents and forms in a language other than English or contracting with an interpreter to engage in meaningful communication with a customer who speaks limited English.

Including this requirement promotes consistency across all agencies, whether or not they have a federal requirement, and promotes compliance with federal and

state law.

Many state agencies receive federal funding and have a requirement to provide meaningful access to LEP individuals under Title VI of the Civil Rights Act of 1964. When a state agency is a recipient of federal funds, it must provide meaningful access to all programs and services within the agency, even if only one program receives federal funding. See Question 4, [Commonly Asked Questions and Answers Regarding Limited English Proficient \(LEP\) Individuals](#), and [Memorandum of Agreement, The United States of America and the Washington State Department of Labor and Industries](#).

Including this requirement not only supports agencies with Title VI obligations, but promotes compliance with 49-3-205, MCA, which prohibits discrimination in services, including discrimination based on national origin.

COMMENT #6: The department received a comment recommending ARM 2.21.4008(3)(e), prohibiting discrimination in state contracts and subcontracts, include language clarifying that the state prohibits discrimination "in all aspects of employment and in programs, services, and activities offered to the public."

RESPONSE #6: The department does not have the authority to address violations outside the scope of a contract or subcontract. The department may only address violations related to work performed on the state's behalf. For example, a contractor may not use an illegal hiring practice (based on a protected class) to employ individuals under that contract, and a subcontractor may not deny access (based on a protected class) to a program, service, or activity they perform on the state's behalf. The department has modified this rule to include language that more closely aligns with the Governor's executive order prohibiting discrimination in state employment and contracts. The amendment specifically addresses discrimination and harassment in hiring and programs, services, and activities performed on the state's behalf.

COMMENT #7: The department received comments concerning responsibilities of agency managers under ARM 2.21.4008(3), suggesting the requirements under ARM 2.21.4008(3)(d), (i), (j), and (l) should fall on the agency human resource staff and not management.

RESPONSE #7: The department has amended the rule to state that managers are responsible for ensuring employees provide meaningful access to LEP individuals under ARM 2.21.4008(3)(d) and receive new employee and refresher training under ARM 2.21.4008(3)(i). The department has moved the requirement to report the number of employees trained to EO officer responsibilities under ARM 2.21.4008(2)(a).

COMMENT #8: The department received comments concerning the proposed amendments to ARM 2.21.4008(3)(i) and (j) respectively requiring agency managers to provide diversity and inclusion and EO and harassment prevention training to all new employees within 90 days of hire and refresher training to all employees every three years according to guidelines established by the department.

Commenters requested the department not impose this requirement until the department develops the minimum standards for such training.

RESPONSE #8: The department agrees and has amended the rule to extend the requirement to six months from the effective date of the amendment, which will be April 15, 2017. The department will collaborate with agency EO officers and HR staffs to develop viable training to fulfill this requirement. The department has also changed this rule to clarify that agency managers are responsible for ensuring their employees receive training and are not required to provide the training.

COMMENT #9: The department received comments concerning ARM 2.21.4008(3)(l) requiring agency managers to report the number of trainings provided--by new employee and refresher training and number of people trained--to the department each quarter. Commenters indicated that reporting the numbers of employees trained on a quarterly basis would create a burden for agency HR staffs who would need to manually track this information.

RESPONSE #9: The department has amended the rule to extend the reporting requirement to an annual basis. The department has also moved this requirement to ARM 2.21.4008(2)(a)(ix) to clarify that agency EO officers are responsible for fulfilling this requirement.

COMMENT #10: The department received a recommendation to include additional language under ARM 2.21.4008(3) that would require agency managers to implement and comply with the department's policy on gender identity and expression protections in the workplace.

RESPONSE #10: The department has not amended the rule to include the recommended language to minimize redundancy. The department believes the policy addresses management's responsibility to implement and comply with these provisions throughout the policy as provided in ARM 2.21.4005, 2.21.4008, 2.21.4013, 2.21.4019 through 2.21.4022, and 2.21.4029.

COMMENT #11: The department received comments concerning ARM 2.21.4013(3) prohibiting any behavior or pattern of behavior that intentionally or unintentionally degrades or demeans an individual or group of individuals, whether based on a legally protected class or not. Commenters felt the rule extended beyond the scope of the EEO, Nondiscrimination, and Harassment Prevention Policy and would be difficult to administer. They indicated this particular policy should focus on "harassment" as narrowly defined under civil rights legislation. Commenters understood the department's intent, which is to oppose disrespectful or inappropriate behavior in any form, and supported a separate policy to address such behavior.

RESPONSE #11: The department agrees and will not amend this rule, but will draft a separate policy to promote respectful behavior.

COMMENT #12: The department received one comment recommending the department include new language in ARM 2.21.4029, Rule Violations, to address violations by contractors through corrective action or sanctions.

RESPONSE #12: ARM 2.21.4029 was not noticed for amendment and is, therefore, beyond the scope of this rulemaking, pursuant to 2-4-305(7), MCA. The Department of Administration does not intend to pursue a new rulemaking to make this change as all state contracts will include language prohibiting discrimination based on protected classes identified in this policy, and a violation of the contract provision may result in a breach of the contract. Any other penalties must be within the terms of the contract.

3. The department has amended ARM 2.21.4002, 2.21.4005, and 2.21.4020 as proposed.

4. The department has amended ARM 2.21.4008 as proposed, but with the following changes, stricken matter interlined, new matter underlined:

2.21.4008 RESPONSIBILITIES (1) through (2)(a)(iv) remain as proposed.

(v) updating the department's annual EEO action plan ~~or affirmative action plan if required by a federal department,~~ unless the department has a federal requirement to develop an affirmative action plan that extends to the entire department;

(vi) developing strategies, ~~and measurable goals,~~ and objectives for evaluating the effectiveness of the agency's EEO action plan or affirmative action plan;

(vii) reporting the agency's progress toward minimizing underutilization of women and minorities to the department by March 31 of each year; and

(viii) developing internal procedures for providing meaningful access (interpreters, translators, etc.) to programs, services, and activities for customers with limited English proficiency by March 31, 2017;

(ix) report to the department each year:

(A) the number of diversity and inclusion and EO and harassment prevention trainings provided; and

(B) the number of employees trained, by new employee and refresher training; and

(b) through (3)(b) remain as proposed.

(c) provide reasonable accommodations, upon request, for limitations resulting from pregnancy-related disabilities and the interaction of pregnancy with an underlying impairment, unless doing so would create an undue hardship for the agency;

(d) ~~develop internal procedures to ensure employees~~ provide meaningful access (interpreters, translators, etc.) to programs, services, and activities for customers with limited English proficiency (LEP);

(e) include provisions in all contracts and subcontracts for construction of public buildings, other public works, and goods and services, that prohibit discrimination or harassment based on race, color, national origin, age, physical or

mental disability, marital status, religion, creed, sex, pregnancy, childbirth, or a medical condition related to pregnancy or childbirth, sexual orientation, gender identity or expression, political beliefs, genetic information, military service or veteran's status, culture, social origin or condition, or ancestry in hiring and accessing programs, services, and activities performed on the state's behalf;

(f) through (h) remain as proposed.

(i) ~~provide~~ ensure all new employees receive diversity and inclusion and EO and harassment prevention training ~~to all new employees~~ within 90 days of hire, beginning April 15, 2017, according to guidelines established by the department;

(j) ~~provide~~ ensure all employees receive diversity and inclusion and EO and harassment prevention refresher training ~~for all employees~~ every three years or more frequently as needed, beginning April 15, 2017, according to guidelines established by the department; and

(k) document all training in the employee's personnel file; ~~and~~

~~(l) report the number of trainings provided, by new employee and refresher training and number of people trained, to the department each quarter.~~

5. The department is not amending ARM 2.21.4013 (see Comment and Response #11).

6. The department recognized the need to include external complaint procedures for service members and veterans who believe they have been discriminated against based on their current or past military service.

7. The department has amended ARM 2.21.4028 as proposed, but with the following changes, new matter underlined:

2.21.4028 INITIATING AN EXTERNAL COMPLAINT (1) through (1)(b) remain as proposed.

(2) Jurisdiction may vary based on the nature of the complaint. For example, neither the Human Rights Bureau nor the EEOC considers complaints based on culture, social origin or condition, ~~or~~ ancestry, or military or veteran status.

(3) and (4) remain as proposed.

(5) Service members and veterans who believe they have been discriminated against in employment based on military service or veteran status may contact:

(a) the Employer Support of the Guard and Reserve at (800) 336-4590; or

(b) the Veterans' Employment and Training Service (VETS) at (866)-487-2365. Service members and veterans may submit a formal, online complaint with VETS at <http://webapps.dol.gov/elaws/vets/userra/1010.asp>.

By: /s/ Sheila Hogan
Sheila Hogan, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State October 3, 2016.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule) NOTICE OF ADOPTION AND
I pertaining to the definition of "regularly) AMENDMENT
engage" and the amendment of ARM)
2.59.1738 pertaining to renewal fees for)
mortgage brokers, lenders, servicers,)
and originators)

TO: All Concerned Persons

1. On August 5, 2016, the Department of Administration published MAR Notice No. 2-59-546 pertaining to the adoption and amendment of the above-stated rules at page 1287 of the 2016 Montana Administrative Register, Issue Number 15.
2. No comments were received.
3. The department has adopted New Rule I (ARM 2.59.1754) exactly as proposed.
4. The department has amended ARM 2.59.1738 exactly as proposed.

By: /s/ Sheila Hogan
Sheila Hogan, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State October 3, 2016.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the adoption of New) NOTICE OF ADOPTION
Rule I pertaining to the adoption of)
the NAIC Valuation Manual)

TO: All Concerned Persons

1. On September 2, 2016, the Commissioner of Securities and Insurance (CSI), Montana State Auditor, published MAR Notice No. 6-223 pertaining to the proposed adoption of the above-stated rule at page 1494 of the 2016 Montana Administrative Register, Issue Number 17.

2. The department has adopted New Rule I (ARM 6.6.4501) as proposed, but with the following changes to the original proposal, new matter underlined, deleted matter interlined:

NEW RULE I (ARM 6.6.4501) ADOPTION BY REFERENCE OF THE NAIC VALUATION MANUAL (1) The Commissioner of Securities and Insurance, Office of the State Auditor, adopts and incorporates by reference the Valuation Manual first adopted by the National Association of Insurance Commissioners (NAIC) on December 2, 2012, including subsequent amendments to the Valuation Manual through August 29, 2016, which sets forth and specifies a principle-based method for the valuation of insurance policies and contracts and the establishment of reserves. A copy of the Valuation Manual, as adopted by the NAIC on August 29, 2016, may be obtained from the NAIC web site at the following link: http://www.naic.org/documents/committees_a_latf_related_valuation_manual_noapf_adopted_by_a_cmte.pdf http://www.naic.org/documents/committees_a_latf_related_valuation_manual_noapf_160829.pdf.

AUTH: 33-1-313, 33-2-418, MCA

IMP: 33-2-402, 33-2-403, 33-2-404, 33-2-405, MCA

3. No hearing was held, and the CSI received comments from one commenter raising two issues. The CSI has thoroughly considered the comments and testimony received. A summary of the comments received, and the CSI's responses are as follows:

COMMENT NO. 1: The commenter noted that there have been several amendments to the Valuation Manual since its adoption in 2012. The commenter proposed that the CSI should adopt the most current version of the Valuation Manual, and all future amendments adopted by the National Association of Insurance Commissioners.

RESPONSE NO. 1: The CSI agrees that it should adopt the most current version of the Valuation Manual, and has modified New Rule I (ARM 6.6.4501) accordingly. However, any future amendments to the Valuation Manual must be approved by a separate rulemaking procedure, pursuant to 2-4-307(4), MCA.

COMMENT NO. 2: The commenter suggested that 33-2-404 and 33-2-405, MCA, should be included in the list of implemented statutes.

RESPONSE NO. 2: The CSI agrees that 33-2-404 and 33-2-405, MCA, are also statutes implemented by New Rule I (ARM 6.6.4501), and has modified the rule accordingly.

/s/ Michael A. Kakuk
Michael A. Kakuk
Rule Reviewer

/s/ Jesse Laslovich
Jesse Laslovich
Chief Legal Counsel

Certified to the Secretary of State October 3, 2016.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF AMENDMENT
17.8.102 and 17.8.103 pertaining to)	
incorporation by reference--publication)	(AIR QUALITY)
dates and incorporation by reference)	
and availability of referenced documents)	

TO: All Concerned Persons

1. On July 8, 2016, the Board of Environmental Review published MAR Notice No. 17-384 regarding a notice of proposed amendment of the above-stated rules at page 1109, 2016 Montana Administrative Register, Issue Number 13.
2. The board has amended the rules exactly as proposed.
3. No public comments or testimony were received.

Reviewed by: BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North
JOHN F. NORTH
Rule Reviewer

By: /s/ Joan Miles
JOAN MILES
Chairman

Certified to the Secretary of State, October 3, 2016.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the adoption of New Rules	)	NOTICE OF ADOPTION,
I through V; transfer and amendment of	)	TRANSFER AND AMENDMENT,
ARM 18.9.101, 18.9.102, 18.9.103,	)	TRANSFER, AND REPEAL
18.9.104, 18.9.105, 18.9.108, 18.9.109,)	
18.9.111, 18.9.116, 18.9.117, 18.9.118,)	
18.9.201, 18.9.202, 18.9.203, 18.9.204,)	
18.9.205, 18.9.302, 18.9.303, 18.9.306,)	
18.9.311, 18.9.312, 18.9.321, 18.9.326,)	
18.9.401, 18.9.403, 18.9.501, 18.9.703,)	
18.9.705, 18.10.103, 18.10.104,)	
18.10.105, 18.10.108, 18.10.110,)	
18.10.111, 18.10.112, 18.10.121,)	
18.10.124, 18.10.125, 18.10.313,)	
18.10.314, 18.10.324, 18.10.406,)	
18.10.407, 18.11.102, 18.11.103,)	
18.11.104; 18.11.105, 18.11.106; transfer)	
of ARM 18.9.603, 18.9.605, 18.9.606,)	
18.9.607, 18.9.608, 18.9.701, 18.10.106,)	
18.10.503, 18.10.504, 18.10.505,)	
18.10.506, 18.10.507; and repeal of ARM)	
18.9.112, 18.9.325, 18.9.402, 18.9.601,)	
18.9.602, 18.9.704, 18.10.107, 18.10.201,)	
18.10.202, 18.10.301, 18.10.302,)	
18.10.321, 18.10.322, 18.10.323, 18.10.404,)	
and 18.11.101 pertaining to Motor Fuels)	
Tax)	

TO: All Concerned Persons

1. On August 5, 2016, the Department of Transportation published MAR Notice No. 18-161 pertaining to the proposed adoption, transfer and amendment, transfer, and repeal of the above-stated rules at page 1317 of the 2016 Montana Administrative Register, Issue Number 15.

2. The department has adopted New Rules I through V as proposed. New Rule I is adopted as ARM 18.15.101, New Rule II is adopted as ARM 18.15.117, New Rule III is adopted as ARM 18.15.108, New Rule IV is adopted as ARM 18.15.109, and New Rule V is adopted as ARM 18.15.110.

3. The department has amended and transferred the following rules as proposed:

<u>OLD</u>	<u>NEW</u>	
18.9.101	18.15.201	DETERMINATION OF WHEN GASOLINE, SPECIAL FUEL, OR AVIATION FUEL DISTRIBUTED
18.9.102	18.15.202	DISTRIBUTOR'S BOND
18.9.103	18.15.203	DISTRIBUTOR'S STATEMENTS
18.9.104	18.15.204	DISTRIBUTOR'S RECORDS
18.9.105	18.15.205	DISTRIBUTOR'S INVOICE
18.9.108	18.15.210	WHOLESALE DISTRIBUTOR
18.9.109	18.15.211	WHOLESALE DISTRIBUTOR'S OBLIGATIONS
18.9.111	18.15.217	ETHANOL-BLENDED GASOLINE BLENDERS
18.9.116	18.15.225	INCIDENCE OF THE FUEL TAX
18.9.117	18.15.226	DISTRIBUTOR – SUPPORTING DOCUMENTATION FOR BAD DEBT CREDIT
18.9.118	18.15.227	PREPAYMENT OF MOTOR FUEL TAXES
18.9.201	18.15.301	INTRASTATE FUEL DELIVERIES
18.9.202	18.15.302	EXPORT DELIVERIES
18.9.203	18.15.303	IMPORT DELIVERIES
18.9.204	18.15.304	BLENDING STOCKS
18.9.205	18.15.305	EXEMPTION - U.S. AND OTHER STATES
18.9.302	18.15.401	SELLER'S INVOICE
18.9.303	18.15.402	FILING INVOICES
18.9.306	18.15.408	REFUND PERCENTAGES FOR PTO OR AUXILIARY ENGINES
18.9.311	18.15.409	LOST OR DESTROYED GASOLINE, SPECIAL FUEL, OR AVIATION FUEL
18.9.312	18.15.410	GASOLINE, SPECIAL FUEL, OR AVIATION FUEL LOST FROM STORAGE
18.9.321	18.15.411	PROCESSING CLAIMS FOR REFUNDS
18.9.326	18.15.412	AGRICULTURAL USE FUEL TAX REFUND
18.9.401	18.15.218	TREATMENT OF ETHANOL-BLENDED GASOLINE
18.9.403	18.15.219	ETHANOL CONTENT
18.9.501	18.15.701	ETHANOL DISTRIBUTORS
18.9.703	18.15.103	PAYMENT APPLICATION
18.9.705	18.15.111	LATE FILE AND PAY PENALTIES WHEN FILING ELECTRONICALLY
18.10.103	18.15.118	DETERMINATION OF PUBLIC ROADS AND HIGHWAYS
18.10.104	18.15.119	LIABILITY FOR USE ON GOVERNMENT MAINTAINED ROADS
18.10.105	18.15.120	WHAT CONSTITUTES SPECIAL FUEL
18.10.108	18.15.501	ESTIMATE OF DIESEL POWERED VEHICLES SUPPLY TANKS
18.10.110	18.15.502	OFF-HIGHWAY VEHICLE/EQUIPMENT
18.10.111	18.15.503	DYED SPECIAL FUEL ALLOWANCE
18.10.112	18.15.504	DYED SPECIAL FUEL

<u>OLD</u>	<u>NEW</u>	
18.10.121	18.15.602	QUARTERLY REPORTS - TAX PAYMENT
18.10.124	18.15.603	IFTA LICENSE BOND REQUIREMENT
18.10.125	18.15.604	IFTA REINSTATEMENT FEE
18.10.313	18.15.610	TERMINATION OF AN IFTA LICENSE
18.10.314	18.15.611	CONFISCATION OF CERTAIN LICENSE COPIES
18.10.324	18.15.612	FAILURE TO MAINTAIN RECORDS
18.10.406	18.15.418	CARDTROL COMPLIANCE AND ADMINISTRATION
18.10.407	18.15.419	STATEMENT FOR KEYLOCK CARDTROL REPORTING
18.11.102	18.15.126	SEIZING IMPROPERLY IMPORTED FUELS
18.11.103	18.15.127	NOTIFICATION OF SEIZURE OF FUEL
18.11.104	18.15.128	CONDUCT OF HEARING FOR CLAIM OR TITLE TO SEIZED FUEL
18.11.105	18.15.129	DETERMINATION OF WHOLESALE PRICE OF FUEL
18.11.106	18.15.130	CONTRACTING FOR PURCHASE OF SEIZED FUEL

4. The department has transferred the following rules as proposed:

<u>OLD</u>	<u>NEW</u>	
18.9.603	18.15.702	PROCESSING OF THE TAX INCENTIVE PAYMENT
18.9.605	18.15.703	OFFSETS
18.9.606	18.15.710	QUARTERLY REPORTS
18.9.607	18.15.711	CANCELLATION OR DENIAL OF LICENSE
18.9.608	18.15.712	USE OF MONTANA PRODUCTS
18.9.701	18.15.102	WAIVER OF MOTOR FUEL PENALTIES
18.10.106	18.15.601	IFTA AGREEMENT
18.10.503	18.15.801	CNG AND LPG DEALER LICENSE
18.10.504	18.15.802	QUARTERLY TAX RETURNS
18.10.505	18.15.803	DEALER RECORDS – AUDIT
18.10.506	18.15.804	DEALER INVOICES
18.10.507	18.15.805	CNG OR LPG DEALER'S BOND

5. The department has repealed the following rules as proposed:

18.9.112	DEFINITIONS
18.9.325	DEFINITIONS
18.9.402	AGRICULTURAL PRODUCTS
18.9.601	INTENT
18.9.602	DEFINITIONS
18.9.704	DEFINITIONS

18.10.107	DEFINITIONS
18.10.201	CERTAIN FEDERALLY OWNED ROADS
18.10.202	OFF-ROAD USAGE
18.10.301	PERMIT REQUIRED
18.10.302	PERMIT DETAILS
18.10.321	REQUIRED RECORDS – AUDITS
18.10.322	RECORDS WHEN BULK STORAGE INVOLVED
18.10.323	TRIP AND FUEL CONSUMPTION RECORDS
18.10.404	SELLER INVOICES
18.11.101	DEFINITIONS

6. The department received one comment. A summary of the comment received and the department's response is as follows:

COMMENT #1: One comment was received stating the proposed rules accurately reflect the intent of HB 60 and HB 99 that were passed by the 2015 Legislature. The comment stated the combining of the previously separate chapters on gasoline license tax and special fuel tax provides for consistency and simplifies the use of the statutes.

RESPONSE #1: The department acknowledges receipt of the comment in support and appreciates all public participation in the rulemaking process.

/s/ Carol Grell Morris
Carol Grell Morris
Rule Reviewer

/s/ Michael T. Tooley
Michael T. Tooley
Director
Department of Transportation

Certified to the Secretary of State October 3, 2016.

BEFORE THE BOARD OF REAL ESTATE APPRAISERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.207.2101 continuing)
education)

TO: All Concerned Persons

1. On June 3, 2016, the Board of Real Estate Appraisers (board) published MAR Notice No. 24-207-40 regarding the public hearing on the proposed amendment of the above-stated rule, at page 995 of the 2016 Montana Administrative Register, Issue No. 11.
2. On June 24, 2016, a public hearing was held on the proposed amendment of the above-stated rule in Helena. No comments were received by the July 1, 2016 deadline.
3. The board has amended ARM 24.207.2101 exactly as proposed.

BOARD OF REAL ESTATE APPRAISERS
THOMAS STEVENS, CERTIFIED
GENERAL APPRAISER, CHAIRPERSON

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 3, 2016

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 32.6.712 pertaining to food)
safety and inspection service (meat,)
poultry))

TO: All Concerned Persons

1. On September 2, 2016, the Department of Livestock published MAR Notice No. 32-16-277 regarding the proposed amendment of the above-stated rule at page 1527 of the 2016 Montana Administrative Register, Issue Number 17.

2. The department has amended the above-stated rule as proposed.

3. No comments or testimony were received.

BY: /s/ Michael S. Honeycutt
Michael S. Honeycutt
Executive Officer
Board of Livestock
Department of Livestock

BY: /s/ Cinda Young-Eichenfels
Cinda Young-Eichenfels
Rule Reviewer

Certified to the Secretary of State October 3, 2016.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the repeal of ARM	)	NOTICE OF DECISION ON
37.57.101, 37.57.102, 37.57.105,	)	PROPOSED REPEAL
37.57.106, 37.57.109, 37.57.110,)	
37.57.111, 37.57.112, and 37.57.117)	
pertaining to the repeal of the)	
children's special health services)	
financial assistance program)	

TO: All Concerned Persons

1. On April 22, 2016, the Department of Public Health and Human Services published MAR Notice No. 37-744 pertaining to the proposed repeal of the above-stated rules at page 664 of the 2016 Montana Administrative Register, Issue Number 8.

2. The department has decided to withdraw the proposed repeal of the rules pertaining to the Children's Special Health Services Financial Assistance Program that were noticed in MAR Notice No. 37-744. No public hearing was contemplated.

3. After further internal and external discussions, the department concluded that there may be potential for gaps between permissible health care expenses under the financial assistance program and the benefits that may be received through Healthy Montana Kids. Accordingly, the department has chosen to withdraw the proposed repeal of the financial assistance program in order to retain flexibility should one of these cases arise.

/s/ Nicholas Domitrovich
Nicholas Domitrovich, Attorney
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State October 3, 2016.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION AND
Rules I through IV and the repeal of	)	REPEAL
ARM 37.87.1303, 37.87.1333, and)	
37.87.1335 pertaining to integrated)	
co-occurring treatment provider)	
requirements)	

TO: All Concerned Persons

1. On August 19, 2016, the Department of Public Health and Human Services published MAR Notice No. 37-763 pertaining to the public hearing on the proposed adoption and repeal of the above-stated rules at page 1408 of the 2016 Montana Administrative Register, Issue Number 16.

2. The department has adopted New Rules I (37.87.1350), II (37.87.1351), III (37.87.1352), and IV (37.87.1353) as proposed.

3. The department has repealed the above-stated rules as proposed.

4. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: One commenter proposed a retrospective review rather than prior authorization for the Integrated Co-Occurring Treatment (ICT) service. The commenter suggested using the Integrated Bio-Psycho-Social Assessment, which outlines the serious emotional disturbance (SED) and substance use disorder (SUD), to support the referral to the ICT program as a means to ensure that the program is being utilized appropriately.

RESPONSE #1: The prior authorization requirement is being proposed not as a means to ensure appropriate use of the ICT program, but as a means to track youth who are in the program for purposes of acquiring data about this population. In addition, it allows the department to manage payment through the claims system. Retrospective review will still be utilized as a means to ensure appropriate use of the service.

COMMENT #2: Two commenters asked the department to reconsider the rates for ICT. One commenter asked how the department calculated the rates for ICT. Both commenters stated that the ICT model would not be sustainable using the proposed rates.

RESPONSE #2: Medicaid rates are modeled using defined methods and parameters developed using federal regulation, national guidelines, and contracted consultant guidance. Rates are based on estimated reasonable costs as applicable to each service and caseload assumptions. Model inputs are developed for average benefit amounts, program supports, auxiliary operational costs, and administrative and indirect costs. Standards for variable inputs have been established using audit information, provider surveys, national publications and resources, and contracted national expertise. In addition, the department collected data specifically from ICT providers regarding all rate components, including a time study of both the licensed clinician and supervisors.

Montana Medicaid can only reimburse providers for allowable costs under federal rule. Nonreimbursable expenditures reported by providers are excluded from the rate methodology. In addition, cost information is tested for reasonableness. If reported costs deviate significantly outside state and national standards, and, do or do not, reconcile with financial audit information, expenditure assumptions are normalized or averaged.

The new ICT program was developed to be budget neutral to the department as there was not additional budget authority approved for a new program or new set of services.

The department submitted a state plan amendment in the Other Practitioners' Services page proposing the following calculation for ICT services.

Montana has a prospective Medicaid rate-setting method that was developed to reflect service definitions, provider requirements, operational service delivery, and administrative considerations. ICT service rates are calculated on a unit basis and set at an amount which will reasonably estimate the cost of providing covered services to Medicaid members.

Rate Components

The calculation separates out direct service components from indirect program components and overhead expenses essential to administer the service and program. The following elements are used to determine the rate, based on estimated reasonable costs, as applicable to each service.

1. Direct service expenditures including: direct staff wages, employee benefit costs, direct supervision, on-call differential for services that require 24-hour per day, 7-day a week on call for crisis intervention and response, program support costs, and mileage allowance.
2. Administrative overhead and indirect costs.
3. Auxiliary operational expenditures.

4. Productivity or billable time. The productivity adjustment factor accounts for the amount of nonbillable time spent by staff.

5. Calculation Adjustors including Medicaid Offsets.

a. Offsets are accounted for when providers receive other revenues in relation to the service, e.g., direct care wage.

b. Other inflationary adjustments. Inflationary adjustments are allowed for legislative provider rate changes, other legislative adjustments, or changes in service scope from year to year.

c. Policy adjustor. A policy adjustor may be applied to increase or decrease rates when the department determines that relative adjustments to specific rates are appropriate to meet Medicaid policy goals and appropriated budgets.

ICT Services includes ICT therapeutic interventions and Community Psychiatric Supportive Treatment (CPST) services. The two charts below outline the rate components for both services.

Name of Service	Service Bundle Includes:	Rate Components Include:	Unit
ICT therapeutic interventions	Crisis response and management, individual and family counseling and behavioral management and skill training	<ul style="list-style-type: none">• Direct staff wages• Employee benefit costs• Direct supervision• On-call differential (crisis services)• Program support costs• Mileage allowance• Administrative overhead/Indirect costs• Auxiliary Operational Expenditures• Productivity adjustment factor• Medicaid offsets• Other inflationary adjustments• Policy adjustor	Per 15-minutes

Name of Service	Service Bundle Includes:	Rate Components Include:	Unit
Community Psychiatric Supportive Treatment (CPST)	Assist the youth and family members or other collaterals to identify strategies or treatment options associated with the youth's mental illness, with the goal of minimizing the negative effects of mental illness symptoms or emotional disturbances or associated environmental stressors which interfere with the youth's daily living, financial management, housing, academic and/or employment progress, personal recovery or resilience, family or interpersonal relationships and community integration.	<ul style="list-style-type: none"> • Direct staff wages • Employee benefit costs • Direct supervision • On-call differential (crisis services) • Program support costs • Administrative overhead/Indirect costs • Auxiliary Operational Expenditures • Productivity adjustment factor • Medicaid offsets • Other inflationary adjustments 	Per 15-minutes

ICT Formula= (Hourly Provider Direct Costs + Hourly Provider Indirect Costs and Auxiliary Operational Expenditures) ÷ (Productivity Adjustment Factor or Billable Hours) x Calculation Adjustors)) ÷ 4 to convert to 15 minute unit)

Staffing ratios and caseload expectations are specific in rule. The commenter, in relation to costs, listed a staffing of two full-time clinicians and a half-time supervisor. The proposed model in NEW RULE III(3) states, an ICT team must have a minimum of one .125 full-time equivalent (FTE) ICT clinical supervisor and one FTE ICT clinician. And (4) states, one FTE ICT clinical supervisor may supervise up to eight FTE ICT clinicians. This means that a half-time supervisor could have up to four ICT clinicians billing ICT services. The rate was calculated based on the proposed clinically based efficacy model.

Even though a half-time supervisor could have up to four ICT clinicians billing ICT services, an average of one-sixth of the salary and expenses of a supervisor is allotted in the rate calculation for one ICT therapist. Additionally, caseload

expectations are listed in NEW RULE III(7): one FTE ICT clinician may provide services for up to six families at a time. Although a therapist could have up to six clients, the rate methodology assumes a caseload of five.

Per the one-sixth supervisor assumption in the rate methodology, if a provider had a half-time supervisor with three clinicians billing for ICT services, the model assumes service to be billed for an average of five clients per clinician, or 15 clients per week in this scenario. Under these parameters, with an average of 15 clients at approximately \$357 per week per client in ICT services, this would equate to approximately \$280,000 per year in reimbursements to cover the cost of 3.5 FTE providing ICT service. With four clinicians billing under a half-time supervisor, the annual amount would climb to approximately \$370,000 per year in reimbursements to cover the cost of 4.5 FTE serving an average of 20 Medicaid clients per week. If a clinician is able to serve more than an average of five clients in a week, or provide more hours of billable service, the amount of reimbursement would increase even more for providers.

The commenter states that they may not bill for ICT services for co-occurring Medicaid clients and instead use other Medicaid codes to bill for services. Based on the budget neutrality analysis, with correct billing there should not be a fiscal benefit for providers billing other outpatient services for co-occurring clients in lieu of ICT services. The department supports evidence-based services and encourages providers to aid youth with co-occurring practices when clinically necessary even when employing "usual" billing practices.

COMMENT #3: Two commenters asked if a Comprehensive School and Community Based Treatment (CSCT) could be allowed concurrently with ICT so long as CSCT service was limited to services provided in the school. Both commenters cited specific needs for this population that could not be addressed in full by either the ICT or CSCT clinicians. Additionally, one commenter stated that they were given permission by the ICT developer to have CSCT provided concurrently with ICT.

RESPONSE #3: The department is not allowing CSCT to be provided concurrently with ICT because of the potential for duplication of services. CSCT and ICT are both services which are considered to be community based and intensive level of services. It is required that CSCT be provided in the school, home, or community of the youth as determined by the needs of the youth, therefore, creating a duplication of services if provided concurrently with ICT. In addition, CSCT is reimbursed at a rate which is reflective of the services required for the youth.

In addition, the new ICT program was developed to be budget neutral to the department as there was not additional budget authority approved for a new program or new set of services. Providing CSCT concurrently with ICT compromises the budget neutrality of the ICT program.

COMMENT #4: One commenter expressed concerns about the statement of reasonable necessity stating that the youth must have a SED and a SUD, one of which must be severe.

RESPONSE #4: Although the severity specifier was included in the statement of reasonable necessity, it was not included in the official rule. There will not be a requirement that a youth must have a severe specifier, only that the youth must have an SED and SUD, which supports the necessity for being admitted into the ICT program.

COMMENT #5: One commenter inquired if the department considered the requirement for an outside contractor to administer the ICT model fidelity tool when calculating the proposed rates.

RESPONSE #5: The department applied \$4,815 under administrative indirects to reimburse a contractor to administer the ICT model fidelity tool. The figure was determined based upon the actual cost of administering the ICT model fidelity tool during the grant time frame.

COMMENT #6: One commenter asked if a provider must be licensed as a mental health center to provide ICT.

RESPONSE #6: A provider does not have to be licensed as a mental health center in order to provide this service.

/s/ Brenda K. Elias
Brenda K. Elias, Attorney
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State October 3, 2016.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rule I pertaining to the Montana)
Ammunition Availability Act - property)
tax exemption applications)

TO: All Concerned Persons

1. On July 22, 2016, the Department of Revenue published MAR Notice No. 42-2-953 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 1251 of the 2016 Montana Administrative Register, Issue Number 14.

2. The department adopts New Rule I (42.20.119), as proposed.

3. No comments or testimony were received.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State October 3, 2016.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 42.2.705 pertaining to)
alternative business office hours in)
qualified county offices)

TO: All Concerned Persons

1. On August 5, 2016, the Department of Revenue published MAR Notice No. 42-2-954 pertaining to the public hearings on the proposed amendment of the above-stated rule at page 1376 of the 2016 Montana Administrative Register, Issue Number 15.

2. On August 29, 2016, a public hearing was held in Carter County to consider the proposed amendment. Pamela Castleberry, Carter County Clerk and Recorder, and Jesi Strub, Carter County Treasurer, both appeared and testified at the hearing. No written comments were received.

3. On August 30, 2016, a public hearing was held in Wheatland County to consider the proposed amendment. No members of the public appeared for the hearing and no written comments were received.

4. The department amends the above-stated rule as proposed.

5. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT 1: Pamela Castleberry, Clerk and Recorder for Carter County, commented that she misses having warm bodies from the department available in the office to answer questions as needed. She stated that she appreciates the help received from the department's part-time employee, Tena, when available, and while she understands that other department employees can be called on the phone when Tena is not available, she would still appreciate having an individual available in the office at other times if possible for the department to provide that coverage.

RESPONSE 1: The department appreciates the county recognizing the importance of having Department of Revenue staff in the county offices. The department is required by law to maintain an office in every county, even though the department has limited resources. The department must weigh each county's workload to determine when best to staff its county offices while completing the work in every county.

COMMENT 2: Jesi Strub, Treasurer for Carter County, commented that she agrees with Ms. Castleberry's comments and also misses having somebody from the

department in the office when part-time employee, Tena, is unavailable. She stated that while Tena's availability through e-mail and phone calls is sufficient for her work, she doesn't feel it is sufficient for taxpayers coming in the door looking for help from the department.

RESPONSE 2: The department understands that there are times when taxpayers arrive at the office when department staff is unavailable. In an effort to be responsive to questions and concerns from the public, the department publishes the office hours in the local newspaper twice a year, posts the office hours and web site address in the office, and has made arrangements for the availability of staff in other department offices via telephone. While these efforts may not be the same as having a staff member available in person at all times, these are the department's best efforts to provide good customer service in light of its limited resources.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State October 3, 2016.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 42.19.401, 42.19.402, and	)	TRANSFER AND AMENDMENT
42.19.405 and the transfer and)	
amendment of ARM 42.19.501 and)	
42.19.503 pertaining to property tax)	
assistance programs)	

TO: All Concerned Persons

1. On August 5, 2016, the Department of Revenue published MAR Notice No. 42-2-955 pertaining to the public hearing on the proposed amendment and transfer and amendment of the above-stated rules at page 1379 of the 2016 Montana Administrative Register, Issue Number 15.

2. The department amends ARM 42.19.401, 42.19.402, and 42.19.405 and transfers and amends ARM 42.19.501 (42.19.403) and 42.19.503 (42.19.404) as proposed.

3. No comments or testimony were received.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State October 3, 2016

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rule I pertaining to the rotation of)
executive branch agencies on the)
State Records Committee)

TO: All Concerned Persons

1. On September 2, 2016, the Secretary of State published MAR Notice No. 44-2-218 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 1565 of the 2016 Montana Administrative Register, Issue Number 17.

2. The Secretary of State has adopted the above-stated rule as proposed: New Rule I (44.14.401).

3. No comments or testimony were received.

/s/ JORGE QUINTANA
Jorge Quintana
Rule Reviewer

/s/ LINDA MCCULLOCH
Linda McCulloch
Secretary of State

Dated this 3rd day of October, 2016.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee:

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

Education and Local Government Interim Committee:

- State Board of Education;
- Board of Public Education;
- Board of Regents of Higher Education; and
- Office of Public Instruction.

Children, Families, Health, and Human Services Interim Committee:

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

- Department of Administration;
- Department of Military Affairs; and
- Office of the Secretary of State.

Environmental Quality Council:

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

Water Policy Interim Committee (where the primary concern is the quality or quantity of water):

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

These interim committees and the EQC have 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. They also 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, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

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 or Register) is a soft back, bound publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding register.

Use of the Administrative Rules of Montana (ARM):

- | | |
|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Known
Subject | 1. Consult ARM Topical Index.
Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute | 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 that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 2016. This table includes those rules adopted during the period April 1, 2016, through June 30, 2016, and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through June 30, 2016, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule, and the page number at which the action is published in the 2016 Montana Administrative Register.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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