

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 18

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The Rule Section 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.

Page Number

TABLE OF CONTENTS

NOTICE SECTION

ADMINISTRATION, Department of, Title 2

2-4-388 Notice of Public Hearing on Proposed Amendment -
Minimum Refunds - State's Volume Cap Allocation. 1351-1352

(Division of Banking and Financial Institutions)

2-59-384 Notice of Public Hearing on Proposed Amendment and
Adoption - Regulation of Consumer Loan Licensees - Notification to
the Department - Examinations, Suspension, and Revocation of
Licenses - Protection of Confidential Borrower Information -
Application Procedure Required to Engage in Consumer Lending,
Default, and Accrual of Interest or Amortization of Net Fees or Costs. 1353-1359

2-59-385 Notice of Public Hearing on Proposed Amendment and
Adoption - Licensing and Regulation of Mortgage Brokers and Loan
Originators - Continuing Education - Prelicensing Examination - Fees,
Nontraditional Mortgage Products - Designated Managers - Yield
Spread Premium - Examinations - Failure to Correct Deficiencies -
Protection of Confidential Borrower Information - Grounds for Denial
of Applications - Requirements for Renewal Applications -
Department's Cost of Administrative Action. 1360-1376

ADMINISTRATION, Continued

2-59-386 Notice of Public Hearing on Proposed Amendment and Adoption - Regulation of Title Lenders - Notification to the Department - Rescinded Loans - Examinations, Suspension, and Revocation of Licenses - Protection of Confidential Borrower Information - Department's Cost of Administrative Action - Policy to Implement Limitations on Terms of Credit to Servicemembers and Dependents - Examination Fees - Required Record Keeping - Accrual of Interest - Unlicensed Activity - Title Loan Designation. 1377-1386

2-59-387 Notice of Public Hearing on Proposed Amendment and Adoption - Regulation of Deferred Deposit Lenders - Affidavit of Borrower - Rescinded Loans - Examinations, Suspension, and Revocation of Licenses - Protection of Confidential Borrower Information - Department's Cost of Administrative Action - Policy to Implement Limitations on Terms of Credit to Servicemembers and Dependents - Examination Fees. 1387-1395

EDUCATION, Department of, Title 10

10-100-12 (Montana State Library) Notice of Extension of Comment Period on Proposed Repeal - Depository Procedures for State Documents. 1396-1397

ENVIRONMENTAL QUALITY, Department of, Title 17

17-263 (Board of Environmental Review) (Water Quality) Notice of Extension of Comment Period on Proposed Amendment - Outstanding Resource Water Designation for the Gallatin River. 1398-1399

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37-412 Notice of Public Hearing on Proposed Amendment - Audiology Services - Dental - Outpatient Drug Services - Home Infusion Therapy - Durable Medical Equipment and Medical Supplies - Optometric Services - EPSDT - Transportation - Ambulance Services. 1400-1411

REVENUE, Department of, Title 42

42-2-776 Notice of Public Hearing on Proposed Amendment and Repeal - Personal, Industrial, and Centrally Assessed Property Taxes. 1412-1437

RULE SECTION

FISH, WILDLIFE AND PARKS, Department of, Title 12

(Fish, Wildlife and Parks Commission)

EMERG REP	Notice of Repeal of a Temporary Emergency Rule - Closing a Portion of Rock Creek in Granite and Missoula Counties.	1438
EMERG NEW	Notice of Adoption of a Temporary Emergency Rule - Closing the Clark Fork River from the Tarkio Fishing Access Site to Forest Grove Fishing Access Site, Mineral County, MT.	1439-1440
EMERG REP	Notice of Repeal of a Temporary Emergency Rule - Closing the Clark Fork River from the Tarkio Fishing Access Site to Forest Grove Fishing Access Site, Mineral County, MT.	1441
AMD	Hunting Season Extensions.	1442-1444

TRANSPORTATION, Department of, Title 18

AMD	Acceptance and Use of Electronic Records and Electronic Signatures.	1445
-----	--	------

LABOR AND INDUSTRY, Department of, Title 24

NEW	Medical Benefits Payable by the Uninsured Employers Fund.	1446
AMD REP	(Department and Board of Respiratory Care Practitioners) Renewal Dates and Requirements - Fee Schedule - Application for Licensure - Renewals - Inactive Status - Continuing Education Requirements - Traditional Education by Nonsponsored Organizations - Waiver of Continuing Education Requirement - Temporary Permit.	1447-1449
AMD	(Board of Occupational Therapy Practice) Applications - Supervision - Instruction - Training - Modalities - Unprofessional Conduct.	1450-1451

SPECIAL NOTICE AND TABLE SECTION

Function of Administrative Rule Review Committee.	1452-1453
How to Use ARM and MAR.	1454
Accumulative Table.	1455-1463
Boards and Councils Appointees.	1464-1483
Vacancies on Boards and Councils.	1484-1492

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 2.4.202 and 2.4.301 concerning) PROPOSED AMENDMENT
minimum refunds and the state's)
volume cap allocation)

TO: All Concerned Persons

1. On October 15, 2007, at 10:00 a.m., the Department of Administration will hold a public hearing in Room 255 of the Mitchell Building, at 125 N. Roberts, Helena, Montana, to consider the proposed amendment of 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 October 5, 2007, to advise us of the nature of the accommodation that you need. Please contact Paul Christofferson, Department of Administration, 125 N. Roberts, Helena, Montana 59620-0102; telephone (406) 444-4609; fax (406) 444-2812; Montana Relay Service 711; or e-mail pachristofferson@mt.gov.

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

2.4.202 EXCEPTIONS TO MINIMUM REFUND RULE (1) remains the same.
(2) ~~Vocational technical centers may follow their local school boards' refund policies.~~ Colleges of technology may follow the Board of Regents refund policies.

AUTH: 17-8-201, 17-8-203, MCA
IMP: 17-8-203, MCA

REASON: The Vocational Technical Colleges are now under the auspices of the Board of Regents and have been renamed Colleges of Technology.

2.4.301 VOLUME CAP ALLOCATION (1) The Department of Administration sets the state of Montana's volume cap as follows:
(a) ~~\$187.5 million for calendar year 2001; and~~
(b) ~~\$225 million for calendar year 2002.~~
(2) ~~In calendar year 2003 and thereafter, the volume cap allocation shall be increased by the increase in the consumer price index (CPI) over the CPI for calendar year 2001~~ the maximum amount allowed by the Internal Revenue Service.

AUTH: 17-5-1311, MCA
IMP: 17-5-1311, MCA

REASON: The Internal Revenue Service makes the allocation to the state of Montana based on population. The Internal Revenue Service allows the greater of \$85 multiplied by the state population or a flat dollar amount they specify in an annual notice.

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: Paul Christofferson, Department of Administration, 125 N. Roberts, Helena, Montana 59620-0102; telephone (406) 444-4609; fax (406) 444-2812; or e-mail pachristofferson@mt.gov, and must be received no later than 5:00 p.m., October 18, 2007.

5. Paul Christofferson, Department of Administration, has been designated to preside over and conduct this hearing.

6. 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 and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Such written request may be mailed or delivered to the contact person in paragraph 4 or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this Proposal Notice is available through the department's web site at <http://doa.mt.gov/AdministrativeRules.asp>. 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 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 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 bill sponsor notice requirements of 2-4-302, MCA, do not apply.

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

By: /s/ Dal Smilie
Dal Smilie, Rule Reviewer
Department of Administration

Certified to the Secretary of State September 10, 2007.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the proposed amendment	)	NOTICE OF PUBLIC HEARING
of ARM 2.59.301, 2.59.302, and 2.59.308	)	ON PROPOSED AMENDMENT
pertaining to the regulation of consumer	)	AND ADOPTION
loan licensees and the proposed)	
adoption of NEW RULES I through VII)	
regarding notification to the department,)	
examinations, suspension, and)	
revocation of licenses, protection of)	
confidential borrower information,)	
application procedure required to engage)	
in consumer lending, default, and accrual)	
of interest or amortization of net fees or)	
costs)	

TO: All Concerned Persons

1. On October 11, 2007, at 2:00 p.m., a public hearing will be held in Room 342 of the Park Avenue Building, 301 S. Park, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Administration, Division of Banking and Financial Institutions, 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 Division of Banking and Financial Institutions no later than 5:00 p.m. on October 5, 2007, to advise us of the nature of the accommodation that you need. Please contact Christopher Romano, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2928; TDD (406) 444-1421; facsimile (406) 841-2930; e-mail to cromano@mt.gov.

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

2.59.301 ADVERTISING (1) through (4) remain the same.

(5) Licensees conducting business through the Internet shall display, on a nonbypassable web page on its web site, its Montana license authorizing consumer lending, and the fee schedule filed with the department. The web pages shall be displayed before a borrower may continue on to the application web page.

AUTH: 32-5-401, MCA

IMP: 32-5-401, MCA

REASON: It is reasonably necessary for the division to amend ARM 2.59.301 to ensure that the schedule of charges be properly displayed to borrowers who

obtain consumer loans via the Internet. This schedule of charges must be disclosed to the borrower before they complete the loan transaction. Conducting business via the Internet has become more prevalent within the industry of consumer lending.

2.59.302 SCHEDULE OF CHARGES (1) through (8) remain the same.

(9) Licensees shall interpret ~~32-5-201(6), MCA of the Act~~ "once and no more" "only once" to mean on the same default; i.e., a borrower who defaults in one or more payments may be subject to a penalty of 5% of each payment in default.

(10) remains the same.

AUTH: 32-5-401, MCA

IMP: 31-1-106, 32-5-301(6), MCA

REASON: It is reasonably necessary for the division to amend ARM 2.59.302 in order to maintain consistent language with 32-9-301, MCA. In addition, 32-5-201(6), MCA, has been deleted from the Montana Consumer Loan Act.

2.59.308 EXAMINATION FEES (1) A consumer loan ~~business licensee~~ shall pay the Division of Banking and Financial Institutions an examination fee at a rate equal to the department's actual costs for examiner wages and travel expenses in the amount of \$300 a day for each examiner required to conduct an investigation or examination under 32-5-402 or 32-5-403, MCA.

(2) If any examination fees are not paid within 30 days of the department's mailing of an invoice, the license of the consumer loan lender may be suspended or revoked until the fees are paid.

AUTH: 32-5-401, 32-5-403, MCA

IMP: 32-5-402, 32-5-403, MCA

REASON: It is reasonably necessary for the division to amend ARM 2.59.308 to ensure that the cost of an examination be commensurate with the division's expenses in completing such examinations. The expenses include the cost of examiner wages and travel. This proposed method of billing will ensure that actual time allocated to the completion of an exam be included in the examination fee. The division expects that the proposed rate may decrease examination costs for some licensees since the current rate is \$300 a day for each examiner. This current rate does not provide for an allocation of examiner time less than a day. The proposed rate will factor actual time in a manner which will account for examiner hours dedicated to the completion of an exam. The division expects that the proposed rate may increase examination costs for some licensees since the completion of some exams will require more time allocated by the examiners. The financial impact of this proposed new rule is not known at this time. There are several variables, which will affect the proposed rate. These variables include differences among actual examiner wages, the distance in traveling to an exam, and the cost of lodging. The division anticipates that it will complete an average of 96 exams each year. It is reasonably necessary for the division to propose section (2) to ensure that a consumer loan licensee remits payment for examinations conducted by the division

in a timely manner. The division is authorized to charge an examination fee to licensees pursuant to 32-5-403, MCA.

4. The proposed new rules provide as follows:

NEW RULE I NOTIFICATION TO THE DEPARTMENT (1) The licensee shall immediately notify the department of:

- (a) a change in the physical location of the office;
- (b) any change in the phone number of the business;
- (c) a change in the nature of the business;
- (d) a change in the board of directors or the principal officers;
- (e) a change in the share ownership of the company that could affect control;
- (f) the acquisition or disposition of another company;
- (g) any civil action involving fraud or dishonesty filed against the licensee;
- (h) any criminal charge filed against the licensee;
- (i) any change which would cause the department not to issue a license, if it had occurred before licensure; and
- (j) the addition of other business to be conducted at the location.

AUTH: 32-5-401, MCA

IMP: 32-5-201, 32-5-202, 32-5-203, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE I to ensure that the information related changes in a licensee's ownership, business operations, contact information, and fitness and character are immediately reported to the division. This immediate reporting is reasonably necessary given that this information is critical to the daily operations and financial stability of a licensee.

NEW RULE II EXAMINATIONS (1) Upon receiving a complaint or at its own discretion, the department may examine any office, place of business, or location where records may be found of any licensee or person who may be in violation of Title 32, chapter 5, parts 1 through 5, MCA, or these rules.

(2) The department shall examine for compliance with the applicable state and federal law and all rules adopted thereunder.

(3) At the end of an examination, the department shall provide the examinee with an oral and written report which details the areas examined and any deficiencies found.

AUTH: 32-5-401, MCA

IMP: 32-5-402, 32-5-403, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE II in order to clarify its authority and procedure in conducting examinations of licensed consumer loan lenders. This authority and discretion to conduct these examinations is specifically authorized under 32-5-403, MCA.

NEW RULE III SUSPENSION AND REVOCATION OF LICENSES (1) The department may suspend or revoke a license of an entity that does not correct the deficiencies found by the department after an examination within the time frame granted by the department.

AUTH: 32-5-401, MCA

IMP: 32-5-402, 32-5-403, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE III to ensure that licensees comply with the findings set forth with an examination. It is reasonably necessary that the division suspend or revoke a license if a consumer loan lender does not take action to correct deficiencies identified in an examination.

NEW RULE IV PROTECTION OF CONFIDENTIAL BORROWER INFORMATION (1) All licensees shall adopt, implement, and ensure compliance with guidance addressing safeguarding, proper destruction, and breach of confidential borrower information as required by:

(a) Title 30, chapter 14, part 17, MCA; and

(b) 16 CFR 314, as those rules were published in the May 23, 2002, Federal Register at 67 FR 36493 which are adopted and incorporated by reference. Copies are available from the Division of Banking and Financial Institutions, 301 South Park, P.O. Box 200546, Helena, MT 59620-0546.

(2) Any violation of this rule is grounds for fines, suspension, or revocation of license.

AUTH: 32-5-401, MCA

IMP: 32-5-307, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE IV in order to ensure that licensees safeguard customer information. This new rule will require licensees to properly dispose of this information so that a customer's personal information is not compromised. NEW RULE IV affords greater protection to borrowers and sets forth that violation of this rule is grounds for enforcement action.

NEW RULE V APPLICATION PROCEDURE REQUIRED TO ENGAGE IN CONSUMER LENDING (1) An application must be in writing on a form prescribed by the department and verified under oath. Application forms are available from the Division of Banking and Financial Institutions, Department of Administration, 301 South Park, P.O. Box 200546, Helena, MT 59620-0546.

(2) In addition to any other information that may be required by 32-5-201, MCA, the application shall contain the following information in the application format prescribed by the department:

(a) biographical data concerning the applicant, the applicant's owners, parent company, affiliates, or subsidiaries as specified by the department;

(b) information concerning the applicant's character, experience, and qualifications; and

(c) financial information about the applicant.

AUTH: 32-5-401, MCA

IMP: 32-5-201, MCA

REASON: It is reasonably necessary that the division propose NEW RULE V in order to set forth the requirements of an application for a consumer loan license. It is reasonably necessary that the application contain information identified in section (2) in order for the division to conduct a thorough review of the applicant's background, management, and financial viability.

NEW RULE VI DEFAULT (1) Default occurs when a borrower has not met its legal obligations according to the loan agreement, e.g., has not made a scheduled payment or violated a condition of the loan agreement. Default may occur if the borrower is either unwilling or unable to pay their debt. Default does not include bankruptcy.

AUTH: 32-5-401, MCA

IMP: 32-5-102, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE VI in order to clarify the term default, which is identified in the Montana Consumer Loan Act. Default by a borrower triggers remedies for a lender up to and including civil action. Delays in classifying a loan in default results in adverse financial effects to borrowers as well as distorts the lender's financial status.

NEW RULE VII ACCRUAL OF INTEREST OR AMORTIZATION OF NET LOAN FEES OR COSTS (1) A licensee shall not accrue interest or amortize deferred net loan fees or costs on any asset:

(a) upon which principal or interest has been in default for a period of 60 days or more unless the asset is both well secured and in the process of collection; or

(b) for which payment in full of principal or interest is not expected.

(2) An asset is "well secured" if it is secured by collateral in the form of liens on or pledges on real or personal property that have a realizable value sufficient to discharge the debt (including accrued interest) in full.

(3) An asset is "in the process of collection" if collection of the asset is proceeding in due course either:

(a) through legal action, including judgment enforcement procedures; or

(b) in appropriate circumstances, through collection efforts not involving legal action which are reasonably expected to result in repayment of the debt or in its restoration to a current status in the near future.

(4) The date on which an asset reaches nonaccrual status is determined by its contractual terms. If the principal or interest on an asset becomes due and unpaid for 60 days or more on a date that falls between report dates, the asset should be placed in nonaccrual status as of the date it becomes 60 days past due

and should remain in nonaccrual status until it meets the criteria for restoration to accrual.

AUTH: 32-5-401, MCA

IMP: 32-5-301, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE VII in order to minimize damage to the defaulting party and reflect the accurate financial status of a lender.

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 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; e-mailed to kosullivan@mt.gov, and must be received no later than October 19, 2007.

6. Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, has been designated to preside over and conduct the hearing.

7. An electronic copy of this Proposal Notice is available through the Department of Administration's web site at <http://doa.mt.gov/AdministrativeRules.asp>. 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 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 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 which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Such written requests may be mailed or delivered to Christopher Romano, 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 cromano@mt.gov; or may be made by completing a request form at any rules hearing held by the Division of Banking and Financial Institutions.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. Representative Hal Jacobson, the primary bill sponsor of HB 141 (2007), was notified on July 27, 2007, by regular mail.

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

By: /s/ Dal Smilie
Dal Smilie, Rule Reviewer
Department of Administration

Certified to the Secretary of State September 10, 2007.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the proposed amendment	)	NOTICE OF PUBLIC HEARING
of ARM 2.59.1701 through 2.59.1705 and	)	ON PROPOSED AMENDMENT
2.59.1710 pertaining to the licensing and	)	AND ADOPTION
regulation of mortgage brokers and loan)	
originators and the proposed adoption of)	
NEW RULES I through XII regarding)	
continuing education, prelicensing)	
examination, fees, nontraditional)	
mortgage products, designated)	
managers, yield spread premium,)	
examinations, failure to correct)	
deficiencies, protection of confidential)	
borrower information, grounds for denial)	
of applications, requirements for renewal)	
applications, and department's cost of)	
administrative action)	

TO: All Concerned Persons

1. On October 12, 2007, at 10:00 a.m., a public hearing will be held in Room 342 of the Park Avenue Building, 301 S. Park, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Administration, Division of Banking and Financial Institutions, 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 Division of Banking and Financial Institutions no later than 5:00 p.m. on October 5, 2007, to advise us of the nature of the accommodation that you need. Please contact Christopher Romano, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2928; TDD (406) 444-1421; facsimile (406) 841-2930; e-mail to cromano@mt.gov.

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

2.59.1701 DEFINITIONS For purposes of the Montana Mortgage Broker and Loan Originator Licensing Act and this subchapter, the following definitions apply:

(1) "Another person involved in the transaction" means a licensee, the borrower's employer, the lender, the real estate agent, or other persons or entities allowed by the lender guidelines.

(2) "Classroom" means a physical classroom environment in which teachers and participants are physically present for the teaching of a course. Courses taught through the Internet shall not be considered to be courses taught in a classroom.

(1) and (2) remain the same, but are renumbered (3) and (4).

~~(3) (5)~~ "Fraudulent or dishonest dealings" means, but is not limited to:
financial misconduct prohibited by statutes governing:

~~(a) mortgage brokers in this and other states; and~~

~~(b) other segments of the financial services industry, including but not limited to:~~

(a) financial misconduct prohibited by statutes governing mortgage brokers in this and other states and other segments of the financial services industry such as:

(i) through (iv) remain the same.

(v) other licensed or chartered financial institutions;

(b) civil actions or criminal offenses that involve deception, fraud, theft, misappropriation of funds, misrepresentation, omissions of material facts, unauthorized use of property, forgery, identity theft, or money laundering; and

(c) any other deceitful, false, or misleading representation or omission of material fact designated to be relied upon.

~~(4) (6)~~ "Initiation of an investigation" means any administrative, civil, or criminal proceeding initiated by a state, municipal, or federal governmental entity, the Federal Home Loan Mortgage Corporation, or the Federal National Mortgage Agency and such proceeding is evidenced by a written formal complaint or charge filed by the investigating agency.

~~(5) (7)~~ "Material change" means:

(a) a change in the physical location of the principal location and/or branch office;

(b) a change in the phone number;

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

~~(c) (e)~~ a change in the share ownership of the company that could affect control; or

(d) remains the same, but is renumbered (f).

(g) any civil action involving fraud or dishonesty has been filed against the licensee;

(h) any criminal charge has been filed against the licensee; or

(i) any change which would cause the department not to issue a license, if it had occurred before licensure.

(6) remains the same, but is renumbered (8).

(9) "Nontraditional mortgage products" mean:

(a) Adjustable Rate Mortgage in which the interest rate may fluctuate based on the prescribed index at prespecified regular intervals;

(b) Interest-Only Mortgage which, for a specified number of years, allows the borrower to pay only the interest due on the loan during which time the rate may fluctuate or may be fixed. After the interest-only period, payments include both principal and interest. The interest rate may be fixed or fluctuate based on the prescribed index;

(c) Payment Option Adjustable Rate Mortgage which allows the borrower to choose from a number of different payment options;

(d) Reduced Documentation which is commonly referred to as "low doc/no doc," "no income/no asset," "stated income," or "stated assets";

(e) Simultaneous Second-Lien which is a lending arrangement where either a closed-end second-lien or home equity line of credit (HELOC) is originated simultaneously with the first lien mortgage loan;

(f) Home Equity Line of Credit which is open-end loan, usually recorded as a second mortgage, that permits borrowers to obtain cash advances based on an approved line of credit;

(g) High Cost Loans or Section 32 Loans means that the annual percentage rate at consummation will exceed by more than eight percentage points the yield on Treasury securities having comparable maturity periods on the fifteenth day of the month immediately preceding the month in which the loan application is received or the total points and fees payable by the consumer at or before closing will exceed 6% of the total loan amount; and

(h) Negative Amortization Loans wherein the loan payments are not enough to cover the amount of interest due for that payment period. The unpaid interest is calculated and then added to the total loan amount, thereby increasing the outstanding balance.

(10) "Primary residence" means that the borrower shall physically occupy, establish, and use the property as borrower's principal residence within 60 days after the execution of the HUD-1 Settlement Statement or the Security Instrument, whichever is sooner, and shall continue to occupy the property as borrower's principal residence for at least one year after the date of initial occupancy, unless extenuating circumstances exist which are beyond the borrower's control.

(11) "Restitution" may include, but is not limited to, refunds of any or all the interest, fees, and principal paid directly or indirectly by the borrower.

(7) remains the same, but is renumbered (12).

~~(8)~~ (13) "Work in a related field" means:

(a) through (b)(v) remain the same.

(vi) as a residential real estate loan closing agent; or

(vii) other work or educational experience in residential real estate compliance auditing, originating, brokering, or lending as approved by the department; or

(viii) as a state or federal regulator that examines compliance of residential mortgages of state or federally chartered financial institutions.

AUTH: 32-9-130, MCA

IMP: 32-9-103, 32-9-109, 32-9-115, 32-9-116, 32-9-117, 32-9-123, 32-9-125, MCA

REASON: It is reasonably necessary for the division to amend ARM 2.59.1701 in order to provide definitions for terms identified within these proposed rules as well as within amendments which passed as part of Senate Bill 92 during the 2007 Regular Legislative Session. Sections (1) and (11) specifically refer to language identified in SB 92. It is reasonably necessary for the division to propose section (2) to define a term referred to in rules related to examinations and continuing education. It is reasonably necessary for the division to amend section (5) in order to clarify which fraudulent or dishonest dealings may be taken into consideration in order to deny an application for licensure. It is reasonably

necessary for the division to propose sections (9) and (10), which are terms referred to in the rule related to nontraditional mortgage products. It is reasonably necessary for the division to amend section (13) in order to clarify that work in a related field must pertain to residential real estate and to provide for experience as a regulator of residential mortgage financial institutions.

2.59.1702 PROOF OF EXPERIENCE (1) Satisfactory proof of experience may include but is not limited to:

- (a) ~~valid~~ copies of W-2 or 1099 tax forms verifying employment; or
- (b) copies of paystubs.
- (b) ~~valid copies of form 1120 corporate tax returns signed by the broker or manager as owner of the business; or~~
- (c) ~~signed letters from a lender on the lender's letterhead verifying that the broker has competently originated loans for the required time period.~~

AUTH: 32-9-130, MCA

IMP: 32-9-108, 32-9-109, MCA

REASON: It is reasonably necessary for the division to amend ARM 2.59.1702 in order to limit which documents a mortgage broker or loan originator may use to verify their proof of experience. The division proposes to require documentation that reflects income from work in a field related to or directly in mortgage origination. The verification of income reflects employment as well as actual salary or commissions paid for originating mortgage loans or work in a related field.

2.59.1703 TRANSFER OF LOAN ORIGINATOR OR MORTGAGE BROKER LICENSE (1) Transfer of an individual mortgage broker or loan originator license must be approved by the department. To transfer an individual mortgage broker or loan originator license, the individual mortgage broker or a loan originator shall obtain a relocation application from the department. The completed relocation application must be accompanied by a nonrefundable processing fee of \$50.

(a) remains the same.

(b) If the lapse in employment occurs over a renewal period, the individual mortgage broker or loan originator license must be renewed as required by 32-9-117, MCA, to qualify for a transfer of the license. The relocation six-month time frame would remain in effect and would be from the date of termination.

(2) If an individual mortgage broker or loan originator is terminated by a mortgage broker, and within six months is reemployed by the same mortgage broker, a request for reinstatement form must be filed with the department. The form ~~will be~~ is available from the department. There will be a \$10 processing fee for reinstatement. If the break in employment occurs over a renewal period, the individual mortgage broker or loan originator license must be renewed as required by 32-9-117, MCA, to qualify for reinstatement. The six-month time frame would remain in effect and would be from the date of termination.

AUTH: 32-9-130, MCA

IMP: 32-9-115, 32-9-116, MCA

REASON: It is reasonably necessary for the division to amend ARM 2.59.1703 in order to clarify the requirements for a mortgage broker to transfer their license. This amendment is authorized by New Section 10 of Senate Bill 92, which passed during the 2007 Regular Legislative Session. This new section specifically provides for the transfer of a mortgage broker license. It is anticipated that five mortgage brokers would transfer their license each year. This would generate an additional \$250 of revenue for the division each year. The division anticipates that no mortgage broker will need to reinstate their license pursuant to section (2). It is anticipated that there will be no financial impact from section (2).

2.59.1704 LICENSE RENEWAL (1) The renewal fees shall be \$50 for mortgage broker entities that are not sole proprietorships, \$300 for individual mortgage brokers and sole proprietors, and \$250 for loan originators. All fees are nonrefundable and must be submitted with the renewal application. The renewal application forms will be sent by the department to each licensed mortgage broker or loan originator in April. The application must be postmarked or received by May 31.

(2) The individual mortgage broker or loan originator application must be completed, signed, and dated by the applicant and may not be signed on behalf of or in lieu of the applicant. For application of a mortgage broker entity that is a sole proprietorship, the owner must complete, sign, and date as the applicant. For application of a mortgage broker entity that is a partnership, any partner may complete, sign, and date as the applicant. For application of a mortgage broker entity that is an LLC, or corporation, or incorporation, the person responsible for the application must complete, sign, and date as the applicant. The signed and dated page of the application must be submitted in the application package or renewal application package to the department.

~~(2) The continuing education year will be from June 1 to May 31.~~

~~(3) No more than six hours of continuing education credits may be carried over to the next licensing year.~~

~~(4)~~ (3) The renewal application must be accompanied by evidence of the certificate of completion provided by the approved education provider that the continuing education requirement has been met and a recent credit report from one of the three recognized credit reporting agencies. They are Experian, Equifax, and Transunion. The credit report must be dated within 60 days of receipt of renewal application.

~~(5)~~ (4) Mortgage brokers must include evidence of an irrevocable letter of credit or surety bond for each location.

(6) and (7) remain the same, but are renumbered (5) and (6).

~~(8)~~ (7) If the attempt to renew is after June 30, the license is considered expired revoked. Expiration Revocation terminates the right to engage in any residential mortgage broker or loan originator activities. The mortgage broker or loan originator must then apply as a new licensee.

(9) remains the same, but is renumbered (8).

AUTH: 32-9-130, MCA

IMP: 32-9-117, 32-9-118, 32-9-123, MCA

REASON: It is reasonably necessary for the division to amend section (1) of this rule to maintain consistent language with 32-9-117, MCA, which also sets forth that initial licensing fees are nonrefundable and must be accompanied by the application for licensure. It is reasonably necessary for the division to propose new section (2) in order to set forth that the renewal application be completed by the licensee. It is reasonably necessary for the division to delete sections (2) and (3) because these have been moved to NEW RULE I titled Continuing Education. It is reasonably necessary for the division to amend section (3) in order to clarify what should be provided by a licensee to demonstrate completion of the continuing education requirement. It is reasonably necessary for the division to also amend section (3) to clarify the period of time in which a credit report is valid in order to meet this license renewal requirement. This amendment will ensure that the information contained within the credit report is up-to-date to the actual period of license renewal. It is reasonably necessary for the division to amend section (4) to ensure consistent language with changes made by Senate Bill 92, which was passed during the 2007 Regular Legislative Session. In particular, 32-9-123, MCA, requires that branch office locations maintain a surety bond or irrevocable letter of credit. It is reasonably necessary for the division to amend section (7) to ensure consistent language with 32-9-117, MCA, which states that licensees that fail to renew their license are subject to license revocation.

2.59.1705 LICENSING EXAMINATION AND CONTINUING EDUCATION PROVIDER REQUIREMENTS (1) A licensee ~~or applicant~~ shall receive credit for participation in a continuing education program if it is presented by a provider approved by the department and the department has approved the continuing education program pursuant to this rule.

(2) To receive approval of a ~~licensing examination or~~ continuing education course, the ~~examination or~~ course provider must file an application with the department, which includes, but is not limited to the following items:

(a) ~~a description of the examination or course provider's experience in teaching courses;~~ course brochures, outlines, schedules, lesson plans, visual presentations, and course description (including a breakdown of time spent on each topic);

(b) remains the same.

(c) ~~a description of each examination or course; and~~ a complete set of materials for curriculum. Materials will be retained by the department. Electronic format is acceptable;

(d) company history;

(e) sample course certificate of completion (certificate must include, at a minimum: company name, date of course, course title, instructor's signature, student's name, and student's license number);

(f) list of other states in which approval to provide similar education is held;

(g) a satisfactory timing method to properly monitor participant's attendance and attention for the approved hours of the course; and

(h) a comprehensive test approved by the department, to be taken at the end of the course; the licensee must pass the test with a minimum 80%.

~~(d) all examination or course materials and lesson plans.~~

(3) All instructors must have a minimum of five years of experience working as a mortgage broker, loan originator, mortgage banker, or work in a related field. The department has established by ARM 2.59.1701 what constitutes work in a related field.

(4) The provider must submit within 15 days a class roster of students who successfully completed the course.

~~(3) (5) Courses and licensing examinations must reflect the activities performed by prospective mortgage brokers and loan originators licensees and must provide prospective mortgage brokers and loan originators licensees with a basic knowledge of and competency in the following:~~

(a) the federal Real Estate Settlement Procedures Act; Truth in Lending Act; Equal Credit Opportunity Act; Fair Credit Reporting Act; Fair Housing Act; Home Mortgage Disclosure Act; Gramm-Leach-Bliley Act; and the regulations promulgated pursuant to these acts;

(b) ethics in the mortgage industry;

~~(a) basics of home purchase and ownership;~~

~~(b) the mortgage industry, generally;~~

~~(c) loan evaluation and documentation;~~

~~(d) and (e) remain the same, but are renumbered (c) and (d).~~

~~(f) (e) the Montana Residential Mortgage Broker and Loan Originator Licensing Act; and~~

(f) Administrative Rules of Montana Title 2, chapter 59, subchapter 17; and

(g) other state and federal laws applicable to the mortgage broker industry.

~~(4) Appropriate subjects for licensing examinations may include:~~

~~(a) the Montana Residential Mortgage Broker and Loan Originator Licensing Act;~~

~~(b) state and federal consumer protection acts;~~

~~(c) the federal Real Estate Settlement Procedures Act, Truth in Lending Act, Equal Credit Opportunity Act, Fair Credit Reporting Act, Fair Housing Act, Home Mortgage Disclosure Act, Community Reinvestment Act, and the regulations promulgated pursuant to these acts;~~

~~(d) trust account and recordkeeping requirements of the Montana Residential Mortgage Broker and Loan Originator Licensing Act;~~

~~(e) real estate and appraisal law;~~

~~(f) arithmetical computation common to mortgage lending, including but not limited to:~~

~~(i) the computation of an annual percentage rate;~~

~~(ii) finance charges;~~

~~(iii) amount financed;~~

~~(iv) payment and amortization;~~

~~(v) credit evaluation; and~~

~~(vi) calculating debt-to-income; and~~

~~(g) ethics in the mortgage industry.~~

(6) Approved courses may be offered through the Internet or through a classroom setting. Correspondence or mail courses will not be accepted.

~~(5) (7)~~ The provider shall file an application with the department which includes a copy of examinations to be used, if any, in determining satisfactory comprehension of the contents of the course and the grading scale to be used. Any new or revised courses, examinations or grading scales to be used shall be submitted to the department for approval at least ~~30~~ 60 days prior to use. Course materials may be submitted in electronic format. The department will consider examinations and continuing education disseminated by written or electronic means, including by the Internet.

(6) remains the same, but is renumbered (8).

~~(7) (9)~~ The department shall provide a list of approved continuing education providers. ~~The list shall indicate whether a provider is approved to present licensing examination and/or continuing education programs.~~

(8) and (9) remain the same, but are renumbered (10) and (11).

~~(10) (12)~~ The department may deny, revoke, or suspend or terminate approval of any provider or individual course upon a finding that:

(a) remains the same.

(b) the provider failed to comply with any provision requirement of this rule;

(c) the provider fails to ensure that the licensee spends the allotted hours in the course; or

~~(b) during any six-month period, fewer than 50% of the provider's program students taking the examination for the first time achieve a passing score; or~~

(c) remains the same, but is renumbered (d).

(13) The provider is entitled to a hearing on the denial, suspension, or revocation held under the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, MCA. The provider shall request a hearing within ten days of the date the notice of findings is sent to them. The notice shall be served on the provider at its last known address by certified mail.

(11) through (13) remain the same, but are renumbered (14) through (16).

~~(14) (17)~~ An education course relative to commercial lending, ~~or~~ commercial loan brokering, temporary construction lending, investment lending, mortgage banking, or underwriting may not be used to satisfy continuing education requirements under this subchapter.

(15) remains the same, but is renumbered (18).

(19) A continuing education course from another state shall satisfy the continuing education requirement if the department has approved the course for continuing education in this state.

AUTH: 32-9-130, MCA

IMP: 32-9-110, 32-9-118, 32-9-130, MCA

REASON: It is reasonably necessary for the division to amend section (1) of this rule to clarify that continuing education credits may only be accepted by the division if the person submitting the credits is already licensed as a mortgage broker or loan originator. It is reasonably necessary for the division to amend section (2) in order to ensure that the division receives all necessary information and materials

pertaining to continuing education providers and their courses. The amendments to section (2) will also strengthen the effectiveness of this education requirement as set forth in 32-9-118, MCA. It is reasonably necessary for the division to propose section (3) in order to set forth minimum qualifications for instructors that teach approved continuing education courses. It is reasonably necessary for the division to propose section (4) to ensure that the division receives the class roster in a timely manner. It is reasonably necessary for the division to amend section (5) in order to clarify which subjects must be included in the continuing education courses. It is reasonably necessary for the division to propose section (6) to ensure that the method of course delivery is specified by rule. This division will accept courses offered through the Internet or a classroom setting because these methods offer accountability that the licensee is completing the annual continuing education requirement. It is reasonably necessary for the division to amend sections (7) and (9) to ensure consistency by deleting references to examinations. The division is proposing to be the sole provider that will administer the required examination. It is reasonably necessary for the division to amend section (12) in order to provide the division with the ability to deny the approval of providers or individual courses. The amendments to this section also strengthen the requirements for the providers by requiring that they comply with this rule and ensure that the required time is spent by licensees in completing the courses. This requirement is consistent with the provisions of 32-9-118, MCA. It is reasonably necessary for the division to propose section (13) to ensure that enforcement actions initiated against continuing education providers are in accordance with the Montana Administrative Procedure Act. It is reasonably necessary for the division to amend section (17) in order to further clarify which topics are not relevant to satisfy the continuing education requirement. It is reasonably necessary for the division to propose section (19) to clarify that courses approved by the division may be taken from another state.

2.59.1710 RECORDS TO BE MAINTAINED (1) and (1)(a) remain the same.

(b) applicant's name, date, name of person taking the application, HUD-1 Settlement Statement, copies of all agreements or contracts with the applicant, including any commitment and lock-in agreements, and all disclosures required by state and federal law signed and dated by the borrower, and where applicable, signed and dated by the individual mortgage broker or loan originator;

(c) through (l) remain the same.

(2) A mortgage broker shall maintain at the Montana office location where services are provided a trust account records file showing a sequential listing of checks written for each bank account relating to the licensee's business as a mortgage broker, showing at a minimum, check number, the payee, amount, date, and purpose of payment, including identification of the loan to which it relates, if any. The licensee shall reconcile the bank accounts monthly.

(3) A mortgage broker shall maintain a spreadsheet of all residential mortgage applications taken, including, but not limited to applications that are pending, closed, withdrawn, denied, or cancelled. The spreadsheet shall contain, at a minimum:

(a) the borrower(s) first and last name;

- (b) the borrower(s) age;
- (c) the loan number;
- (d) the property address;
- (e) the borrower(s) phone number;
- (f) the application date;
- (g) the settlement date;
- (h) the date the good faith estimate was mailed, or hand delivered;
- (i) the date the truth-in-lending statement was mailed, or hand delivered;
- (j) the loan amount;
- (k) the loan-to-value;
- (l) the status of the loan (pending, closed, withdrawn, cancelled, denied);
- (m) the total fees received indirectly or directly by the mortgage broker at the closing of the loan;
- (n) the total yield spread premium received by the mortgage broker at the closing of the loan; and
- (o) the name of the individual mortgage broker or loan originator.

AUTH: 32-9-130, MCA

IMP: 32-9-121, 32-9-124, 32-9-125, MCA

REASON: It is reasonably necessary for the division to amend subsection (1)(b) in order to ensure that the mortgage broker or loan originator signed the related loan documents. The requirement of a signature will clarify which mortgage broker or loan originator has originated and disclosed terms of residential mortgage loans. It is reasonably necessary for the division to amend section (2) to provide for consistency with the record keeping requirements set forth in 32-9-121, MCA. This statute requires that the records be kept at the Montana office location. It is reasonably necessary for the division to propose section (3) so that a licensee complies with the record keeping requirements set forth by 32-9-121, MCA. This statute requires a licensee to maintain residential mortgage loan files. This spreadsheet contains information within these files. The spreadsheet will enable the division to review a summary of residential mortgage activity by a licensee.

4. The proposed new rules provide as follows:

NEW RULE I CONTINUING EDUCATION (1) All individual mortgage brokers and loan originators must complete 12 hours of continuing education annually.

(2) "Hour" as used in 32-9-118, MCA, means 50 minutes of instruction.

(3) Beginning June 1, 2008, and annually thereafter, at least eight hours of the required 12 hours of continuing education must be in a classroom setting. The course must be presented by a provider approved by the department.

(4) Beginning June 1, 2008, and annually thereafter, all individual mortgage brokers and loan originators must complete a minimum of one hour of the required twelve hours of continuing education reviewing the Montana Mortgage Broker and Loan Originator Licensing Act and Administrative Rules of Montana (ARM) Title 2,

chapter 59, subchapter 17 by May 31. The course must be presented by a provider approved by the department.

(5) The continuing education year is from June 1 to May 31. Failure to complete continuing education requirements by May 31 will result in the revocation of license as of June 30. The mortgage broker or loan originator must then apply as a new applicant.

(6) No more than six hours of continuing education credits may be carried over to the next licensing year. The request for continuing education credits to be carried over must be submitted with the renewal application for which the education credits were taken.

(7) With the exception of courses reviewing the Montana Mortgage Broker and Loan Originator Licensing Act and ARM Title 2, chapter 59, subchapter 17, a licensee will not receive continuing education credit for the same approved course in the same or subsequent year to meet the annual requirements for continuing education.

(8) The department may provide continuing education courses at its discretion. The fee to the attendee shall be \$12.50 per hour. The fees are nonrefundable.

AUTH: 32-9-130, MCA

IMP: 32-9-130, MCA

REASON: New Rule I is reasonably necessary to establish new procedures and standards for continuing education required for all licensees. This New Rule is authorized by the division's rulemaking authority under 32-9-130(2), MCA, which establishes for the approval of continuing education programs. The division estimates that it would offer eight continuing education sessions to licensees at a proposed cost of \$12.50 per hour. Each session would last four hours and be attended by 25 licensees. The estimated revenue from section (8) would be \$10,000 (eight continuing education sessions x 25 licensees x four hours x \$12.50 per hour).

NEW RULE II PRELICENSING EXAMINATION (1) An applicant seeking an individual mortgage broker's license or a loan originator's license shall submit to a prelicensing examination provided for by the department.

(2) The prelicensing examination will be developed by the department and must be proctored by an agent approved by the department.

(3) The department shall provide a list of approved proctors.

(4) Upon completion of the prelicensing examination, the proctor shall place the examination in an envelope provided by the department, seal the envelope, and sign the back flap of the envelope to ensure confidentiality.

(5) The envelope containing the prelicensing examination shall be mailed to the department within five days.

(6) The applicant must pass the prelicensing examination with a minimum 80%.

(7) If the applicant fails to submit a completed application to the department for a license as an individual mortgage broker or loan originator within one year from

the date of the prelicensing examination, the prelicensing examination is expired and the applicant must retest.

(8) The prelicensing examination will be 100 questions for loan originator license and 125 questions for individual mortgage broker license.

(9) The fee for the test is \$100. All fees are nonrefundable and must be submitted with the prelicensing examination request.

AUTH: 32-9-130, MCA

IMP: 32-9-110, MCA

REASON: New Rule II is reasonably necessary to establish new prelicensing examination procedures and the standard for the prelicensing test. This New Rule is authorized by the division's rulemaking authority under 32-9-130(2), MCA, which establishes for the fees for tests as well as developing or approving tests to be given as a prerequisite for licensure. The division estimates that it licenses 90 mortgage brokers and loan originators each year that would be subject to the proposed testing fee in proposed section (9). The estimated revenue from new section (9) would be \$9,000 (\$100 test fee x 90 licensees).

NEW RULE III FEES (1) A licensee shall not charge any fee that inures to the benefit of the licensee if it exceeds the fee disclosed on the good faith estimate, unless:

(a) the need to charge the fee was not reasonably foreseeable at the time the written disclosure was provided; and

(b) the licensee has provided to the borrower, no less than three business days prior to the signing of the loan closing documents, a clear written explanation of the fee, another good faith estimate showing the increased fee, and the reason for charging a fee exceeding that which was previously disclosed.

AUTH: 32-9-130, MCA

IMP: 32-9-124, MCA

REASON: New Rule III is reasonably necessary to ensure that a mortgage broker or loan originator accurately discloses the true cost of their services to a borrower. This New Rule clarifies the manner in which fees charged by a mortgage broker or loan originator must be disclosed if the fee has increased from what was stated on the Good Faith Estimate. This disclosure requirement is consistent with an amendment made to 32-9-124(1)(e), MCA. This amendment was part of Senate Bill 92, which was passed during the 2007 Regular Legislative Session. The amendment states that a licensee may not accept any fees or compensation at closing that were not disclosed as required by state or federal law.

NEW RULE IV NONTRADITIONAL MORTGAGE PRODUCTS (1) Every mortgage broker shall implement appropriate and best risk-management practices on a continuous basis. These risk-management practices shall include, but not be limited to, practices set forth in the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators Guidance on

Nontraditional Mortgage Product Risks (Guidance) released on November 14, 2006. The Guidance is available on the department's web site at www.banking.mt.gov, and is incorporated by reference.

(2) Every licensee shall, within three business days after the receipt of a completed application for a nontraditional loan or before the borrower becomes obligated on the note, whichever is earlier, provide to the borrower the Nontraditional Loan Disclosure Form, which must be signed by the licensee and by the borrower. The September 10, 2007, edition of the Nontraditional Mortgage Disclosure Form is incorporated by reference as part of this rule. A copy of this disclosure can be obtained from the Division of Banking and Financial Institutions, Department of Administration, P.O. Box 200546, Helena, MT 59620-0546.

AUTH: 32-9-130, MCA

IMP: 32-9-124, MCA

REASON: It is reasonably necessary for the division to propose New Rule IV in order to require licensees to adequately disclose costs associated with nontraditional mortgage products. This disclosure is necessary for borrowers to understand the true cost of obtaining a loan classified a nontraditional mortgage product. The division has also proposed this rule so that borrowers may understand risks associated with nontraditional mortgage products. Licensees are required to disclose such costs as required under 32-9-124, MCA.

NEW RULE V DESIGNATED MANAGERS (1) Each entity shall have one designated manager who is typically present during regular Monday through Friday office hours.

(2) The designated manager is responsible for assuring that all guidance required by Title 32, chapter 9, part 1, MCA; these rules; all federal laws and rules incorporated therein; and all policies required after an examination are adopted, properly implemented, and continuously in force.

(3) The designated manager is responsible for educating all employees, at all licensed locations, on the policies and the need to adhere to them.

AUTH: 32-9-130, MCA

IMP: 32-9-122, MCA

REASON: It is reasonably necessary for the division to propose New Rule V to clarify the responsibilities of the designated manager as it relates to compliance with statute and rules. This New Rule also sets forth the requirement that a designated manager educate all employees on policies required after examinations conducted by the division's staff. New Rule V is consistent with the definition of a designated manager as set forth in 32-9-103(5), MCA. This definition states that the designated manager is responsible for operating the business and that the designated manager is typically present during regular business hours.

NEW RULE VI YIELD SPREAD PREMIUM (1) All yield spread premiums shall be fully and accurately disclosed by the mortgage broker or loan originator.

The yield spread premium shall be expressed in a dollar range, not a percentage range. The dollar range of the spread may not exceed \$2,000. No abbreviation of the term yield spread premium will be allowed on the disclosure forms. If a yield spread premium is charged to the borrower, the licensee shall disclose which front-end fees were lowered and by how much to the borrower.

AUTH: 32-9-130, MCA
IMP: 32-9-124, MCA

REASON: It is reasonably necessary for the division to propose New Rule VI to require that a mortgage broker or loan originator accurately discloses the true cost of their services to a borrower. This New Rule clarifies the manner in which a yield spread premium may be disclosed. In particular, this proposed New Rule would help to simplify this charge, by expressing this fee in a dollar range rather than a percent range.

NEW RULE VII EXAMINATIONS (1) Upon receiving a complaint or at its discretion, the department may examine any office, place of business, or location where records may be found of any licensee or person who may be in violation of Title 32, chapter 9, part 1, MCA, or these rules. The department shall examine for compliance with the applicable state and federal law and all rules and regulations promulgated thereunder.

(2) At the end of an examination, the department shall provide the examinee with an oral and written report which details the areas examined and deficiencies found.

AUTH: 32-9-130, MCA
IMP: 32-9-130, MCA

REASON: It is reasonably necessary for the division to propose New Rule VII in order to clarify its authority and procedure in conducting examinations of licensed mortgage brokers and loan originators. This authority and discretion to conduct these examinations is specifically authorized under 32-9-130, MCA.

NEW RULE VIII FAILURE TO CORRECT DEFICIENCIES (1) The department may suspend or revoke a license of an entity that does not correct the deficiencies found by the department after an examination within the time granted by the department.

AUTH: 32-9-130, MCA
IMP: 32-9-130, 32-9-133, MCA

REASON: It is reasonably necessary for the division to propose New Rule VII to ensure that licensees comply with the findings set forth within an examination. It is reasonably necessary that the division suspend or revoke a license if a mortgage broker or loan originator does not take action to correct the deficiencies. This

authority has been provided as part of amendments to 32-9-130(2)(c), MCA, as part of Senate Bill 92, which was passed during the 2007 Regular Legislative Session.

NEW RULE IX PROTECTION OF CONFIDENTIAL BORROWER

INFORMATION (1) All designated managers shall adopt, implement, and ensure compliance with written guidance addressing safeguarding, proper destruction of, and breach of confidential borrower information as required by:

(a) Title 30, chapter 14, part 17, MCA; and

(b) 16 CFR 314, as those rules were published in the May 23, 2002, Federal Register at 67 FR 36493 which are adopted and incorporated by reference. Copies are available from the Division of Banking and Financial Institutions, 301 South Park, P.O. Box 200546, Helena, MT 59620-0546.

(2) Any violation of this rule is grounds for suspension or revocation of license.

AUTH: 32-9-130, MCA

IMP: 32-9-121, MCA

REASON: It is reasonably necessary for the division to propose New Rule IX to ensure that a borrower's personal information is not compromised during the retention or disposal of their mortgage records. 32-9-121, MCA, was amended to include that these records be maintained in accordance with good business practices at the Montana office location where services are provided. This amendment was part of Senate Bill 92, which was passed during the 2007 Regular Legislative Session.

NEW RULE X GROUNDS FOR THE DENIAL OF AN APPLICATION

(1) Any false statement or omission of fact from the statement of the applicant required by 32-9-115(1)(d) and 32-9-116(1)(c), MCA, shall be sufficient grounds to deny a license to an applicant. Any material false statement and any material omission of fact in an application shall be grounds for denial of a license.

AUTH: 32-9-130, MCA

IMP: 32-9-115, 32-9-116, MCA

REASON: It is reasonably necessary for the division to propose New Rule X to ensure that applicants be accountable for misrepresenting information presented on their applications. It is reasonably necessary that this information be accurate in order for the division to complete a thorough review of the applicant's qualifications for licensure.

NEW RULE XI REQUIREMENTS FOR RENEWAL APPLICATIONS (1) All renewal applications shall certify that the licensee has paid all fines and judgments imposed against the licensee by the department. Failure to pay a fine, penalty, or judgment assessed against the licensee is sufficient grounds to deny a request for renewal.

(2) If the renewal application or the investigation related to the renewal application discloses additional information that would have been sufficient grounds to deny, suspend, or revoke the license, if it had been known at the time of original licensure, the license shall be denied, suspended, or revoked on that basis.

AUTH: 32-9-130, MCA

IMP: 32-9-115, 32-9-116, 32-9-130, MCA

REASON: It is reasonably necessary for the division to propose section (1) of New Rule XI to ensure that applicants have paid fines or penalties in timely manner and prior to the annual renewal of their licenses. It is reasonably necessary to propose section (2) to ensure that applicants be accountable for misrepresenting information presented on their initial or subsequent renewal applications. This information must be accurate in order for the division to complete a thorough review of the applicant's qualifications for licensure.

NEW RULE XII DEPARTMENT'S COST OF ADMINISTRATIVE ACTION

(1) The department may order reimbursement of its costs of bringing the administrative action which may include but are not limited to:

- (a) examiner time charges;
- (b) department legal counsel time charges;
- (c) administrative law judge charges;
- (d) court reporter costs;
- (e) transcription fees;
- (f) document preparation fees;
- (g) other hearing costs; and
- (h) transportation costs.

AUTH: 32-9-130, MCA

IMP: 32-9-133, MCA

REASON: It is reasonably necessary for the division to propose New Rule XII to clarify which types of costs may be reimbursed to the division in the course of bringing an administrative action against a mortgage broker or loan originator. This reimbursement was authorized by an amendment made to 32-9-133, MCA. This amendment was part of Senate Bill 92, which was passed during the 2007 Regular Legislative Session.

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 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; e-mailed to kosullivan@mt.gov, and must be received no later than October 19, 2007.

6. Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, has been designated to preside over and conduct the hearing.

7. An electronic copy of this Proposal Notice is available through the Department of Administration's web site at <http://doa.mt.gov/AdministrativeRules.asp>. 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 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 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 which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Such written requests may be mailed or delivered to Christopher Romano, 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 cromano@mt.gov, or may be made by completing a request form at any rules hearing held by the Division of Banking and Financial Institutions.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. Senator Donald Steinbeisser, the primary bill sponsor of SB 92 (2007), was notified on July 27, 2007, by regular mail.

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

By: /s/ Dal Smilie
Dal Smilie, Rule Reviewer
Department of Administration

Certified to the Secretary of State September 10, 2007.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the proposed amendment	)	NOTICE OF PUBLIC HEARING
of ARM 2.59.1401, 2.59.1406, 2.59.1409,	)	ON PROPOSED AMENDMENT
2.59.1410, 2.59.1413, and 2.59.1417	)	AND ADOPTION
pertaining to the regulation of title lenders)	
and the proposed adoption of NEW)	
RULES I through XII regarding)	
notification to the department, rescinded)	
loans, examinations, suspension, and)	
revocation of licenses, protection of)	
confidential borrower information,)	
department's cost of administrative)	
action, policy to implement limitations on)	
terms of credit to servicemembers and)	
dependents, examination fees, required)	
record keeping, accrual of interest,)	
unlicensed activity, and title loan)	
designation)	

TO: All Concerned Persons

1. On October 11, 2007, at 10:30 a.m., a public hearing will be held in Room 342 of the Park Avenue Building, 301 S. Park, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Administration, Division of Banking and Financial Institutions, 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 Division of Banking and Financial Institutions no later than 5:00 p.m. on October 5, 2007, to advise us of the nature of the accommodation that you need. Please contact Christopher Romano, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2928; TDD (406) 444-1421; facsimile (406) 841-2930; e-mail to cromano@mt.gov.

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

2.59.1401 DEFINITIONS For the purposes of the Montana Title Loan Act and this subchapter, the following definitions apply:

(1) and (2) remain the same.

(3) ~~"Extension" means an agreement whereby the licensee agrees to extend the due date beyond the term of the original title loan without releasing the security interest on the titled property.~~

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

- (4) "Fraudulent or dishonest dealings" includes, but is not limited to:
(a) financial misconduct prohibited by statutes governing title lenders in this and other states and other segments of the financial services industry such as:
(i) securities brokerages;
(ii) banks and trust companies;
(iii) escrow offices;
(iv) title insurance companies; or
(v) other licensed or chartered financial institutions;
(b) civil actions or criminal offenses that involve deception, fraud, theft, misappropriation of funds, misrepresentation, omissions of material facts, unauthorized use of property, forgery, identity theft, or money laundering; and
(c) any other deceitful, false, or misleading representation or omission of material fact designed to be relied upon.
- (5) "Redemption date" is the maturity date of the original title loan and any subsequent renewals ~~or extensions~~.
- (6) "Renewal" means ~~extension~~ an agreement whereby the licensee agrees to extend the due date beyond the term of the original title loan without releasing the security interest on the titled property.
- (7) "Restitution" may include, but is not limited to, refunds of any or all the interest, fees, and principal paid by the borrower.
- (8) "Unencumbered title" or "clear title" means a valid certificate of title that has no liens or encumbrances attached.

AUTH: 31-1-802, MCA

IMP: 31-1-804, 31-1-810, 31-1-812, MCA

REASON: It is reasonably necessary for the division to propose sections (4), (7), and (8) to clarify terms identified in Senate Bill 74, which passed during the 2007 Regular Legislative Session. It is reasonably necessary to delete section (3) since all references to extensions were deleted as part of Senate Bill 74.

2.59.1406 EXAMINATION OF TITLE LENDERS (1) The department may ~~shall~~ conduct an examination of each title loan licensee's lending operations to ensure compliance with ~~both~~ applicable state and federal statutes and these administrative rules.

(2) The examination shall consist of a comprehensive review of the records, operations, and affairs of the licensee. The review shall include, but is not limited to, inquiry into:

(a) through (b)(iii) remain the same.

AUTH: 31-1-802, MCA

IMP: 31-1-810, MCA

REASON: It is also reasonably necessary for the division to amend section (1) in order for its examination staff to verify compliance with any regulations that apply to title loan transactions. It is reasonably necessary for the division to amend

section (2) so that the division is not limited in its scope of information utilized in determining compliance with the Montana Title Loan Act.

2.59.1409 DURATION OF LOANS – INTEREST – EXTENSIONS (1) and (2) remain the same.

(3) On any loan containing an automatic 30-day renewal provision, at the time of each renewal licensees must provide, in person or by mail at the borrower's last known address, an updated truth in lending statement a statement disclosing the finance charges that will accrue with the renewal, the new maturity date of the loan, the amount financed, and the annual percentage rate (APR). Licensees may not collect interest on the renewal without proof of having provided the borrower such a statement.

(4) Interest may not compound from one ~~extension~~ or renewal to another.

(5) A licensee shall not extend or grant any additional credit other than that which was granted in the original title loan agreement without first requiring full payment of all principal and interest due on the original title loan, ~~or any~~ and all subsequent ~~extensions~~ renewals, and releasing the security interest in the titled property.

(6) remains the same.

(7) After a loan renewal, a licensee must wait 30 days from the date of the renewal before taking action against the collateral.

AUTH: 31-1-802, MCA

IMP: 31-1-816, MCA

REASON: It is reasonably necessary for the division to amend ARM 2.59.1409 to provide for consistency with Senate Bill 74 which passed during the 2007 Regular Legislative Session. This bill deleted all references to extensions, while replacing this term with "renewals." It is reasonably necessary to propose section (7) in order to protect the borrower's collateral since a title loan must have a term of 30 days pursuant to 31-1-816, MCA.

2.59.1410 ~~EXTENSIONS~~ RENEWALS - REDUCTION OF PRINCIPAL

(1) Subject to (2), beginning with the sixth extension and for each subsequent ~~extension~~ renewal, the borrower must pay at least 10% of the original principal amount along with all accrued interest before an ~~extension~~ renewal may be granted.

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

(b) reduce the amount of principal balance used to calculate interest by 10% every 30 days beginning 180 days from the beginning of the original title loan agreement. In such event, the licensee must comply with all the requirements of ARM 2.59.1409 for ~~extensions~~ renewals.

(3) Under no circumstances may a licensee charge interest or fees beyond the fifteenth ~~extension~~ renewal.

AUTH: 31-1-802, MCA

IMP: 31-1-816, MCA

REASON: It is reasonably necessary for the division to amend ARM 2.59.1410 to provide for consistency with Senate Bill 74 which passed during the 2007 Regular Legislative Session. This bill deleted all references to extensions, while replacing this term with "renewals."

2.59.1413 REPORTS (1) through (1)(b) remain the same.

(c) all officer questionnaires must be answered within ten days of the ~~end~~ start of any the examination.

AUTH: 31-1-802, MCA

IMP: 31-1-815, MCA

REASON: It is reasonably necessary for the division to amend ARM 2.59.1513 in order to ensure that the officer questionnaires are received in a timely manner so that the examination may be concluded and the final report written and issued to the licensee.

2.59.1417 PROCEDURAL RULES FOR HEARINGS AND DISCOVERY

(1) In the case of hearings concerning the issuance, suspension, revocation, or other enforcement actions pertaining to a licensee or any unlicensed entity or person, hearings and related discovery shall be conducted pursuant to the ~~done under the Montana Administrative Procedure Act implementing the revised~~ Attorney General's Model Rules effective June 4, 1999, which implement the Montana Administrative Procedure Act.

(2) remains the same.

AUTH: 31-1-802, MCA

IMP: 31-1-811, 31-1-812, MCA

REASON: It is reasonably necessary for the division to amend ARM 2.59.1417 in order to be consistent with the language provided in an amendment to 31-1-811, MCA. This amendment includes references to enforcement actions taken against unlicensed persons or entities. This amendment was passed as part of Senate Bill 74 during the 2007 Regular Legislative Session.

4. The proposed new rules provide as follows:

NEW RULE I NOTIFICATION TO THE DEPARTMENT (1) The licensee shall immediately notify the department of:

- (a) a change in the physical location of the office;
- (b) any change in the phone number of the business;
- (c) a change in the nature of the business;
- (d) a change in the board of directors or the principal officers;
- (e) a change in the share ownership of the company that could affect control;
- (f) the acquisition or disposition of another company;
- (g) any civil action involving fraud or dishonesty filed against the licensee;

- (h) any criminal charge filed against the licensee;
- (i) any change which would cause the department not to issue a license, if it had occurred before licensure; and
- (j) the addition of other business to be conducted at the location.

AUTH: 31-1-802, MCA

IMP: 31-1-805, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE I to ensure that the information related changes in a licensee's ownership, business operations, contact information, and fitness and character are immediately reported to the division. This immediate reporting is reasonably necessary given that this information is critical to the daily operations and financial stability of a licensee.

NEW RULE II RESCINDED LOANS (1) The licensee shall keep separate records for all rescinded loans and retain those records according to records retention schedules as set by state or federal law, whichever is longer.

AUTH: 31-1-802, MCA

IMP: 31-1-815, 31-1-816, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE II to verify that licensees provide borrowers the right to rescind their loan as provided by 31-1-816(2)(b)(ii), MCA. Title loan record retention requirements are set forth in 31-1-821, MCA. These requirements enable the division to determine whether a licensee is complying with all provisions of the Montana Title Loan Act.

NEW RULE III EXAMINATIONS (1) The department may examine any office, place of business, or location where records may be found of any licensee or person who may be in violation of Title 31, chapter 1, part 8, MCA, or these rules. The department shall examine for compliance with the applicable state and federal law and all rules adopted thereunder.

(2) At the end of an examination, the department shall provide the examinee with an oral and written report which details the areas examined and any deficiencies found.

AUTH: 31-1-802, MCA

IMP: 31-1-810, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE III in order to clarify its authority and procedure in conducting examinations of licensed title lenders. This authority and discretion to conduct these examinations is specifically authorized under 31-1-810, MCA.

NEW RULE IV SUSPENSION AND REVOCATION OF LICENSES (1) The department may suspend or revoke a license of an entity that does not correct the

deficiencies found by the department after an examination within the time frame granted by the department.

AUTH: 31-1-802, MCA

IMP: 31-1-811, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE IV to ensure that licensees comply with the findings set forth with an examination. It is reasonably necessary that the division suspend or revoke a license if a title lender does not take action to correct deficiencies identified in an examination. This authority has been provided by 31-1-811, MCA.

NEW RULE V PROTECTION OF CONFIDENTIAL BORROWER

INFORMATION (1) All licensees shall adopt, implement, and ensure compliance with guidance addressing safeguarding, proper destruction, and breach of confidential borrower information as required by:

(a) Title 30, chapter 14, part 17, MCA; and

(b) 16 CFR 314, as those rules were published in the May 23, 2002, Federal Register at 67 FR 36493 which are adopted and incorporated by reference. Copies are available from the Division of Banking and Financial Institutions, 301 South Park, P.O. Box 200546, Helena, MT 59620-0546.

(2) Any violation of this rule is grounds for fines, suspension, or revocation of license.

AUTH: 31-1-802, MCA

IMP: 31-1-821, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE V in order to ensure that licensees safeguard customer information. This new rule will require licensees to properly dispose of this information so that a customer's personal information is not compromised. NEW RULE V affords greater protection to borrowers and sets forth that violation of this rule is grounds for enforcement action.

NEW RULE VI DEPARTMENT'S COST OF ADMINISTRATIVE ACTION

(1) The department may order reimbursement of its costs of bringing the administrative action which may include but are not limited to:

(a) examiner time charges;

(b) department legal counsel time charges;

(c) administrative law judge charges;

(d) court reporter costs;

(e) transcription fees;

(f) document preparation fees;

(g) other hearing costs; and

(h) transportation costs.

AUTH: 31-1-802, MCA

IMP: 31-1-811, MCA

REASON: It is reasonably necessary for the division to propose New Rule VI to clarify which types of costs may be reimbursed to the division in the course of bringing an administrative action against a title lender. This reimbursement was authorized by an amendment made to 31-1-811, MCA. This amendment was part of Senate Bill 74, which was passed during the 2007 Regular Legislative Session.

NEW RULE VII POLICY TO IMPLEMENT LIMITATIONS ON TERMS OF CREDIT TO SERVICEMEMBERS AND DEPENDENTS (1) All licensees shall implement a policy applying the provisions of the limitation of terms of credit to servicemembers and dependents as required by the John Warner National Defense Authorization Act for Fiscal Year 2007 Section 670, P.L. 109-364 which is adopted and incorporated by reference. Copies are available from the Division of Banking and Financial Institutions, 301 South Park, P.O. Box 200546, Helena, MT 59620-0546.

(2) Any credit agreement, promissory note, or other contract prohibited by the Act is void from the inception.

AUTH: 31-1-802, MCA

IMP: 31-1-802, MCA

REASON: It is reasonably necessary for the division to propose New Rule VII in order to verify that licensees are complying with the provisions of Defense Authorization Act, which will afford greater consumer protection to servicemembers and their dependents. This Act restricts fees that may be charged to servicemembers and their dependents by licensees.

NEW RULE VIII EXAMINATION FEES (1) If any examination fees are not paid within 30 days of the department's mailing of an invoice, the license of the deferred deposit lender may be suspended or revoked until the fees are paid.

AUTH: 31-1-802, MCA

IMP: 31-1-810, MCA

REASON: It is reasonably necessary for the division to propose New Rule VIII to ensure that a title loan licensee remits payment for examinations conducted by the division in a timely manner. The division is authorized to charge an examination fee to licensees pursuant to 31-1-810, MCA.

NEW RULE IX REQUIRED RECORD KEEPING (1) Each licensee shall keep the following records, accounts, and books for a minimum of 24 months from the date the loan agreement was signed by the borrower, or longer if required by federal law:

- (a) all loan documents signed by, or given to the borrower;
- (b) all loan application documents;

- (c) all records of payments made by the borrower, including the date and amount of the payment;
- (d) account files detailing the application of borrower payments to interest, principal, and other fees;
- (e) account files recording the accrual of interest updated every 30 days;
- (f) copies of loan renewal agreements and disclosures;
- (g) copies of paid loan agreements;
- (h) invoices for repossession, towing, and storage of vehicles;
- (i) written valuations of repossessed vehicles; and
- (j) bills of sale of repossessed vehicles.

AUTH: 31-1-802, MCA

IMP: 31-1-815, MCA

REASON: It is reasonably necessary that the division to propose NEW RULE IX in order to verify compliance with the record keeping requirements set forth by 31-1-805, MCA. These records must be available to the division's examination staff in order to ensure that the transactions also comply with all provision of the Montana Title Loan Act.

NEW RULE X ACCRUAL OF INTEREST (1) Borrowers must be given the option to pay interest as it accrues or at the end of each 30-day renewal.

(2) Interest may not be collected before it accrues.

(3) Licensees shall apply payments to interest and principal in the following order:

- (a) first, to interest accrued and outstanding from the original loan and subsequent renewals;
- (b) second, to interest accrued to date for the current month (per diem);
- (c) third, to principal.

AUTH: 31-1-802, MCA

IMP: 31-1-802, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE X in order to clarify how borrower payments should be applied to the accrued interest on their loan. This new rule also protects borrowers from paying interest before it accrues.

NEW RULE XI UNLICENSED ACTIVITY (1) Unlicensed activity includes, but is not limited to, the following:

- (a) making title loans without a license;
- (b) levying, collecting, or attempting to collect, charges in excess of the statutory rate or the contracted rate if it is less than the statutory rate;
- (c) applying payments to interest, which should properly be applied to principal;
- (d) failing to make the interest rate reductions after the sixth renewal as required by statute;

- (e) failing to make disclosures required by the federal Truth in Lending Act (15 USC 1601, et seq.) or Title 31, chapter 1, part 8, MCA, and these rules; and
- (f) the collection of interest prior to its accrual.

AUTH: 31-1-802, MCA

IMP: 31-1-804, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE XI in order to clarify which title lending activities constitute unlicensed activity.

NEW RULE XII TITLE LOAN DESIGNATION (1) The department designates that a title loan is a loan:

- (a) the annual percentage rate (APR) of which exceeds 35%;
- (b) that is not used to transfer or purchase property; and
- (c) that includes fewer than 12 installments.

AUTH: 31-1-802, MCA

IMP: 31-1-803, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE XII to ensure that title loans are subject to the provisions of the Montana Title Loan Act. The authority to designate a title loan was specifically provided for in an amendment to 31-1-803(8), MCA, which was part of Senate Bill 74.

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 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; e-mailed to kosullivan@mt.gov, and must be received no later than October 19, 2007.

6. Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, has been designated to preside over and conduct the hearing.

7. An electronic copy of this Proposal Notice is available through the Department of Administration's web site at <http://doa.mt.gov/AdministrativeRules.asp>. 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 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 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 which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Such written requests may be mailed or delivered to Christopher Romano, 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 cromano@mt.gov; or may be made by completing a request form at any rules hearing held by the Division of Banking and Financial Institutions.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. Senator Larry Jent, the primary bill sponsor of SB 74 (2007), was notified on July 27, 2007, by regular mail.

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

By: /s/ Dal Smilie
Dal Smilie, Rule Reviewer
Department of Administration

Certified to the Secretary of State September 10, 2007.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the proposed amendment	)	NOTICE OF PUBLIC HEARING
of ARM 2.59.1501, 2.59.1502, 2.59.1505,	)	ON PROPOSED AMENDMENT
through 2.59.1508, 2.59.1512, and	)	AND ADOPTION
2.59.1513 pertaining to the regulation of)	
deferred deposit lenders and the)	
proposed adoption of NEW RULES I)	
through VIII regarding affidavit of)	
borrower, rescinded loans, examinations,)	
suspension, and revocation of licenses,)	
protection of confidential borrower)	
information, department's cost of)	
administrative action, policy to implement)	
limitations on terms of credit to)	
servicemembers and dependents, and)	
examination fees)	

TO: All Concerned Persons

1. On October 11, 2007, at 8:30 a.m., a public hearing will be held in Room 342 of the Park Avenue Building, 301 S. Park, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Administration, Division of Banking and Financial Institutions, 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 Division of Banking and Financial Institutions no later than 5:00 p.m. on October 5, 2007, to advise us of the nature of the accommodation that you need. Please contact Christopher Romano, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2928; TDD (406) 444-1421; facsimile (406) 841-2930; e-mail to cromano@mt.gov.

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

2.59.1501 DEFINITIONS For the purposes of this subchapter, the following definitions apply:

(1) "Acceptable practices at a business location" means complying with all applicable federal and state laws and the rules and regulations adopted pursuant thereto that pertain to deferred deposit lenders.

(1) and (2) remain the same, but are renumbered (2) and (3).

~~(3) (4) "Fraud or financial dishonesty or civil judgments involving fraudulent or dishonest financial dealings" means embezzlement, money laundering, identity theft,~~

~~theft, and other financial related crimes and judgments. "Fraudulent or dishonest dealings" includes, but is not limited to:~~

(a) financial misconduct prohibited by statutes governing deferred deposit lenders in this and other states and other segments of the financial services industry such as:

(i) securities brokerages;

(ii) banks and trust companies;

(iii) escrow offices;

(iv) title insurance companies; or

(v) other licensed or chartered financial institutions;

(b) civil actions or criminal offenses that involve deception, fraud, theft, misappropriation of funds, misrepresentation, omissions of material facts, unauthorized use of property, forgery, identity theft, or money laundering; and

(c) any other deceitful, false, or misleading representation or omission of material fact designed to be relied upon.

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

(7) "Restitution" may include, but is not limited to, refunds of any or all the interest, fees, and principal paid by the borrower.

AUTH: 31-1-702, MCA

IMP: 31-1-702, 31-1-705, 31-1-711, 31-1-713, 31-1-722, MCA

REASON: It is reasonably necessary for the division to propose section (1) in order to provide a definition for a term identified within 31-1-702(2), MCA. It is reasonably necessary to amend section (4) in order to provide further clarification of this term, which is relevant in considering the character of an applicant or licensee as required under 31-1-705(3), MCA. It is reasonably necessary for the division to propose section (7) since this term was included in Senate Bill 165, which passed during the 2007 Regular Legislative Session.

2.59.1502 APPLICATION PROCEDURE REQUIRED TO ENGAGE IN DEPOSIT LENDING (1) through (3)(c) remain the same.

(4) Except for those entities listed in (5), all persons or lenders must obtain a license under this rule in order to issue deferred deposit loans. Persons or lenders that are licensed under the Consumer Loan Act, 32-5-101, MCA, ~~and or~~ the Title Loan Act, 31-1-801, MCA, are not exempt from the licensing requirements of 31-1-701, MCA.

(5) through (5)(e) remain the same.

AUTH: 31-1-702, MCA

IMP: 31-1-702, 31-1-705, 31-1-722, MCA

REASON: It is reasonably necessary for the division to amend ARM 2.59.1502 in order to clarify that an entity, which holds a consumer loan or title loan license, is not exempt from the provisions of the Montana Deferred Deposit Loan Act.

2.59.1505 EXAMINATION OF DEFERRED DEPOSIT LENDERS (1) The department ~~shall annually~~ may conduct an examination of each deferred deposit loan licensee's lending operations to ensure compliance with applicable both statute and administrative rule state and federal law and regulations adopted thereunder.

(2) The examination shall consist of a comprehensive review of the records, operations, and affairs of the licensee. The review shall include, but is not limited to, an inquiry into:

(a) through (2)(b)(iii) remain the same.

(3) All officer questionnaires must be answered within ten days of the start of the examination.

AUTH: 31-1-702, MCA

IMP: 31-1-701, 31-1-711, MCA

REASON: It is reasonably necessary for the division to amend section (1) to maintain consistency with amendments made to 31-1-711, MCA. An amendment in this section deleted the annual examination requirement, while leaving the examination frequency at the division's discretion. It is also reasonably necessary that the division's examination verify compliance with any federal laws applicable to deferred deposit loan transactions. It is reasonably necessary for the division to amend section (2) so that the division is not limited in its scope of information utilized in determining compliance with the Montana Deferred Deposit Loan Act. It is reasonably necessary for the division to propose section (3) in order to ensure that this information is received in a timely manner so that the examination may be concluded and the final report issued to the licensee.

2.59.1506 PROCEDURAL RULES FOR HEARINGS AND DISCOVERY

(1) In the case of hearings concerning the issuance, suspension, revocation, or other enforcement actions pertaining to a licensee or unlicensed person or entity:

(a) and (2) remain the same.

AUTH: 31-1-702, MCA

IMP: 31-1-702, 31-1-712, 31-1-713, MCA

REASON: It is reasonably necessary for the division to amend ARM 2.59.1506 in order to be consistent with the language provided in an amendment to 31-1-712, MCA. This amendment includes references to enforcement actions taken against unlicensed persons or entities. This amendment was passed as part of Senate Bill 165 during the 2007 Regular Legislative Session.

2.59.1507 REPORTS (1) The following must be reported to the department immediately:

(a) any instances of theft from the deferred deposit loan business ~~within ten days of discovery of the theft;~~

(b) any change in managers; ~~within ten days of each occurrence; and~~

~~(c) all officer questionnaires must be answered within ten days of the end of any examination.~~

- (c) any change in business location at least ten days prior to the move;
- (d) a change in the phone number of the business;
- (e) a change in the nature of the business;
- (f) a change in the board of directors or the principal officers;
- (g) a change in the share ownership of the company that could affect control;
- (h) the acquisition or disposition of another company;
- (i) any civil action involving fraud or dishonesty filed against the licensee;
- (j) any criminal charge filed against the licensee;
- (k) any change which would cause the department not to issue a license, if it had occurred before licensure; and
- (l) the addition of other business to be conducted at the location.

AUTH: 31-1-702, MCA

IMP: 31-1-702, MCA

REASON: It is reasonably necessary for the division to amend subsections (1)(a) and (b) to ensure that the information related to theft and a change in managers is immediately reported to the division. This immediate reporting is reasonably necessary given that this information is critical to the daily operations to a licensee. It is reasonably necessary for the division to propose subsections (1)(c) through (l) since this information is also relevant to the daily operations and financial stability of a licensee. It is then reasonably necessary that this information be reported to the division.

2.59.1508 SCHEDULE OF CHARGES (1) and (2) remain the same.

(3) Licensees conducting business through the Internet shall display, on a nonbypassable web page on its web site, its Montana license authorizing deferred deposit lending, and the fee schedule filed with the department. The web pages shall be displayed before a borrower may continue on to the application web page.

AUTH: 31-1-702, MCA

IMP: 31-1-705, 31-1-721, MCA

REASON: It is reasonably necessary for the division to amend ARM 2.59.1508 to ensure that the schedule of charges be properly displayed to borrowers who obtain deferred deposit loans via the Internet. This schedule of charges must be disclosed to the borrower before they complete the loan transaction. Conducting business via the Internet has been specifically provided under 31-1-705, MCA which was amended as part of Senate Bill 165 during the 2007 Regular Legislative Session.

2.59.1512 ELECTRONIC DEDUCTIONS (1) through (3) remain the same.

(4) Only one account for each borrower may be authorized for electronic deductions related to a loan.

(5) A lender may not electronically deduct a partial payment from an account. Only the total of payment due (including the amount of the principal amount of the loan and fees) or nonsufficient funds fee may be deducted from the account.

AUTH: 31-1-702, MCA
IMP: 31-1-703, MCA

REASON: It is reasonably necessary for the division to amend ARM 2.59.1512 in order to clarify the requirements on how licensees can make electronic deductions from a borrower's account. Sections (4) and (5) comply with the definition of a deferred deposit loan as set forth in 31-1-703(5), MCA.

2.59.1513 INCOME VERIFICATION (1) and (2) remain the same.

(3) The following information must be included on the verification of income:

(a) the borrower's name;

(b) the employer's name;

(c) check or pay date;

(d) the dates of the pay period covered; and

(e) the date on which the income verification was made.

(4) A bank statement is not an acceptable form of verification of income.

AUTH: 31-1-702, MCA
IMP: 31-1-723, MCA

REASON: It is reasonably necessary for the division to amend ARM 2.59.1513 in order to require that licensees accurately verify a borrower's income. This verification reflects on a borrower's ability to repay a deferred deposit loan. This verification is also required to ensure that a licensee does not make an unconscionable loan. An unconscionable loan is defined in 31-1-723(8), MCA, as a loan that exceeds 25% of the borrower's monthly net income.

4. The proposed new rules provide as follows:

NEW RULE I AFFIDAVIT OF BORROWER (1) The licensee shall have the borrower swear in a dated affidavit that the borrower has no outstanding deferred deposit loans. This affidavit shall be signed for each new deferred deposit loan. A copy of the affidavit shall be retained in the borrower's file.

AUTH: 31-1-702, MCA
IMP: 31-1-723, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE I to ensure that licensees verify that a borrower has no other outstanding deferred deposit loans. An amendment made to 31-1-723(14), MCA, prohibits a licensee from entering into a deferred deposit loan with a customer who has an outstanding deferred deposit loan. This amendment was part of SB 165, which passed during the 2007 Regular Legislative Session.

NEW RULE II RESCINDED LOANS (1) The licensee shall keep separate records for all rescinded loans and retain those records according to records retention schedules as set by state or federal law, whichever is longer.

AUTH: 31-1-702, MCA

IMP: 31-1-714, 31-1-715, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE II to verify that licensees provide borrowers the right to rescind their loan as provided under 31-1-721(5)(a), MCA. Deferred deposit loan record retention requirements are set forth under 31-1-714, MCA. These requirements enable the division to determine if a licensee is complying with all provisions of the Montana Deferred Deposit Loan Act.

NEW RULE III EXAMINATIONS (1) Upon receiving a complaint or at its own discretion, the department may examine any office, place of business, or location where records may be found of any licensee or person who may be in violation of Title 31, chapter 1, part 7, MCA, or these rules. The department shall examine for compliance with the applicable state and federal law and all rules adopted thereunder.

(2) At the end of an examination, the department shall provide the examinee with an oral and written report which details the areas examined and any deficiencies found.

AUTH: 31-1-702, MCA

IMP: 31-1-711, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE III in order to clarify its authority and procedure in conducting examinations of licensed deferred deposit lenders. This authority and discretion to conduct these examinations is specifically authorized under 31-1-711, MCA.

NEW RULE IV SUSPENSION AND REVOCATION OF LICENSES (1) The department may suspend or revoke a license of an entity that does not correct the deficiencies found by the department after an examination within the time frame granted by the department.

AUTH: 31-1-702, MCA

IMP: 31-1-712, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE IV to ensure that licensees comply with the findings set forth with an examination. It is reasonably necessary that the division suspend or revoke a license if a deferred deposit lender does not take action to correct deficiencies identified in an examination. This authority has been provided for under 31-1-712, MCA.

NEW RULE V PROTECTION OF CONFIDENTIAL BORROWER

INFORMATION (1) All licensees shall adopt, implement, and ensure compliance with written guidance addressing safeguarding, proper destruction, and breach of confidential borrower information as required by:

(a) Title 30, chapter 14, part 17, MCA; and

(b) 16 CFR 314, as those rules were published in the May 23, 2002, Federal Register at 67 FR 36493 which are adopted and incorporated by reference. Copies are available from the Division of Banking and Financial Institutions, 301 South Park, P.O. Box 200546, Helena, MT 59620-0546.

(2) Any violation of this rule is grounds for fines, suspension, or revocation of license.

AUTH: 31-1-702, MCA

IMP: 31-1-702, MCA

REASON: It is reasonably necessary for the division to propose NEW RULE V in order to ensure that licensees safeguard customer information. This new rule will require licensees to properly dispose of this information so that a customer's personal information is not compromised. NEW RULE V affords greater protection to borrowers and sets forth that violation of this rule is grounds for enforcement action.

NEW RULE VI DEPARTMENT'S COST OF ADMINISTRATIVE ACTION

(1) The department may order reimbursement of its costs of bringing the administrative action which may include but are not limited to:

(a) examiner time charges;

(b) department legal counsel time charges;

(c) administrative law judge charges;

(d) court reporter costs;

(e) transcription fees;

(f) document preparation fees;

(g) other hearing costs; and

(h) transportation costs.

AUTH: 31-1-702, MCA

IMP: 31-1-712, MCA

REASON: It is reasonably necessary for the division to propose New Rule VI to clarify which types of costs may be reimbursed to the division in the course of bringing an administrative action against a deferred deposit lender. This reimbursement was authorized by an amendment made to 31-1-712, MCA. This amendment was part of Senate Bill 165, which was passed during the 2007 Regular Legislative Session.

NEW RULE VII POLICY TO IMPLEMENT LIMITATIONS ON TERMS OF CREDIT TO SERVICEMEMBERS AND DEPENDENTS (1) All licensees shall implement a policy applying the provisions of the limitation of terms of credit to

servicemembers and dependents as required by the John Warner National Defense Authorization Act for Fiscal Year 2007 Section 670, P.L. 109-364 which is adopted and incorporated by reference. Copies are available from the Division of Banking and Financial Institutions, 301 South Park, P.O. Box 200546, Helena, MT 59620-0546.

(2) Pursuant to that Act, any credit agreement, promissory note, or other contract prohibited by the Act is void from the inception.

AUTH: 31-1-702, MCA

IMP: 31-1-702, MCA

REASON: It is reasonably necessary for the division to propose New Rule VII in order to verify that licensees are complying with the provisions of the Defense Authorization Act, which will afford greater consumer protection to servicemembers and their dependents. This Act restricts fees that may be charged to servicemembers and their dependents by licensees.

NEW RULE VIII EXAMINATION FEES (1) If any examination fees are not paid within 30 days of the department's mailing of an invoice, the license of the deferred deposit lender may be suspended or revoked until the fees are paid.

AUTH: 31-1-702, MCA

IMP: 31-1-711, MCA

REASON: It is reasonably necessary for the division to propose New Rule VIII to ensure that a deferred deposit loan licensee remits payment for examinations conducted by the division in a timely manner. The division is authorized to charge an examination fee to licensees pursuant to 31-1-711, MCA.

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 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; e-mailed to kosullivan@mt.gov, and must be received no later than October 19, 2007.

6. Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, has been designated to preside over and conduct the hearing.

7. An electronic copy of this Proposal Notice is available through the Department of Administration's web site at <http://doa.mt.gov/AdministrativeRules.asp>. 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 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 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 which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Such written requests may be mailed or delivered to Christopher Romano, 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 cromano@mt.gov; or may be made by completing a request form at any rules hearing held by the Division of Banking and Financial Institutions.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. Senator John Brueggeman, the primary bill sponsor of SB 165 (2007), was notified on July 27, 2007, by regular mail.

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

By: /s/ Dal Smilie
Dal Smilie, Rule Reviewer
Department of Administration

Certified to the Secretary of State September 10, 2007.

BEFORE THE MONTANA STATE LIBRARY
OF THE STATE OF MONTANA

In the matter of the proposed repeal	)	NOTICE OF EXTENSION OF
of 10.102.8101 and 10.102.8102	)	COMMENT PERIOD ON
pertaining to depository procedures	)	PROPOSED REPEAL
for state documents)	

TO: All Concerned Persons

1. On August 9, 2007, the Montana State Library (department) published MAR Notice No. 10-100-11 regarding the proposed repeal of the above-stated rules, at page 1065 of the 2007 Montana Administrative Register, issue no. 15.

2. The department will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on September 27, 2007 to advise us of the nature of the accommodation that you need. Please contact Julie Stewart, Montana State Library, 1515 E. Sixth Avenue, Helena, Montana 59620; telephone (406) 444-3384; fax (406) 444-0266; or e-mail jstewart2@mt.gov.

3. The department hereby extends the comment period to October 1, 2007. - Due to an administrative oversight, the interested persons list was not notified within three days of publication of the Notice of Proposed Repeal.

4. Concerned persons may submit their data, views, or arguments to: Julie Stewart, Montana State Library, 1515 E. Sixth Avenue, Helena, Montana 59620; telephone (406) 444-3384; fax (406) 444-0266; or e-mail jstewart2@mt.gov, and must be received no later than 5:00 p.m., October 1, 2007.

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 Julie Stewart at the above address no later than 5:00 p.m., October 1, 2007.

6. If the agency receives requests for a public hearing on the proposed action from either 10% 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 18 based on approximately 150 state agency staff responsible for depositing state publications, six Montana State Library staff responsible for distribution of state

publications, and 20 staff of depository libraries responsible for receiving and processing state publications, for a total of approximately 176 directly affected.

7. 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, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Montana State Library administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to Julie Stewart, Montana State Library, 1515 E. Sixth Avenue, Helena, Montana 59620; telephone (406) 444-3384; fax (406) 444-0266; or e-mail jstewart2@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

/s/ DARLENE STAFFELDT
Darlene Staffeldt
Alternate Rule Reviewer

/s/ DARLENE STAFFELDT
Darlene Staffeldt
MONTANA STATE LIBRARY

Certified to the Secretary of State September 10, 2007.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF EXTENSION OF
17.30.617 and 17.30.638 pertaining to)	COMMENT PERIOD ON
outstanding resource water designation)	PROPOSED AMENDMENT
for the Gallatin River)	
)	(WATER QUALITY)

TO: All Concerned Persons

1. On October 5, 2006, the Board of Environmental Review published MAR Notice No. 17-254 regarding a notice of public hearing on the proposed amendment of the above-stated rules at page 2294, 2006 Montana Administrative Register, issue number 19. On March 22, 2007, the board published MAR Notice No. 17-257 regarding a notice of extension of comment period on proposed amendment of the above-stated rules at page 328, 2007 Montana Administrative Register, issue number 6.

2. During the initial comment period, the board received a number of comments opposing adoption of the proposed rule amendments on grounds that the amended rules would render a number of properties in the Big Sky area undevelopable. The draft environmental impact statement on the proposed rule amendments indicates that the rule amendments would not preclude full development in the Big Sky area if certain mechanisms, such as central sewers and advanced treatment, are implemented. However, the record did not indicate whether regulatory or other means to require or facilitate implementation of these mechanisms are feasible. At the close of the initial comment period, the board was notified that the original petitioners for this rulemaking and developers were discussing means of accomplishing this goal. For that reason, the board extended the comment period to July 2, 2007. The board has now received comments indicating that the discussions have been continuing, that progress is being made, and that an engineering feasibility study is underway. The commentators requested further extension of the comment period. The board has granted their request and is extending the comment period to January 4, 2008.

3. Written data, views, or arguments may be submitted to the board secretary at Board of Environmental Review, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to ber@mt.gov, no later than January 4, 2008. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

4. The board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking action or need an alternative accessible format of this notice. If you require an accommodation, contact the board no later than 5:00 p.m., October 1, 2007, to advise us of the nature of the accommodation that you need. Please contact the board secretary at P.O. Box

200901, Helena, Montana 59620-0901; phone (406) 444-2544; fax (406) 444-4386;
or e-mail ber@mt.gov.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North
JOHN F. NORTH
Rule Reviewer

BY: /s/ Joseph W. Russell
JOSEPH W. RUSSELL, M.P.H.
Chairman

Certified to the Secretary of State, September 10, 2007.

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

In the matter of the amendment of ARM	)	NOTICE OF PUBLIC HEARING
37.86.702, 37.86.805, 37.86.1001,	)	ON PROPOSED AMENDMENT
37.86.1004, 37.86.1005, 37.86.1006,)	
37.86.1105, 37.86.1506, 37.86.1807,)	
37.86.2105, 37.86.2205, 37.86.2207,)	
37.86.2402, 37.86.2405, 37.86.2505,)	
and 37.86.2605 pertaining to audiology)	
services, dental, outpatient drug)	
services, home infusion therapy,)	
durable medical equipment and)	
medical supplies, optometric services,)	
EPSDT, transportation, and ambulance)	
services)	

TO: All Interested Persons

1. On October 10, 2007, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing in the Sapphire Room, 2401 Colonial Drive, Helena, Montana, to consider the proposed amendment of the above-stated rules.

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 (including reasonable accommodations at the hearing site) or who need an alternative accessible format of this notice. If you need an accommodation, contact the department no later than 5:00 p.m. on October 1, 2007. Please contact Rhonda Lesofski, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210; telephone (406)444-4094; fax (406)444-1970; e-mail dphhslegal@mt.gov.

3. The rules as proposed to be amended provide as follows. New matter is underlined. Matter to be deleted is interlined.

37.86.702 AUDIOLOGY SERVICES, SERVICE REQUIREMENTS AND RESTRICTIONS (1) through (5) remain the same.

(6) Basic audio assessments must include for each ear under earphones:

(a) and (b) remain the same.

(c) Speech discrimination (word recognition) test under PB max conditions, and either pure tone bone conduction thresholds at the frequencies specified in (6)(a), or tympanometry, including tympanogram, acoustic reflexes, and static compliance. ~~A hearing aid fitting must include either sound field testing in an appropriate acoustic environment or real ear measurements to determine adequacy of fit of the hearing aid for the recipient's needs. A hearing aid fitting must include at~~

~~least one follow-up visit and warranty coverage for the hearing aid for a period of at least two years.~~

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

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

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

37.86.805 HEARING AID SERVICES, REIMBURSEMENT (1) The department will pay the lower of the following for covered hearing aid services and items:

(a) remains the same.

(b) the amount specified for the particular service or item in the department's fee schedule. The department adopts and incorporates by reference the department's fee schedule dated ~~January 2005~~ October 2007 ~~which sets forth the reimbursement rates for hearing aid services.~~ A copy of the department's fee schedule is posted at <http://medicaidprovider.hhs.mt.gov>. A copy of the department's fee schedule may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(2) remains the same.

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

IMP: 53-6-101, 53-6-113, 53-6-141, MCA

37.86.1001 DENTAL SERVICES, DEFINITIONS For purposes of this subchapter, the following definitions apply:

(1) "By-report method" means the department reimburses a percent of the provider's usual and customary charges for a procedure code for which no fee has been assigned.

(1) through (6) remain the same but are renumbered (2) through (7).

AUTH: 53-6-113, MCA

IMP: 53-6-101, 53-6-141, MCA

37.86.1004 REIMBURSEMENT METHODOLOGY FOR SOURCE BASED RELATIVE VALUE FOR DENTISTS (1) For procedures listed in the relative values for dentists scale, reimbursement rates shall be determined using the following methodology:

(a) The fee for a covered service shall be the amount determined by multiplying the relative value unit specified in the relative values for dentists scale by the conversion factor specified in (1)(b) ~~or (c)~~. The department adopts and incorporates by reference the relative values for dentists scale published in ~~2004 for use in 2005 and 2006~~ 2007. Copies of the relative values for dentists scale are available upon request from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(b) The conversion factor used to determine the Medicaid payment amount

for services provided to eligible individuals age ~~18 and above~~ is ~~\$21.77~~ is \$30.85.

~~(c) The conversion factor used to determine the Medicaid payment amount for services provided to eligible individuals age 17 and under is \$28.30.~~

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.86.1005 DENTAL SERVICES, REIMBURSEMENT (1) through (1)(b) remain the same.

(2) For dental services that are not listed in the RVD scale, the department shall pay the lowest of the following for dental services covered by the Medicaid program:

(a) remains the same.

(b) the amount determined using the by-report method as 85% of the provider's approved usual and customary charge for the service, follows:

~~(i) for covered dental services provided to persons age 18 and over, 65.2% of the provider's usual and customary charge for the service;~~

~~(ii) for covered dental services provided to persons age 17 and under, 80% of the provider's usual and customary charge for the service.~~

~~(3) Reimbursement for services delivered to adults is the fee specified in the fee schedule or, if reimbursement is based on the "by report" method, 65.2% of the provider's usual and customary charge for the service. Services delivered to adults are services provided while the recipient is age 21 and over.~~

~~(4) Reimbursement for services delivered to a child is the fee specified in the fee schedule or, if reimbursement is based on the "by report" method, 80% of the provider's usual and customary charge for the service. Services delivered to children are services provided while the recipient is up to and including age 17.~~

~~(5) Reimbursement for services delivered to individuals age 18 through 20 is the fee specified in the fee schedule for adults, or if reimbursement is based on the "by report" method 80% of the provider's usual and customary charge for the service.~~

(6) through (9) remain the same but are renumbered (3) through (6).

~~(4)~~ (7) Payment for orthodontia will be as follows:

(a) Full band orthodontia for Medicaid recipients who have cleft lip/palate, craniofacial anomalies or malocclusions caused by traumatic injury and interceptive orthodontia for Medicaid recipients who have posterior crossbite with shift, anterior crossbite and/or anterior deep bite at 80% or greater vertical incisor overbite, will be reimbursed at 85% of the provider's usual and customary charge, subject to the maximum allowable charge as published in the department's Orthodontic Coverage and Reimbursement Guidelines, December 1999 Dental and Denturist Program Provider Manual effective October 2007.

(b) and (c) remain the same.

(d) Maximum allowable charges for each phase of orthodontic treatment, time lines for orthodontic phases of care, and the services included in each phase of orthodontic care are listed in the department's Orthodontic Coverage and Reimbursement Guidelines Dental and Denturist Program Provider Manual. The department hereby adopts and incorporates herein by reference the department's

~~Orthodontic Coverage and Reimbursement Guidelines updated through December 1999~~ Dental and Denturist Program Provider Manual effective October 2007. The guidelines, issued by the department to all providers of orthodontic services, inform providers of the requirements applicable to the delivery of services. A copy of the department's ~~Orthodontic Coverage and Reimbursement Guidelines~~ Dental and Denturist Program Provider Manual is available from the Department of Public Health and Human Services, Health Resources Division, ~~Acute Services Bureau~~, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

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

IMP: 53-6-101, 53-6-113, 53-6-141, MCA

37.86.1006 DENTAL SERVICES, COVERED PROCEDURES (1) For purposes of specifying coverage of dental services through the Medicaid program, the department adopts and incorporates by reference the Dental and Denturist ~~Services Program~~ Provider Manual effective ~~July 2006~~ October 2007. The Dental and Denturist ~~Services Program~~ Provider Manual, ~~provided to providers of those services~~, informs the providers of the requirements applicable to the delivery of services. Copies of the manual are available on the Montana Medicaid provider web site at ~~www.dphhs.mt.gov~~ http://medicaidprovider.hhs.mt.gov and from the Department of Public Health and Human Services, Health Resources Division, ~~Acute Services Bureau~~, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(2) Dentists who are Medicaid provider participants under ARM 37.85.401 may bill medical CPT procedure codes as provided in ARM 37.85.212 and 37.86.101 for any Medicaid covered medical procedure that they are allowed to provide under the Dental Practice Act that is not otherwise listed in the Dental and Denturist ~~Services Program~~ Provider Manual.

(3) through (10) remain the same.

(11) Full band orthodontia for recipients 21 and younger who have malocclusion caused by traumatic injury or needed as part of treatment for a medical condition with orthodontic implications are covered in the department's ~~Orthodontic Coverage and Reimbursement Guidelines, published December 1999~~ Dental and Denturist Program Provider Manual. ~~The department adopts and incorporates by reference the department's Orthodontic Coverage and Reimbursement Guidelines updated through December 1999. The guidelines, issued by the department to all providers of orthodontic services, informs providers of the requirements applicable to the delivery of services. A copy of the department's Orthodontic Coverage and Reimbursement Guidelines is available from the Department of Public Health and Human Services, Health Resources Division, Acute Services Bureau, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

(12) through (17) remain the same.

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

IMP: 53-6-101, 53-6-113, MCA

37.86.1105 OUTPATIENT DRUGS, REIMBURSEMENT (1) remains the same.

(2) The dispensing fee for filling prescriptions shall be determined for each pharmacy provider annually.

(a) remains the same.

(b) The dispensing fees assigned shall range between a minimum of \$2.00 and a maximum of ~~\$4.70~~ \$4.86.

(c) and (d) remain the same.

(3) In-state pharmacy providers that are new to the Montana Medicaid program will be assigned an interim \$3.50 dispensing fee until a dispensing fee questionnaire, as provided in (2), can be completed for six months of operation. At that time, a new dispensing fee will be assigned which will be the lower of the dispensing fee calculated in accordance with (2) for the pharmacy or the ~~\$4.70~~ \$4.86 dispensing fee. Failure to comply with the six months dispensing fee questionnaire requirement will result in assignment of a dispensing fee of \$2.00.

(4) through (7) remain the same.

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

IMP: 53-6-101, 53-6-113, 53-6-141, MCA

37.86.1506 HOME INFUSION THERAPY SERVICES, REIMBURSEMENT

(1) Subject to the requirements of these rules, the Montana Medicaid program will pay for home infusion therapy services on a fee basis, as specified in the department's home infusion therapy services fee schedule. The department adopts and incorporates by reference the Home Infusion Therapy Services Fee Schedule dated ~~April 2004~~ October 2007. A copy of the department's fee schedule is posted at the Montana Medicaid provider web site at <http://medicaidprovider.hhs.mt.gov>. A copy of the Home Infusion Therapy Services Fee Schedule may also be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951. The specified fees are on a per day or a per dose basis as specified in the fee schedule. The fees are bundled fees which cover all home infusion therapy services as defined in ARM 37.86.1501.

(2) through (4)(c) remain the same.

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

IMP: 53-6-101, 53-6-113, MCA

37.86.1807 PROSTHETIC DEVICES, DURABLE MEDICAL EQUIPMENT, AND MEDICAL SUPPLIES, FEE SCHEDULE (1) remains the same.

(2) Prosthetic devices, durable medical equipment, and medical supplies shall be reimbursed in accordance with the department's Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Fee Schedule, effective ~~July 2006~~ October 2007, which is adopted and incorporated by reference. A copy of the department's fee schedule is posted at the Montana Medicaid provider web site at <http://medicaidprovider.hhs.mt.gov>. A copy of the department's Prosthetic Devices, Durable Medical Equipment, and Medical Supplies Fee Schedule may also be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(3) through (4) remain the same.

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, 53-6-141, MCA

37.86.2105 EYEGLASSES, REIMBURSEMENT (1) through (2)(a)(ii) remain the same.

(3) The department adopts and incorporates by reference the department's Eyeglasses Fee Schedule effective ~~July 2006~~ July 2007 ~~which sets forth the reimbursement rates for eyeglasses, dispensing services and other related supplies for optometric services.~~ A copy of the department's fee schedule is posted at the the Montana Medicaid provider web site at <http://medicaidprovider.hhs.mt.gov>. A copy of the department's fee schedule may also be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

AUTH: 53-6-113, MCA

IMP: 53-6-101, 53-6-113, 53-6-141, MCA

37.86.2205 EARLY AND PERIODIC SCREENING, DIAGNOSTIC AND TREATMENT SERVICES (EPSDT), REQUIRED SCREENING AND PREVENTIVE SERVICES (1) through (3) remain the same.

(4) The department ~~hereby~~ adopts and incorporates ~~herein~~ by reference the department's provider manual dated November 2006 posted at <http://medicaidprovider.hhs.mt.gov> ~~updated through June 2000~~. The provider manual, issued by the department to all providers of EPSDT services, informs providers of the requirements applicable to the delivery of services. A copy of the department's EPSDT provider manual is available from the Department of Public Health and Human Services, Health Resources Division, Medicaid Services Bureau, 1400 Broadway, P.O. Box 202951, Helena, MT, 59620-2951.

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

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

37.86.2207 EARLY AND PERIODIC SCREENING, DIAGNOSTIC AND TREATMENT SERVICES (EPSDT), REIMBURSEMENT (1) Reimbursement for an EPSDT service, except as otherwise provided in this rule, is the lowest of the following:

(a) through (c) remain the same.

(d) for public agencies, cost based reimbursement as determined in accordance with OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments as established and approved by the department. The department adopts and incorporates by reference the OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments, as further amended August 29, 1997. A copy of OMB Circular A-87 may be obtained from the Department of Public Health and Human Services, Health Resources Division, ~~Managed Care Bureau~~, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(2) Reimbursement for outpatient chemical dependency treatment, nutrition, and private duty nursing services is specified in the department's ~~EPSDT~~ fee schedule. This cross reference does not outline reimbursement. The department adopts and incorporates by reference the department's private duty nursing services EPSDT Fee Schedule dated July 2003 January 2007 and the nutrition EPSDT Fee Schedule dated July 2006. The fee schedules are posted at <http://medicaidprovider.hhs.mt.gov>. Reimbursement for outpatient chemical dependency treatment is outlined in ARM 37.27.912. A copy of the fee schedule may be obtained from the Department of Public Health and Human Services, Health Resources Division, ~~Children's Mental Health Bureau~~, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(3) Reimbursement for the therapeutic portion of therapeutic youth group home treatment services is the lesser of:

(a) the amount specified in the department's Medicaid Mental Health Fee Schedule. The department adopts and incorporates by reference the department's Medicaid Mental Health and Mental Health Services Plan, Individuals Under 18 Years of Age Fee Schedule dated July 15, 2005. A copy of the fee schedule may be obtained from the Department of Public Health and Human Services, Health Resources Division, ~~Children's Mental Health Bureau~~, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951; or

(b) through (8) remain the same.

(9) Reimbursements for school based health related services are specified in the School Based Health Service Fee Schedule dated ~~September 1, 2005~~ October 2007 posted at <http://medicaidprovider.hhs.mt.gov>. Rates are 90% of the fees as specified in (1)(a) through (d), adjusted to reimburse these services at the federal matching assistance percentage (FMAP) rate.

(10) The department will not reimburse providers for two services that duplicate one another on the same day. The department adopts and incorporates by reference the Medicaid Children's Mental Health Plan and Children's Mental Health Services Plan (CHMSP) Services Excluded from Simultaneous Reimbursement dated September 1, 2005. A copy of the CHMSP Services Excluded from Simultaneous Reimbursement is posted on the internet at the department's ~~home page~~ web site at www.dphhs.mt.gov/mentalhealth/children/childrensmentalhealthservicesmatrix.pdf or may be obtained by writing the Department of Public Health and Human Services, Health Resources Division, ~~Children's Mental Health Bureau~~, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(11) Information regarding current reimbursement or copies of fee schedules for EPSDT services may be obtained from the Department of Public Health and Human Services, Health Resources Division, ~~Managed Care Bureau~~, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

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

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

37.86.2402 TRANSPORTATION AND PER DIEM, REQUIREMENTS

(1) and (2) remain the same.

(3) Coverage for transportation and per diem is only available for

transportation and per diem to the site of medical services at the provider closest to the locality of the recipient or to a preferred out-of-state hospital, as defined in ARM 37.86.2901, if prior authorization requirements have been met.

(a) through (15)(h) remain the same.

AUTH: 53-6-113, MCA

IMP: 53-6-101, 53-6-141, MCA

37.86.2405 TRANSPORTATION AND PER DIEM, REIMBURSEMENT

(1) through (1)(b) remain the same.

(2) The department adopts and incorporates by reference the department's Personal Transportation Fee Schedule effective ~~July 2006~~ November 2006 which sets forth the reimbursement rates for transportation, per diem, and other Medicaid services. A copy of the department's fee schedule is posted at the Montana Medicaid provider web site at <http://medicaidprovider.hhs.mt.gov>. A copy of the fee schedule may also be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(3) and (4) remain the same.

(5) Mileage for transportation in a personally owned vehicle is reimbursed at the rate of ~~\$.13~~ \$0.22 per mile.

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

IMP: 53-6-101, 53-6-113, 53-6-141, MCA

37.86.2505 SPECIALIZED NONEMERGENCY MEDICAL TRANSPORTATION, REIMBURSEMENT (1) through (1)(b) remain the same.

(2) The department ~~hereby~~ adopts and incorporates by reference the department's fee schedule dated ~~July 2003~~ November 2006 which sets forth the reimbursement rates for specialized nonemergency medical transportation services and other Medicaid services. A copy of the fee schedule is posted at the Montana Medicaid provider web site at <http://medicaidprovider.hhs.mt.gov>. A copy of the department's fee schedule may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

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

IMP: 53-6-101, 53-6-113, 53-6-141, MCA

37.86.2605 AMBULANCE SERVICES, REIMBURSEMENT (1) through (1)(b) remain the same.

(2) The department adopts and incorporates by reference the department's Ambulance Fee Schedule effective ~~July 2006~~ October 2007 ~~which sets forth the reimbursement rates for ambulance services and other Medicaid services.~~ A copy of the fee schedule is posted at the Montana Medicaid provider web site at <http://medicaidprovider.hhs.mt.gov>. A copy of the department's fee schedule may also be obtained from the Department of Public Health and Human Services, Health

Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.
(3) through (4) remain the same.

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

IMP: 53-6-101, 53-6-113, 53-6-141, MCA

4. The Montana Medicaid program provides medical assistance to low income and disabled residents of Montana. The state of Montana and the federal government jointly fund the program. These rule amendments are necessary to: 1) increase Medicaid provider fees for hearing aid services, home infusion therapy durable medical equipment, ambulance services, dental services, and private duty nursing as authorized by the 2007 Legislature; 2) edit to improve clarity of writing and to update the reference to current fee schedule dates; 3) update the reference to provider manual dates to the most current version; 4) increase the maximum dispensing fee for pharmacy providers; 5) allow transportation to some preferred hospitals with prior approval, rather than the closest facility; and 6) update the mileage rate for some transportation providers. These rule changes impact approximately 84,000 Medicaid clients and 6,000 providers.

ARM 37.86.702

ARM 37.86.702 is amended to remove redundant language. The deleted language also appears in ARM 37.86.702(7). This change has no substantive effect.

ARM 37.86.805(1), 37.86.1506(1), 37.86.1807(2), 37.86.2207(2), and 37.86.2605(2)

These rules are amended to update the references to the fee schedule for hearing aid services, home infusion therapy, durable medical equipment, and ambulance service providers (for nontransportation costs only). The updated fee schedules effective October 1, 2007, establish the current provider fees authorized in House Bill 2 (HB 2) of the 2007 special session. The proposed fee schedules are available on the department's web site. The proposed rate increases will have a general fund impact of \$116,000 in state funds and \$253,000 in federal funds for SFY 2008 and a general fund impact of \$226,000 in state funds and \$492,000 in federal funds for SFY 2009.

ARM 37.86.1001, 37.86.1004, and 37.86.1005

ARM 37.86.1001 is amended to add a definition of the "by-report" method of reimbursement. ARM 37.86.1004 is amended to update the reference of the relative values for dentists' scale from 2004 to 2007. The rule is also amended to increase the conversion factor for dental services to \$30.85 and adopt one conversion factor for Medicaid recipients regardless of age. ARM 37.86.1005(3) is amended to set the provider rate for dental fees that are not listed in the relative value for dentists scale (RVD) to a uniform by-report methodology of 85% of the providers' approved usual and customary charges. Prior to this change the rate was set at 62.5%, for adults, and 80%, for children, of the providers' usual and customary charges. This

amendment in conjunction with the amendment to ARM 37.86.1004 will have a fiscal impact of \$462,000 state general fund and \$1,000,000 in federal funds for SFY 2008 and \$508,000 state general fund \$1,105,000 in federal funds for SFY 2009.

ARM 37.86.1006

ARM 37.86.1006 amends the reference to the department's Dental and Denturist Program Provider Manual, which is posted on the department's web site. This change is expected to have no fiscal impact to the department and no material effects on Medicaid recipients or Medicaid providers.

ARM 37.86.1105

ARM 37.86.1105(2)(b) and (3) are amended to increase the maximum dispensing fee for Montana Medicaid pharmacy providers from \$4.70 to \$4.86. The proposed rate increase will have an estimated general fund impact of \$32,000 in state funds and \$69,000 in federal funds for SFY 2008 and \$61,000 in state fund and \$133,000 in federal funds for SFY 2009.

ARM 37.86.2105

ARM 37.86.2105 is amended to update references to the current fee schedules for eyeglass providers posted on the department's web site in a manner which allows for specificity in the reference. There is no fiscal impact.

ARM 37.86.2205

ARM 37.86.2205(4) is amended to update references to the current provider manual for EPSDT services on the department's web site. This change has no fiscal impact.

ARM 37.86.2207

ARM 37.86.2207 states the EPSDT fee schedule for reimbursement of outpatient chemical dependency treatment, nutrition, and private duty nursing services. ARM 37.86.2207(2) is amended to increase the Private Duty Nursing fee schedule because the previous rates were not competitive enough to provide sufficient coverage. The department is committed to ensuring there is a well-staffed pool of nurses to deliver care to Medicaid recipients. The private duty nursing rate was implemented incrementally, first on January 1, 2007 and again on July 1, 2007. Estimated general fund cost for the increase to the private duty nursing rate is \$678,000 in state funds and \$1,477,00 in federal funds for SFY 2008, and \$790,000 in state funds and \$1,721,000 in federal funds for SFY 2009.

ARM 37.86.2207 is also being amended to remove the reference to a fee schedule for outpatient chemical dependency treatment. Provider information regarding instructions for determination of eligibility for services and billing outpatient chemical dependency treatment is now found at ARM 37.27.912.

ARM 37.86.2207(9) regarding school-based service providers is being amended to update the fee schedule date. There is no fiscal impact to the Montana Medicaid program because school-based services are funded through state appropriations to education and are reimbursed at the FMAP rate, which changes each October.

ARM 37.86.2402

ARM 37.86.2402 provides for the payment of transportation costs for certain Medicaid recipient required travel. The amendment to ARM 37.86.2402(3) allows the payment of certain travel costs to preferred hospitals upon prior authorization, rather than only to "the site of medical services at the provider closest to the locality of the recipient". The rule change allows the payment of transportation costs for clients to a preferred hospital rather than the closest facility when the department finds the preferred hospital is the better choice. Payment decisions will be made using the prior authorization process already in place in collaboration with the Health Resources Division's Hospital and Clinical Services Bureau.

The department reimburses approximately 125 out-of-state facilities per year for both outpatient and inpatient services. Generally, only 45 of these facilities provide inpatient services with ten providing the vast majority of the services on a regular basis. The services provided by these facilities are usually cancer, burn, trauma, transplant, or surgical services that cannot be provided at a Montana facility. Since March 2002, the department has required prior authorization for out-of-state inpatient services.

ARM 37.86.2405 and 37.86.2505

ARM 37.86.2405 states the mileage rate for some transportation reimbursement. The mileage reimbursement for transportation in a personally owned vehicle is changed from \$0.13 to \$0.22. The transportation increase was effective on November 1, 2006. The previous rate was set in 2002. Estimated general fund impact for the change to the transportation rules ARM 37.86.2402(3) and 37.86.2405(2) and (5), and also ARM 37.86.2505(2) is expected to be \$303,291 for SFY 2008 and \$303,291 for SFY 2009 in general funds.

5. The bill sponsor notice requirements of 2-4-302, MCA, do not apply. This proposal notice does not initially implement new or amended legislation.

6. Interested persons may submit comments orally or in writing at the hearing. Written comments may also be submitted to Rhonda Lesofski, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210, no later than 5:00 p.m. on October 18, 2007. Comments may also be faxed to (406)444-1970 or e-mailed to dphhslegal@mt.gov. The department maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. To be included on such a list, please notify this same person or complete a request form at the hearing.

7. 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 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. The web site may be unavailable at times, due to system maintenance or technical problems.

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

/s/ Geralyn Driscoll
Rule Reviewer

/s/ John Chappuis for
Director, Public Health and
Human Services

Certified to the Secretary of State September 10, 2007.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the proposed amendment of	)	NOTICE OF PUBLIC
ARM 42.21.113, 42.21.123, 42.21.131,	)	HEARING ON PROPOSED
42.21.137, 42.21.138, 42.21.139, 42.21.140,	)	AMENDMENT AND REPEAL
42.21.151, 42.21.153, 42.21.155,)
42.22.1311, and repeal of ARM 42.21.112)
relating to personal, industrial, and centrally)
assessed property taxes)

TO: All Concerned Persons

1. On October 11, 2007, at 9:00 a.m., a public hearing will be held in the Director's Office (Fourth Floor) Conference Room of the Sam W. Mitchell Building, at Helena, Montana, to consider the amendment and repeal of the above-stated rules.

Individuals planning to attend the hearing shall enter the building through the east doors of the Sam W. Mitchell Building, 125 North Roberts, Helena, Montana.

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 of Revenue no later than 5:00 p.m., October 5, 2007, to advise us of the nature of the accommodation that you need. Please contact Cleo Anderson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-5828; fax (406) 444-3696; or e-mail canderson@mt.gov.

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

42.21.113 LEASED AND RENTAL EQUIPMENT (1) Leased or rental equipment that is leased or rented on an hourly, daily, or weekly basis, but is not exempt under 15-6-201(1)(cc), MCA, will be valued in the following manner:

(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>
2006	70%
2005	43%
2004	19%
2003 and older	8%

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2007	70%
2006	43%

<u>2005</u>	<u>18%</u>
<u>2004 and older</u>	<u>9%</u>

(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>
<u>2006</u>	<u>85%</u>
<u>2005</u>	<u>69%</u>
<u>2004</u>	<u>53%</u>
<u>2003</u>	<u>35%</u>
<u>2002 and older</u>	<u>20%</u>

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
<u>2007</u>	<u>85%</u>
<u>2006</u>	<u>69%</u>
<u>2005</u>	<u>52%</u>
<u>2004</u>	<u>34%</u>
<u>2003 and older</u>	<u>20%</u>

(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>
<u>2006</u>	<u>92%</u>
<u>2005</u>	<u>87%</u>
<u>2004</u>	<u>81%</u>
<u>2003</u>	<u>72%</u>
<u>2002</u>	<u>63%</u>
<u>2001</u>	<u>54%</u>
<u>2000</u>	<u>43%</u>
<u>1999</u>	<u>34%</u>
<u>1998</u>	<u>27%</u>
<u>1997 and older</u>	<u>23%</u>

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
<u>2007</u>	<u>92%</u>
<u>2006</u>	<u>86%</u>
<u>2005</u>	<u>81%</u>
<u>2004</u>	<u>74%</u>
<u>2003</u>	<u>64%</u>
<u>2002</u>	<u>55%</u>
<u>2001</u>	<u>44%</u>
<u>2000</u>	<u>34%</u>
<u>1999</u>	<u>28%</u>

1998 and older 23%

(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>
2007	80%
2006	65%
2005	58%
2004	54%
2003	49%
2002	44%
2001	40%
2000	36%
1999	32%
1998	31%
1997	29%
1996	28%
1995	27%
1994	26%
1993	26%
1992	25%
1991	24%
1990	24%
1989	23%
1988 and older	23%

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2008	80%
2007	65%
2006	58%
2005	55%
2004	50%
2003	45%
2002	42%
2001	38%
2000	35%
1999	32%
1998	30%
1997	30%
1996	29%
1995	29%
1994	27%
1993	25%
1992	24%
1991	23%

<u>1990</u>	<u>23%</u>
<u>1989 and older</u>	<u>22%</u>

(e) For rental video tapes the following schedule will be used:

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
<u>2006</u>	<u>25%</u>
<u>2005</u>	<u>15%</u>
<u>2004 and older</u>	<u>10%</u>

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
<u>2007</u>	<u>25%</u>
<u>2006</u>	<u>15%</u>
<u>2005 and older</u>	<u>10%</u>

(2) through (4) remain the same.

(5) This rule is effective for tax years beginning after December 31, 2006
2007.

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

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, 15-24-921, 15-24-922, 15-24-925, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.21.113 to clarify through the trend tables how the department arrives at market value as required by 15-8-111, MCA. Annually, the department updates these schedules to inform taxpayers of the current percentages used by the department when valuing and taxing their property. To determine the market value of personal property, the department has historically used and adopted the concept of trending and depreciation. The method by which trended depreciation schedules are derived is described in the existing rule, and that method is not being changed. The First Judicial District Court indicated in 1986 that the department must publish these trend tables annually and these amendments are in compliance with that order.

42.21.123 FARM MACHINERY AND EQUIPMENT (1) through (4) remain the same.

(5) The trended depreciation schedule referred to in (2) through (4) is listed below and shall be used for tax year 2007 2008. The schedule is derived by using the guidebook listed in (1) 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</u> <u>AVERAGE WHOLESALE</u>
<u>2007</u>	<u>80%</u>
<u>2006</u>	<u>70%</u>
<u>2005</u>	<u>65%</u>
<u>2004</u>	<u>65%</u>

2003	62%
2002	55%
2001	51%
2000	46%
1999	42%
1998	40%
1997	38%
1996	35%
1995	35%
1994	30%
1993	28%
1992	26%
1991	26%
1990 and older	24%

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD AVERAGE WHOLESALE</u>
<u>2008</u>	<u>80%</u>
<u>2007</u>	<u>75%</u>
<u>2006</u>	<u>70%</u>
<u>2005</u>	<u>70%</u>
<u>2004</u>	<u>67%</u>
<u>2003</u>	<u>59%</u>
<u>2002</u>	<u>52%</u>
<u>2001</u>	<u>48%</u>
<u>2000</u>	<u>44%</u>
<u>1999</u>	<u>39%</u>
<u>1998</u>	<u>38%</u>
<u>1997</u>	<u>36%</u>
<u>1996</u>	<u>33%</u>
<u>1995</u>	<u>33%</u>
<u>1994</u>	<u>28%</u>
<u>1993</u>	<u>26%</u>
<u>1992 and older</u>	<u>25%</u>

(6) remains the same.

(7) This rule is effective for tax years beginning after December 31, 2006
2007.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, 15-24-921, 15-24-922, 15-24-925, MCA

REASONABLE NECESSITY: See the reasonable necessity for ARM 42.21.113.

42.21.131 HEAVY EQUIPMENT (1) through (4) remain the same.

(5) The trended depreciation schedule referred to in (2), (3), and (4) is listed

below and shall be used for tax year 2007 2008. The values derived through the use of these percentages approximate the "quick sale" values as calculated in the guidebooks listed in (1).

HEAVY EQUIPMENT TRENDED DEPRECIATION SCHEDULE

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD WHOLESALE</u>
2007	80%
2006	65%
2005	58%
2004	54%
2003	49%
2002	44%
2001	40%
2000	36%
1999	32%
1998	31%
1997	29%
1996	28%
1995	27%
1994	26%
1993	26%
1992	25%
1991	24%
1990	24%
1989	23%
1988 and older	23%

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD WHOLESALE</u>
<u>2008</u>	<u>80%</u>
<u>2007</u>	<u>65%</u>
<u>2006</u>	<u>58%</u>
<u>2005</u>	<u>55%</u>
<u>2004</u>	<u>50%</u>
<u>2003</u>	<u>45%</u>
<u>2002</u>	<u>42%</u>
<u>2001</u>	<u>38%</u>
<u>2000</u>	<u>35%</u>
<u>1999</u>	<u>32%</u>
<u>1998</u>	<u>30%</u>
<u>1997</u>	<u>30%</u>
<u>1996</u>	<u>29%</u>
<u>1995</u>	<u>29%</u>
<u>1994</u>	<u>27%</u>
<u>1993</u>	<u>25%</u>

<u>1992</u>	<u>24%</u>
<u>1991</u>	<u>23%</u>
<u>1990</u>	<u>23%</u>
<u>1989 and older</u>	<u>22%</u>

(6) This rule is effective for tax years beginning after December 31, ~~2006~~ 2007, and applies to all heavy equipment.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, 15-24-921, 15-24-922, 15-24-925, MCA

REASONABLE NECESSITY: See the reasonable necessity for ARM 42.21.113.

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 ~~2007~~ 2008.

SEISMOGRAPH UNIT

<u>YEAR/NEW</u> <u>ACQUIRED</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>
2007	100%	1.000	100%	80%	80%
2006	85%	1.000	85%	80%	68%
2005	69%	1.041	72%	80%	57%
2004	52%	1.130	59%	80%	47%
2003	34%	1.169	40%	80%	32%
2002	20%	1.193	24%	80%	19%
2001	5%	1.199	6%	80%	5%
and older					
2008	100%	1.000	100%	80%	80%
2007	85%	1.000	85%	80%	68%
2006	69%	1.053	73%	80%	58%
2005	52%	1.106	58%	80%	46%
2004	34%	1.200	41%	80%	33%
2003	20%	1.242	25%	80%	20%
2002	5%	1.267	6%	80%	5%
and older					

SEISMOGRAPH ALLIED EQUIPMENT

<u>YEAR/NEW</u> <u>ACQUIRED</u>	<u>% GOOD</u>	<u>TREND</u> <u>FACTOR</u>	<u>TRENDED</u> <u>% GOOD</u>
2007	100%	1.000	100%
2006	85%	1.000	85%

2005	69%	1.041	72%
2004	52%	1.130	59%
2003	34%	1.169	40%
2002	20%	1.193	24%
2001	5%	1.199	6%

and older

2008	100%	1.000	100%
2007	85%	1.000	85%
2006	69%	1.053	73%
2005	52%	1.106	58%
2004	34%	1.200	41%
2003	20%	1.242	25%
2002	5%	1.267	6%

and older

(5) This rule is effective for tax years beginning after December 31, 2006 2007.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, 15-24-921, 15-24-922, 15-24-925, MCA

REASONABLE NECESSITY: See the reasonable necessity for ARM 42.21.113.

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 ~~2007~~ 2008.

OIL AND GAS FIELD PRODUCTION EQUIPMENT TRENDED DEPRECIATION SCHEDULE

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2007	100%	1.000	100%
2006	95%	1.000	95%
2005	90%	1.041	94%
2004	85%	1.130	96%
2003	79%	1.169	92%
2002	73%	1.193	87%
2001	68%	1.199	82%
2000	62%	1.211	75%
1999	55%	1.230	68%
1998	49%	1.237	61%
1997	43%	1.249	54%
1996	37%	1.265	47%

1995	31%	1.290	40%
1994	26%	1.338	35%
1993	23%	1.365	31%
1992	20%	1.383	28%
and older			

2008	100%	1.000	100%
2007	95%	1.000	95%
2006	90%	1.053	95%
2005	85%	1.106	94%
2004	79%	1.200	95%
2003	73%	1.242	91%
2002	68%	1.267	86%
2001	62%	1.274	79%
2000	55%	1.286	71%
1999	49%	1.307	64%
1998	43%	1.313	56%
1997	37%	1.327	49%
1996	31%	1.344	42%
1995	26%	1.370	36%
1994	23%	1.421	33%
1993	20%	1.450	29%
and older			

(4) and (5) remain the same.

(6) This rule is effective for tax years beginning after December 31, 2006

2007.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-213, 15-6-219, 15-24-921, 15-24-922, 15-24-925, MCA

REASONABLE NECESSITY: See the reasonable necessity for ARM 42.21.113.

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 ~~2007~~ 2008.

SERVICE AND WORKOVER RIG TRENDED DEPRECIATION SCHEDULE

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>WHOLESALE FACTOR</u>	<u>TRENDED WHOLESALE % GOOD</u>
2007	100%	1.000	80%	80%
2006	92%	1.000	80%	74%
2005	84%	1.041	80%	70%

2004	76%	1.130	80%	69%
2003	67%	1.169	80%	63%
2002	58%	1.193	80%	55%
2001	49%	1.199	80%	47%
2000	39%	1.211	80%	38%
1999	30%	1.230	80%	30%
1998	24%	1.237	80%	24%
1997	20%	1.249	80%	20%
and older				

2008	100%	1.000	80%	80%
2007	92%	1.000	80%	74%
2006	84%	1.053	80%	71%
2005	76%	1.106	80%	67%
2004	67%	1.200	80%	64%
2003	58%	1.242	80%	58%
2002	49%	1.267	80%	50%
2001	39%	1.274	80%	40%
2000	30%	1.286	80%	31%
1999	24%	1.307	80%	25%
1998	20%	1.313	80%	21%
and older				

(6) This rule is effective for tax years beginning after December 31, 2006
2007.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-219, 15-24-921, 15-24-922, 15-24-925, MCA

REASONABLE NECESSITY: See the reasonable necessity for ARM 42.21.113.

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 by Marshall and Swift Publication Company. The "% good" for all drill rigs less than one year old shall be 100%. The trended depreciation schedule for tax year 2007 2008 is listed below.

DRILL RIG TRENDED DEPRECIATION SCHEDULE

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2007	100%	1.000	100%
2006	92%	1.000	92%
2005	84%	1.041	87%
2004	76%	1.130	86%
2003	67%	1.169	78%

2002	58%	1.193	69%
2001	49%	1.199	59%
2000	35%	1.211	42%
1999	30%	1.230	37%
1998	24%	1.237	30%
1997	20%	1.249	25%

and older

2008	100%	1.000	100%
2007	92%	1.000	92%
2006	84%	1.053	88%
2005	76%	1.106	84%
2004	67%	1.200	80%
2003	58%	1.242	72%
2002	49%	1.267	62%
2001	35%	1.274	45%
2000	30%	1.286	39%
1999	24%	1.307	31%
1998	20%	1.313	26%

and older

(3) remains the same.

(4) This rule is effective for tax years beginning after December 31, 2006

2007.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, 15-24-921, 15-24-922, 15-24-925, MCA

REASONABLE NECESSITY: See the reasonable necessity for ARM 42.21.113.

42.21.151 TELEVISION CABLE 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 ~~2007~~ 2008.

TABLE 1: FIVE-YEAR "DISHES"

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2006	85%	1.000	85%
2005	69%	1.038	72%
2004	52%	1.116	58%
2003	34%	1.155	39%
2002	20%	1.174	23%
and older			
2007	85%	1.000	85%

2006	69%	1.049	72%
2005	52%	1.098	57%
2004	34%	1.181	40%
2003	20%	1.222	24%
and older			

TABLE 2: TEN-YEAR "TOWERS"

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2006	92%	1.000	92%
2005	84%	1.038	87%
2004	76%	1.116	85%
2003	67%	1.155	77%
2002	58%	1.174	68%
2001	49%	1.182	58%
2000	39%	1.191	46%
1999	30%	1.213	36%
1998	24%	1.217	29%
1997	20%	1.227	25%
and older			

2007	92%	1.000	92%
2006	84%	1.049	88%
2005	76%	1.098	83%
2004	67%	1.181	79%
2003	58%	1.222	71%
2002	49%	1.242	61%
2001	39%	1.250	49%
2000	30%	1.260	38%
1999	24%	1.283	31%
1998	20%	1.287	26%
and older			

(5) This rule is effective for tax years beginning after December 31, ~~2006~~
2007.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, 15-24-921, 15-24-922, 15-24-925, MCA

REASONABLE NECESSITY: See the reasonable necessity for ARM 42.21.113.

42.21.153 SKI LIFT EQUIPMENT (1) and (2) remain the same.

(3) The depreciation schedules shall be determined by the life expectancy of the equipment and will normally compensate for the loss in value due to ordinary wear and tear, offset by reasonable maintenance, and ordinary functional

obsolescence due to the technological changes during the life expectancy period.

DEPRECIATION TABLE FOR SKI LIFT EQUIPMENT

Installed Cost X Trended Percent Good = Average Market Value

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2006	92%	1.000	92%
2005	84%	1.038	87%
2004	76%	1.116	85%
2003	67%	1.155	77%
2002	58%	1.174	68%
2001	49%	1.182	58%
2000	39%	1.191	46%
1999	30%	1.213	36%
1998	24%	1.217	29%
1997	20%	1.227	25%
<u>and older</u>			
2007	92%	1.000	92%
2006	84%	1.049	88%
2005	76%	1.098	83%
2004	67%	1.181	79%
2003	58%	1.222	71%
2002	49%	1.242	61%
2001	39%	1.250	49%
2000	30%	1.260	38%
1999	24%	1.283	31%
1998	20%	1.287	26%
<u>and older</u>			

(a) The taxpayer must initially list with the department:

- (i) all equipment by year of installation; and
- (ii) installed costs of that equipment.

(b) Each year thereafter, the taxpayer must list with the department:

- (i) all additions or deletions from the previous year's list, with installed cost.

(4) This methodology is effective for tax years beginning after December 31, ~~2006~~ 2007.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, 15-24-921, 15-24-922, 15-24-925, MCA

REASONABLE NECESSITY: See the reasonable necessity for ARM 42.21.113.

42.21.155 DEPRECIATION SCHEDULES (1) remains the same.

(2) The trended depreciation schedules for tax year ~~2007~~ 2008 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>
2006	70%	1.000	70%
2005	45%	0.955	43%
2004	20%	0.927	19%
2003	10%	0.832	8%
and older			
<u>2007</u>	70%	1.000	70%
<u>2006</u>	45%	0.949	43%
<u>2005</u>	20%	0.906	18%
<u>2004</u>	10%	0.879	9%
<u>and older</u>			

CATEGORY 2

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2006	85%	1.000	85%
2005	69%	1.007	69%
2004	52%	1.018	53%
2003	34%	1.027	35%
2002	20%	1.019	20%
and older			
<u>2007</u>	85%	1.000	85%
<u>2006</u>	69%	0.997	69%
<u>2005</u>	52%	1.003	52%
<u>2004</u>	34%	1.015	34%
<u>2003</u>	20%	1.023	20%
<u>and older</u>			

CATEGORY 3

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2006	85%	1.000	85%
2005	69%	0.980	68%
2004	52%	0.960	50%
2003	34%	0.940	32%
2002	20%	0.929	19%

and older

2007	85%	1.000	85%
2006	69%	1.002	69%
2005	52%	0.990	51%
2004	34%	0.969	33%
2003	20%	0.950	19%

and older

CATEGORY 4

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2006	85%	1.000	85%
2005	69%	0.987	68%
2004	52%	0.958	50%
2003	34%	0.944	32%
2002	20%	0.945	19%

and older

2007	85%	1.000	85%
2006	69%	0.988	68%
2005	52%	0.975	51%
2004	34%	0.947	32%
2003	20%	0.933	19%

and older

CATEGORY 5

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2006	85%	1.000	85%
2005	69%	1.029	71%
2004	52%	1.054	55%
2003	34%	1.056	36%
2002	20%	1.060	21%

and older

2007	85%	1.000	85%
2006	69%	1.018	70%
2005	52%	1.047	54%
2004	34%	1.073	36%
2003	20%	1.075	21%

and older

CATEGORY 6

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2006	85%	1.000	85%
2005	69%	1.068	74%
2004	52%	1.113	58%
2003	34%	1.112	38%
2002	20%	1.106	22%
and older			
2007	85%	1.000	85%
2006	69%	1.033	71%
2005	52%	1.104	57%
2004	34%	1.150	39%
2003	20%	1.149	23%
and older			

CATEGORY 7

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2006	92%	1.000	92%
2005	84%	1.031	87%
2004	76%	1.058	80%
2003	67%	1.062	71%
2002	58%	1.061	62%
2001	49%	1.061	52%
2000	39%	1.072	42%
1999	30%	1.081	32%
1998	24%	1.090	26%
1997	20%	1.106	22%
and older			
2007	92%	1.000	92%
2006	84%	1.022	86%
2005	76%	1.053	80%
2004	67%	1.081	72%
2003	58%	1.085	63%
2002	49%	1.084	53%
2001	39%	1.084	42%
2000	30%	1.095	33%
1999	24%	1.104	26%
1998	20%	1.113	22%
and older			

CATEGORY 8

<u>YEAR NEW/</u>	<u>TREND</u>	<u>TRENDED</u>
------------------	--------------	----------------

<u>ACQUIRED</u>	<u>% GOOD</u>	<u>FACTOR</u>	<u>% GOOD</u>
2006	92%	1.000	92%
2005	84%	1.032	87%
2004	76%	1.072	81%
2003	67%	1.080	72%
2002	58%	1.090	63%
2001	49%	1.098	54%
2000	39%	1.110	43%
1999	30%	1.123	34%
1998	24%	1.128	27%
1997	20%	1.142	23%
<u>and older</u>			

2007	92%	1.000	92%
2006	84%	1.028	86%
2005	76%	1.061	81%
2004	67%	1.101	74%
2003	58%	1.110	64%
2002	49%	1.120	55%
2001	39%	1.128	44%
2000	30%	1.140	34%
1999	24%	1.154	28%
1998	20%	1.159	23%
<u>and older</u>			

(3) This rule is effective for tax years beginning after December 31, 2006
2007.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, 15-24-921, 15-24-922, 15-24-925, MCA

REASONABLE NECESSITY: See the reasonable necessity for ARM 42.21.113.

42.22.1311 INDUSTRIAL MACHINERY AND EQUIPMENT TREND

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

(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>
2006	1.000	1.000	1.000	1.000	1.000
2005	1.042	1.037	1.042	1.042	1.037
2004	1.129	1.115	1.129	1.126	1.114
2003	1.172	1.157	1.171	1.165	1.154
2002	1.193	1.177	1.192	1.186	1.174
2001	1.197	1.185	1.198	1.193	1.181

2000	1.205	1.198	1.208	1.206	1.195
1999	1.227	1.222	1.232	1.229	1.219
1998	1.229	1.226	1.234	1.235	1.223
1997	1.239	1.239	1.243	1.247	1.236
1996	1.253	1.260	1.262	1.268	1.259
1995	1.271	1.279	1.282	1.292	1.278
1994	1.321	1.331	1.332	1.340	1.331
1993	1.355	1.372	1.368	1.372	1.372
1992	1.377	1.398	1.390	1.393	1.397
1991	1.386	1.417	1.404	1.408	1.416
1990	1.408	1.449	1.431	1.440	1.451
1989	1.439	1.488	1.467	1.481	1.494
1988	1.511	1.570	1.553	1.568	1.580
1987	1.580	1.641	1.627	1.638	1.652

<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>
<u>2007</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2006</u>	<u>1.051</u>	<u>1.065</u>	<u>1.054</u>	<u>1.054</u>	<u>1.068</u>
<u>2005</u>	<u>1.105</u>	<u>1.115</u>	<u>1.108</u>	<u>1.107</u>	<u>1.117</u>
<u>2004</u>	<u>1.197</u>	<u>1.199</u>	<u>1.202</u>	<u>1.197</u>	<u>1.200</u>
<u>2003</u>	<u>1.242</u>	<u>1.244</u>	<u>1.246</u>	<u>1.238</u>	<u>1.243</u>
<u>2002</u>	<u>1.265</u>	<u>1.265</u>	<u>1.268</u>	<u>1.260</u>	<u>1.264</u>
<u>2001</u>	<u>1.269</u>	<u>1.273</u>	<u>1.274</u>	<u>1.268</u>	<u>1.272</u>
<u>2000</u>	<u>1.278</u>	<u>1.287</u>	<u>1.286</u>	<u>1.282</u>	<u>1.287</u>
<u>1999</u>	<u>1.301</u>	<u>1.313</u>	<u>1.310</u>	<u>1.306</u>	<u>1.313</u>
<u>1998</u>	<u>1.303</u>	<u>1.318</u>	<u>1.313</u>	<u>1.313</u>	<u>1.317</u>
<u>1997</u>	<u>1.313</u>	<u>1.331</u>	<u>1.323</u>	<u>1.326</u>	<u>1.331</u>
<u>1996</u>	<u>1.329</u>	<u>1.354</u>	<u>1.343</u>	<u>1.347</u>	<u>1.356</u>
<u>1995</u>	<u>1.347</u>	<u>1.374</u>	<u>1.364</u>	<u>1.373</u>	<u>1.377</u>
<u>1994</u>	<u>1.401</u>	<u>1.430</u>	<u>1.417</u>	<u>1.424</u>	<u>1.434</u>
<u>1993</u>	<u>1.437</u>	<u>1.475</u>	<u>1.455</u>	<u>1.458</u>	<u>1.478</u>
<u>1992</u>	<u>1.460</u>	<u>1.502</u>	<u>1.479</u>	<u>1.481</u>	<u>1.505</u>
<u>1991</u>	<u>1.470</u>	<u>1.522</u>	<u>1.494</u>	<u>1.497</u>	<u>1.526</u>
<u>1990</u>	<u>1.493</u>	<u>1.557</u>	<u>1.523</u>	<u>1.530</u>	<u>1.563</u>
<u>1989</u>	<u>1.526</u>	<u>1.599</u>	<u>1.561</u>	<u>1.574</u>	<u>1.609</u>
<u>1988</u>	<u>1.602</u>	<u>1.687</u>	<u>1.652</u>	<u>1.667</u>	<u>1.702</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>
<u>2006</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2005</u>	<u>1.041</u>	<u>1.041</u>	<u>1.039</u>	<u>1.039</u>	<u>1.040</u>
<u>2004</u>	<u>1.132</u>	<u>1.130</u>	<u>1.122</u>	<u>1.110</u>	<u>1.119</u>
<u>2003</u>	<u>1.177</u>	<u>1.169</u>	<u>1.162</u>	<u>1.142</u>	<u>1.158</u>
<u>2002</u>	<u>1.201</u>	<u>1.193</u>	<u>1.185</u>	<u>1.160</u>	<u>1.177</u>
<u>2001</u>	<u>1.208</u>	<u>1.199</u>	<u>1.194</u>	<u>1.169</u>	<u>1.185</u>
<u>2000</u>	<u>1.220</u>	<u>1.211</u>	<u>1.206</u>	<u>1.176</u>	<u>1.198</u>

1999	1.240	1.230	1.226	1.197	1.223
1998	1.246	1.237	1.231	1.206	1.228
1997	1.259	1.249	1.244	1.220	1.240
1996	1.274	1.265	1.263	1.244	1.261
1995	1.298	1.290	1.287	1.264	1.283
1994	1.344	1.338	1.332	1.299	1.337
1993	1.374	1.365	1.363	1.332	1.373
1992	1.395	1.383	1.388	1.368	1.396
1991	1.407	1.393	1.402	1.393	1.413
1990	1.434	1.423	1.431	1.427	1.447
1989	1.473	1.460	1.473	1.473	1.489
1988	1.547	1.543	1.550	1.543	1.579
1987	1.602	1.609	1.606	1.594	1.652

<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>
<u>2007</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2006</u>	<u>1.047</u>	<u>1.053</u>	<u>1.049</u>	<u>1.032</u>	<u>1.064</u>
<u>2005</u>	<u>1.099</u>	<u>1.106</u>	<u>1.099</u>	<u>1.078</u>	<u>1.117</u>
<u>2004</u>	<u>1.195</u>	<u>1.200</u>	<u>1.186</u>	<u>1.152</u>	<u>1.202</u>
<u>2003</u>	<u>1.242</u>	<u>1.242</u>	<u>1.228</u>	<u>1.185</u>	<u>1.244</u>
<u>2002</u>	<u>1.268</u>	<u>1.267</u>	<u>1.252</u>	<u>1.203</u>	<u>1.264</u>
<u>2001</u>	<u>1.276</u>	<u>1.274</u>	<u>1.262</u>	<u>1.213</u>	<u>1.273</u>
<u>2000</u>	<u>1.288</u>	<u>1.286</u>	<u>1.275</u>	<u>1.220</u>	<u>1.287</u>
<u>1999</u>	<u>1.310</u>	<u>1.307</u>	<u>1.296</u>	<u>1.241</u>	<u>1.313</u>
<u>1998</u>	<u>1.315</u>	<u>1.313</u>	<u>1.301</u>	<u>1.251</u>	<u>1.318</u>
<u>1997</u>	<u>1.329</u>	<u>1.327</u>	<u>1.315</u>	<u>1.265</u>	<u>1.332</u>
<u>1996</u>	<u>1.345</u>	<u>1.344</u>	<u>1.335</u>	<u>1.290</u>	<u>1.355</u>
<u>1995</u>	<u>1.370</u>	<u>1.370</u>	<u>1.361</u>	<u>1.311</u>	<u>1.378</u>
<u>1994</u>	<u>1.418</u>	<u>1.421</u>	<u>1.408</u>	<u>1.347</u>	<u>1.436</u>
<u>1993</u>	<u>1.450</u>	<u>1.450</u>	<u>1.441</u>	<u>1.381</u>	<u>1.475</u>
<u>1992</u>	<u>1.473</u>	<u>1.468</u>	<u>1.467</u>	<u>1.419</u>	<u>1.499</u>
<u>1991</u>	<u>1.485</u>	<u>1.479</u>	<u>1.481</u>	<u>1.445</u>	<u>1.517</u>
<u>1990</u>	<u>1.514</u>	<u>1.511</u>	<u>1.512</u>	<u>1.480</u>	<u>1.554</u>
<u>1989</u>	<u>1.555</u>	<u>1.551</u>	<u>1.557</u>	<u>1.528</u>	<u>1.599</u>
<u>1988</u>	<u>1.633</u>	<u>1.639</u>	<u>1.638</u>	<u>1.601</u>	<u>1.695</u>
<u>1987</u>	<u>1.691</u>	<u>1.709</u>	<u>1.697</u>	<u>1.654</u>	<u>1.774</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>
<u>2006</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2005</u>	<u>1.057</u>	<u>1.049</u>	<u>1.036</u>	<u>1.041</u>	<u>1.035</u>
<u>2004</u>	<u>1.157</u>	<u>1.143</u>	<u>1.117</u>	<u>1.124</u>	<u>1.110</u>
<u>2003</u>	<u>1.210</u>	<u>1.191</u>	<u>1.160</u>	<u>1.165</u>	<u>1.151</u>
<u>2002</u>	<u>1.230</u>	<u>1.212</u>	<u>1.180</u>	<u>1.185</u>	<u>1.170</u>
<u>2001</u>	<u>1.225</u>	<u>1.210</u>	<u>1.188</u>	<u>1.192</u>	<u>1.178</u>

2000	1.234	1.219	1.201	1.205	1.190
1999	1.258	1.241	1.225	1.229	1.215
1998	1.252	1.237	1.228	1.234	1.219
1997	1.255	1.242	1.241	1.246	1.230
1996	1.261	1.254	1.264	1.265	1.255
1995	1.272	1.268	1.283	1.285	1.272
1994	1.339	1.329	1.335	1.336	1.320
1993	1.367	1.361	1.378	1.372	1.366
1992	1.376	1.376	1.405	1.394	1.398
1991	1.371	1.377	1.425	1.407	1.423
1990	1.380	1.393	1.458	1.436	1.456
1989	1.403	1.420	1.500	1.474	1.497
1988	1.488	1.501	1.585	1.555	1.581
1987	1.584	1.588	1.657	1.623	1.652

<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>
<u>2007</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2006</u>	<u>1.075</u>	<u>1.064</u>	<u>1.065</u>	<u>1.060</u>	<u>1.060</u>
<u>2005</u>	<u>1.153</u>	<u>1.130</u>	<u>1.114</u>	<u>1.113</u>	<u>1.106</u>
<u>2004</u>	<u>1.262</u>	<u>1.231</u>	<u>1.200</u>	<u>1.202</u>	<u>1.186</u>
<u>2003</u>	<u>1.320</u>	<u>1.283</u>	<u>1.246</u>	<u>1.246</u>	<u>1.230</u>
<u>2002</u>	<u>1.342</u>	<u>1.305</u>	<u>1.269</u>	<u>1.267</u>	<u>1.250</u>
<u>2001</u>	<u>1.337</u>	<u>1.304</u>	<u>1.277</u>	<u>1.274</u>	<u>1.259</u>
<u>2000</u>	<u>1.346</u>	<u>1.313</u>	<u>1.291</u>	<u>1.288</u>	<u>1.271</u>
<u>1999</u>	<u>1.373</u>	<u>1.337</u>	<u>1.316</u>	<u>1.314</u>	<u>1.298</u>
<u>1998</u>	<u>1.367</u>	<u>1.332</u>	<u>1.320</u>	<u>1.319</u>	<u>1.302</u>
<u>1997</u>	<u>1.369</u>	<u>1.338</u>	<u>1.334</u>	<u>1.332</u>	<u>1.314</u>
<u>1996</u>	<u>1.376</u>	<u>1.350</u>	<u>1.358</u>	<u>1.352</u>	<u>1.341</u>
<u>1995</u>	<u>1.388</u>	<u>1.366</u>	<u>1.378</u>	<u>1.373</u>	<u>1.358</u>
<u>1994</u>	<u>1.461</u>	<u>1.431</u>	<u>1.435</u>	<u>1.429</u>	<u>1.410</u>
<u>1993</u>	<u>1.491</u>	<u>1.466</u>	<u>1.481</u>	<u>1.467</u>	<u>1.459</u>
<u>1992</u>	<u>1.501</u>	<u>1.481</u>	<u>1.510</u>	<u>1.490</u>	<u>1.493</u>
<u>1991</u>	<u>1.496</u>	<u>1.483</u>	<u>1.532</u>	<u>1.504</u>	<u>1.520</u>
<u>1990</u>	<u>1.505</u>	<u>1.500</u>	<u>1.568</u>	<u>1.536</u>	<u>1.555</u>
<u>1989</u>	<u>1.531</u>	<u>1.529</u>	<u>1.612</u>	<u>1.575</u>	<u>1.599</u>
<u>1988</u>	<u>1.624</u>	<u>1.617</u>	<u>1.703</u>	<u>1.662</u>	<u>1.689</u>
<u>1987</u>	<u>1.729</u>	<u>1.710</u>	<u>1.781</u>	<u>1.735</u>	<u>1.765</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>2006</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2005</u>	<u>1.035</u>	<u>1.036</u>	<u>1.037</u>	<u>1.035</u>	<u>1.035</u>
<u>2004</u>	<u>1.104</u>	<u>1.118</u>	<u>1.115</u>	<u>1.109</u>	<u>1.117</u>
<u>2003</u>	<u>1.143</u>	<u>1.158</u>	<u>1.154</u>	<u>1.146</u>	<u>1.153</u>

2002	1.160	1.179	1.173	1.166	1.172
2001	1.170	1.186	1.180	1.175	1.174
2000	1.180	1.196	1.187	1.187	1.182
1999	1.205	1.218	1.208	1.210	1.198
1998	1.210	1.220	1.213	1.216	1.198
1997	1.220	1.230	1.223	1.229	1.209
1996	1.249	1.250	1.242	1.251	1.225
1995	1.264	1.269	1.259	1.273	1.246
1994	1.304	1.315	1.300	1.321	1.295
1993	1.351	1.351	1.336	1.360	1.327
1992	1.392	1.376	1.366	1.386	1.347
1991	1.421	1.390	1.387	1.407	1.358
1990	1.454	1.419	1.416	1.442	1.387
1989	1.497	1.458	1.454	1.486	1.425
1988	1.578	1.536	1.521	1.568	1.495
1987	1.640	1.599	1.576	1.631	1.561

<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>2007</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2006</u>	<u>1.042</u>	<u>1.049</u>	<u>1.038</u>	<u>1.060</u>	<u>1.051</u>
<u>2005</u>	<u>1.085</u>	<u>1.096</u>	<u>1.084</u>	<u>1.106</u>	<u>1.097</u>
<u>2004</u>	<u>1.159</u>	<u>1.182</u>	<u>1.165</u>	<u>1.185</u>	<u>1.184</u>
<u>2003</u>	<u>1.199</u>	<u>1.225</u>	<u>1.206</u>	<u>1.225</u>	<u>1.221</u>
<u>2002</u>	<u>1.217</u>	<u>1.248</u>	<u>1.225</u>	<u>1.246</u>	<u>1.242</u>
<u>2001</u>	<u>1.228</u>	<u>1.254</u>	<u>1.233</u>	<u>1.255</u>	<u>1.244</u>
<u>2000</u>	<u>1.237</u>	<u>1.265</u>	<u>1.240</u>	<u>1.269</u>	<u>1.252</u>
<u>1999</u>	<u>1.264</u>	<u>1.289</u>	<u>1.262</u>	<u>1.293</u>	<u>1.270</u>
<u>1998</u>	<u>1.270</u>	<u>1.291</u>	<u>1.267</u>	<u>1.299</u>	<u>1.269</u>
<u>1997</u>	<u>1.280</u>	<u>1.301</u>	<u>1.278</u>	<u>1.313</u>	<u>1.282</u>
<u>1996</u>	<u>1.310</u>	<u>1.322</u>	<u>1.298</u>	<u>1.337</u>	<u>1.298</u>
<u>1995</u>	<u>1.326</u>	<u>1.343</u>	<u>1.316</u>	<u>1.360</u>	<u>1.321</u>
<u>1994</u>	<u>1.368</u>	<u>1.391</u>	<u>1.358</u>	<u>1.411</u>	<u>1.372</u>
<u>1993</u>	<u>1.417</u>	<u>1.429</u>	<u>1.397</u>	<u>1.453</u>	<u>1.406</u>
<u>1992</u>	<u>1.460</u>	<u>1.456</u>	<u>1.427</u>	<u>1.481</u>	<u>1.427</u>
<u>1991</u>	<u>1.491</u>	<u>1.471</u>	<u>1.450</u>	<u>1.503</u>	<u>1.439</u>
<u>1990</u>	<u>1.525</u>	<u>1.501</u>	<u>1.480</u>	<u>1.541</u>	<u>1.470</u>
<u>1989</u>	<u>1.570</u>	<u>1.543</u>	<u>1.519</u>	<u>1.588</u>	<u>1.510</u>
<u>1988</u>	<u>1.655</u>	<u>1.625</u>	<u>1.589</u>	<u>1.676</u>	<u>1.585</u>
<u>1987</u>	<u>1.720</u>	<u>1.692</u>	<u>1.647</u>	<u>1.743</u>	<u>1.654</u>

<u>YEAR</u>	<u>TABLE 21</u> <u>Mine</u> <u>Mill</u>	<u>TABLE 22</u> <u>Paint</u> <u>Mfg.</u>	<u>TABLE 23</u> <u>Petroleum</u>	<u>TABLE 24</u> <u>Printing</u>	<u>TABLE 25</u> <u>Paper</u> <u>Mfg.</u>
<u>2006</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2005</u>	<u>1.042</u>	<u>1.040</u>	<u>1.049</u>	<u>1.032</u>	<u>1.037</u>

2004	1.129	1.129	1.139	1.100	1.124
2003	1.172	1.171	1.180	1.132	1.168
2002	1.195	1.196	1.203	1.151	1.190
2001	1.209	1.202	1.215	1.152	1.200
2000	1.217	1.213	1.230	1.162	1.207
1999	1.238	1.236	1.248	1.178	1.232
1998	1.244	1.240	1.254	1.179	1.235
1997	1.257	1.252	1.271	1.185	1.245
1996	1.277	1.270	1.292	1.205	1.270
1995	1.298	1.293	1.319	1.222	1.287
1994	1.338	1.343	1.367	1.268	1.331
1993	1.374	1.376	1.395	1.299	1.371
1992	1.404	1.399	1.408	1.319	1.403
1991	1.428	1.411	1.419	1.324	1.422
1990	1.461	1.440	1.456	1.343	1.450
1989	1.506	1.477	1.493	1.364	1.487
1988	1.587	1.560	1.570	1.439	1.569
1987	1.638	1.628	1.635	1.507	1.633

<u>YEAR</u>	<u>TABLE 21</u> <u>Mine</u> <u>Mill</u>	<u>TABLE 22</u> <u>Paint</u> <u>Mfg.</u>	<u>TABLE 23</u> <u>Petroleum</u>	<u>TABLE 24</u> <u>Printing</u>	<u>TABLE 25</u> <u>Paper</u> <u>Mfg.</u>
<u>2007</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2006</u>	<u>1.039</u>	<u>1.052</u>	<u>1.058</u>	<u>1.051</u>	<u>1.045</u>
<u>2005</u>	<u>1.090</u>	<u>1.105</u>	<u>1.120</u>	<u>1.092</u>	<u>1.093</u>
<u>2004</u>	<u>1.182</u>	<u>1.198</u>	<u>1.217</u>	<u>1.165</u>	<u>1.184</u>
<u>2003</u>	<u>1.227</u>	<u>1.243</u>	<u>1.260</u>	<u>1.199</u>	<u>1.230</u>
<u>2002</u>	<u>1.250</u>	<u>1.269</u>	<u>1.285</u>	<u>1.218</u>	<u>1.254</u>
<u>2001</u>	<u>1.265</u>	<u>1.276</u>	<u>1.298</u>	<u>1.219</u>	<u>1.264</u>
<u>2000</u>	<u>1.274</u>	<u>1.288</u>	<u>1.314</u>	<u>1.230</u>	<u>1.272</u>
<u>1999</u>	<u>1.296</u>	<u>1.312</u>	<u>1.333</u>	<u>1.247</u>	<u>1.297</u>
<u>1998</u>	<u>1.301</u>	<u>1.316</u>	<u>1.339</u>	<u>1.248</u>	<u>1.301</u>
<u>1997</u>	<u>1.316</u>	<u>1.329</u>	<u>1.358</u>	<u>1.255</u>	<u>1.312</u>
<u>1996</u>	<u>1.337</u>	<u>1.349</u>	<u>1.380</u>	<u>1.275</u>	<u>1.338</u>
<u>1995</u>	<u>1.358</u>	<u>1.373</u>	<u>1.408</u>	<u>1.294</u>	<u>1.356</u>
<u>1994</u>	<u>1.400</u>	<u>1.426</u>	<u>1.460</u>	<u>1.342</u>	<u>1.402</u>
<u>1993</u>	<u>1.439</u>	<u>1.461</u>	<u>1.489</u>	<u>1.375</u>	<u>1.445</u>
<u>1992</u>	<u>1.469</u>	<u>1.485</u>	<u>1.504</u>	<u>1.396</u>	<u>1.478</u>
<u>1991</u>	<u>1.494</u>	<u>1.498</u>	<u>1.515</u>	<u>1.401</u>	<u>1.498</u>
<u>1990</u>	<u>1.529</u>	<u>1.528</u>	<u>1.555</u>	<u>1.421</u>	<u>1.527</u>
<u>1989</u>	<u>1.576</u>	<u>1.568</u>	<u>1.594</u>	<u>1.444</u>	<u>1.567</u>
<u>1988</u>	<u>1.661</u>	<u>1.657</u>	<u>1.676</u>	<u>1.523</u>	<u>1.653</u>
<u>1987</u>	<u>1.714</u>	<u>1.729</u>	<u>1.746</u>	<u>1.595</u>	<u>1.720</u>
<u>YEAR</u>	<u>TABLE 26</u> <u>Refrigeration</u>	<u>TABLE 27</u> <u>Rubber</u>	<u>TABLE 28</u> <u>Steam</u> <u>Power</u>	<u>TABLE 29</u> <u>Textile</u>	<u>TABLE 30</u> <u>Warehousing</u>

2006	1.000	1.000	1.000	1.000	1.000
2005	1.039	1.034	1.043	1.031	1.029
2004	1.121	1.109	1.136	1.104	1.102
2003	1.161	1.148	1.178	1.136	1.140
2002	1.184	1.171	1.202	1.152	1.154
2001	1.194	1.175	1.206	1.157	1.158
2000	1.205	1.185	1.216	1.166	1.164
1999	1.229	1.202	1.235	1.184	1.186
1998	1.234	1.207	1.236	1.186	1.187
1997	1.246	1.220	1.245	1.195	1.192
1996	1.266	1.237	1.258	1.216	1.211
1995	1.289	1.261	1.278	1.232	1.222
1994	1.337	1.305	1.329	1.270	1.256
1993	1.373	1.336	1.358	1.303	1.298
1992	1.399	1.362	1.373	1.328	1.328
1991	1.415	1.376	1.379	1.344	1.347
1990	1.447	1.407	1.402	1.374	1.371
1989	1.486	1.446	1.439	1.409	1.403
1988	1.568	1.521	1.525	1.480	1.466
1987	1.632	1.581	1.597	1.542	1.513

<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</u>		
			<u>Power</u>	<u>Textile</u>	<u>Warehousing</u>
<u>2007</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2006</u>	<u>1.053</u>	<u>1.049</u>	<u>1.061</u>	<u>1.039</u>	<u>1.033</u>
<u>2005</u>	<u>1.103</u>	<u>1.092</u>	<u>1.117</u>	<u>1.078</u>	<u>1.069</u>
<u>2004</u>	<u>1.190</u>	<u>1.171</u>	<u>1.218</u>	<u>1.154</u>	<u>1.144</u>
<u>2003</u>	<u>1.233</u>	<u>1.213</u>	<u>1.263</u>	<u>1.188</u>	<u>1.184</u>
<u>2002</u>	<u>1.257</u>	<u>1.237</u>	<u>1.288</u>	<u>1.205</u>	<u>1.198</u>
<u>2001</u>	<u>1.268</u>	<u>1.241</u>	<u>1.293</u>	<u>1.210</u>	<u>1.202</u>
<u>2000</u>	<u>1.280</u>	<u>1.251</u>	<u>1.303</u>	<u>1.220</u>	<u>1.209</u>
<u>1999</u>	<u>1.305</u>	<u>1.270</u>	<u>1.324</u>	<u>1.238</u>	<u>1.232</u>
<u>1998</u>	<u>1.310</u>	<u>1.275</u>	<u>1.325</u>	<u>1.240</u>	<u>1.233</u>
<u>1997</u>	<u>1.323</u>	<u>1.289</u>	<u>1.334</u>	<u>1.250</u>	<u>1.237</u>
<u>1996</u>	<u>1.344</u>	<u>1.307</u>	<u>1.348</u>	<u>1.271</u>	<u>1.258</u>
<u>1995</u>	<u>1.368</u>	<u>1.332</u>	<u>1.370</u>	<u>1.289</u>	<u>1.269</u>
<u>1994</u>	<u>1.420</u>	<u>1.379</u>	<u>1.425</u>	<u>1.328</u>	<u>1.305</u>
<u>1993</u>	<u>1.458</u>	<u>1.411</u>	<u>1.455</u>	<u>1.362</u>	<u>1.348</u>
<u>1992</u>	<u>1.486</u>	<u>1.439</u>	<u>1.472</u>	<u>1.389</u>	<u>1.379</u>
<u>1991</u>	<u>1.503</u>	<u>1.453</u>	<u>1.479</u>	<u>1.406</u>	<u>1.399</u>
<u>1990</u>	<u>1.536</u>	<u>1.486</u>	<u>1.503</u>	<u>1.437</u>	<u>1.424</u>
<u>1989</u>	<u>1.578</u>	<u>1.528</u>	<u>1.543</u>	<u>1.473</u>	<u>1.457</u>
<u>1988</u>	<u>1.665</u>	<u>1.607</u>	<u>1.634</u>	<u>1.547</u>	<u>1.522</u>
<u>1987</u>	<u>1.733</u>	<u>1.670</u>	<u>1.712</u>	<u>1.612</u>	<u>1.571</u>

YEAR TABLE 31 TABLE 32

	<u>Woodworking</u>	<u>Glass Mfg.</u>
2006	1.000	1.000
2005	1.031	1.045
2004	1.101	1.136
2003	1.135	1.181
2002	1.152	1.205
2001	1.163	1.211
2000	1.164	1.223
1999	1.183	1.246
1998	1.185	1.249
1997	1.190	1.259
1996	1.220	1.275
1995	1.232	1.297
1994	1.267	1.350
1993	1.311	1.381
1992	1.356	1.401
1991	1.382	1.409
1990	1.405	1.433
1989	1.443	1.469
1988	1.523	1.551
1987	1.584	1.621

<u>YEAR</u>	<u>TABLE 31</u> <u>Woodworking</u>	<u>TABLE 32</u> <u>Glass Mfg.</u>
<u>2007</u>	<u>1.000</u>	<u>1.000</u>
<u>2006</u>	<u>1.037</u>	<u>1.054</u>
<u>2005</u>	<u>1.075</u>	<u>1.111</u>
<u>2004</u>	<u>1.149</u>	<u>1.209</u>
<u>2003</u>	<u>1.184</u>	<u>1.256</u>
<u>2002</u>	<u>1.201</u>	<u>1.281</u>
<u>2001</u>	<u>1.212</u>	<u>1.288</u>
<u>2000</u>	<u>1.213</u>	<u>1.300</u>
<u>1999</u>	<u>1.234</u>	<u>1.325</u>
<u>1998</u>	<u>1.236</u>	<u>1.328</u>
<u>1997</u>	<u>1.241</u>	<u>1.339</u>
<u>1996</u>	<u>1.272</u>	<u>1.356</u>
<u>1995</u>	<u>1.285</u>	<u>1.379</u>
<u>1994</u>	<u>1.322</u>	<u>1.436</u>
<u>1993</u>	<u>1.367</u>	<u>1.468</u>
<u>1992</u>	<u>1.414</u>	<u>1.490</u>
<u>1991</u>	<u>1.442</u>	<u>1.498</u>
<u>1990</u>	<u>1.466</u>	<u>1.524</u>
<u>1989</u>	<u>1.505</u>	<u>1.562</u>
<u>1988</u>	<u>1.588</u>	<u>1.649</u>
<u>1987</u>	<u>1.652</u>	<u>1.724</u>

AUTH: 15-1-201, MCA

IMP: 15-6-138, 15-8-111, MCA

REASONABLE NECESSITY: See the reasonable necessity for ARM 42.21.113.

4. The department proposes to repeal the following rule:

42.21.112 MOBILE HOME - IMPROVEMENT TO REAL PROPERTY which can be found on page 42-2138 of the Administrative Rules of Montana.

AUTH: 15-1-201, MCA

IMP: 15-1-101, MCA

REASONABLE NECESSITY: The department proposes to repeal ARM 42.21.112 because it is a duplicate of ARM 42.20.117.

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: Cleo Anderson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-5828; fax (406) 444-3696; or e-mail canderson@mt.gov and must be received no later than October 19, 2007.

6. Cleo Anderson, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

7. An electronic copy of this Notice of Public Hearing is available through the department's site on the World Wide Web at www.mt.gov/revenue, under "for your reference"; "DOR administrative rules"; and "upcoming events and proposed rule changes." The department strives to make the electronic copy of this Notice of Public Hearing 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.

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, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding particular subject matter or matters. Such 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.

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

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Dan R. Bucks
DAN R. BUCKS
Director of Revenue

Certified to Secretary of State September 10, 2007

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

In the matter of the repeal of a)	
temporary emergency rule closing a	)	NOTICE OF REPEAL OF A
portion of Rock Creek in Granite and	)	TEMPORARY EMERGENCY RULE
Missoula Counties)	

TO: All Concerned Persons

1. On August 15, 2007, the Fish, Wildlife and Parks Commission (commission) adopted a temporary emergency rule closing a portion of Rock Creek in Granite and Missoula counties, published at page 1320 of the 2007 Montana Administrative Register, Issue No. 17. There was an immediate need for a source of water for aircraft dropping water on the Sawmill Complex fires. This situation constituted an imminent peril to the public health, safety, and welfare of anyone using Rock Creek. Within the rule, the commission delegated its authority to the Department of Fish, Wildlife and Parks to determine, in consultation with the commissioner in the region, when Rock Creek was again safe for public use.

2. Since firefighting aircraft have stopped loading water in Rock Creek, MAR Notice No. 12-337 is no longer necessary. As this situation no longer constitutes an imminent peril to public health, safety, and welfare, the commission is repealing the rule. The repeal of the rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be removed at access points. The repeal notice will be sent to interested parties, and published in Issue No. 18 of the 2007 Montana Administrative Register.

3. The repeal of the temporary emergency rule is effective September 8, 2007 at 7:00 a.m.

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

/s/ M. Jeff Hagener
M. Jeff Hagener
Secretary
Fish, Wildlife and Parks Commission

/s/ Robert N. Lane
Robert N. Lane
Rule Reviewer

Certified to the Secretary of State September 6, 2007.

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

In the matter of the adoption of a)
temporary emergency rule closing the)
Clark Fork River from the Tarkio) NOTICE OF ADOPTION OF A
Fishing Access Site to Forest Grove) TEMPORARY EMERGENCY RULE
Fishing Access Site, Mineral County,)
MT)

TO: All Concerned Persons

1. The Fish, Wildlife and Parks Commission (commission) has determined the following reasons justify the adoption of a temporary emergency rule:

(a) There is an immediate need for a source of water for aircraft dropping water on area wildfires.

(b) The aircraft scoop water with a large bucket while hovering over the surface of the Clark Fork River.

(c) Persons recreating on the river while aircraft are loading water would be subjected to potential collisions that could result in injury or death. Furthermore, flight crews would be subjected to increased and additional peril if aircraft had to maneuver to avoid recreationists.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the commission adopts the following temporary emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as a temporary emergency rule in Issue No. 18 of the 2007 Montana Administrative Register.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on September 28, 2007, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; fax (406) 444-7456; or e-mail jesnyder@mt.gov.

3. The temporary emergency rule is effective September 4, 2007 when this rule notice is filed with the Secretary of State.

4. The text of the temporary emergency rule provides as follows:

RULE I CLARK FORK RIVER TEMPORARY EMERGENCY CLOSURE

(1) A portion of the Clark Fork River is located in Mineral County.

(2) The Clark Fork River is closed to all boating, floating, and swimming and any other public occupation of the river between Tarkio Fishing Access Site and Forest Grove Fishing Access Site.

(3) This rule is effective as long as this portion of the Clark Fork River is needed as a source of water for fighting wildfires. The commission delegates its authority to the Department of Fish, Wildlife and Parks (department), in consultation with the commissioner in the region, to determine when this portion of the river is again safe for boating, floating, and swimming and any other occupation of the water and to rescind the temporary emergency closure.

AUTH: 2-4-303, 87-1-303, MCA
IMP: 2-4-303, 87-1-303, MCA

5. The rationale for the temporary emergency rule is as set forth in paragraph 1.

6. This rule will expire as soon as the department determines the river is again safe for boating, floating, and swimming and any other occupation of the river. This will depend on the extent and duration of wildfires in the area. Signs restricting use of the river will be removed when the rule is no longer effective. Notice of repeal of this emergency rule will be published in the Montana Administrative Register.

7. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to Jessica Snyder, Legal Unit, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; fax (406) 444-7456; or e-mail jesnyder@mt.gov. Any comments must be received no later than September 28, 2007.

8. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

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

/s/ Sue Daly
Sue Daly,
Acting Secretary
Fish, Wildlife and Parks Commission

/s/ Robert N. Lane
Robert N. Lane
Rule Reviewer

Certified to the Secretary of State September 4, 2007.

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

In the matter of the repeal of a)	
temporary emergency rule closing the)	
Clark Fork River from the Tarkio	)	NOTICE OF REPEAL OF A
Fishing Access Site to Forest Grove	)	TEMPORARY EMERGENCY RULE
Fishing Access Site, Mineral County,)	
MT)	

TO: All Concerned Persons

1. On September 4, 2007, the Fish, Wildlife and Parks Commission (commission) adopted a temporary emergency rule closing the Clark Fork River from the Tarkio Fishing Access Site to Forest Grove Fishing Access Site in Mineral County, published at page 1439 in the 2007 Montana Administrative Register, Issue No. 18. There was an immediate need for a source of water for aircraft dropping water on area wildfires. This situation constituted an imminent peril to the public health, safety, and welfare of anyone using the river. Within the rule, the commission delegated its authority to the Department of Fish, Wildlife and Parks to determine, in consultation with the commissioner in the region, when the river was again safe for public use.

2. Since firefighting aircraft have stopped loading water in the Clark Fork River, MAR Notice No. 12-338 is no longer necessary. As this situation no longer constitutes an imminent peril to public health, safety, and welfare, the commission is repealing the rule. The repealing of the rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be removed at access points. The repeal notice will be sent to interested parties, and published in Issue No. 18 of the 2007 Montana Administrative Register.

3. The repealing of the temporary emergency rule is effective September 5, 2007.

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

/s/ M. Jeff Hagener
M. Jeff Hagener,
Secretary
Fish, Wildlife and Parks Commission

/s/ Robert N. Lane
Robert N. Lane
Rule Reviewer

Certified to the Secretary of State September 5, 2007.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 12.9.1105 pertaining to hunting)
season extensions)

To: All Concerned Persons

1. On June 7, 2007, the Fish, Wildlife and Parks Commission (commission) published MAR Notice No. 12-328 regarding a public hearing on the proposed amendment of the above-stated rule at page 750 of the 2007 Montana Administrative Register, Issue No. 11.

2. The commission has amended ARM 12.9.1105 as proposed.

3. The commission received 14 comments regarding the proposed amendment. A summary of the comments appears below with the commission's responses:

Comment 1: Nine individuals expressed support for the season extension ARM amendments or recognized that season extensions have a place in management.

Response: The commission appreciates the support of the individuals offering these comments.

Comment 2: One person thought that the hunting season extensions had a place but thought they would be even more effective if game barrier fences were required around subdivisions and other places where game cannot be hunted.

Response: The commission does not have authority to require that subdivisions build game barrier fences. This authority lies with the governmental body that approves the subdivision. The commission's authority over land is limited to lands acquired or operated by the commission. 87-1-303, MCA.

Comment 3: As part of or an alternative to season extensions, a few people recommended reducing game numbers by allowing a hunter more licenses and tags or allowing hunters to use licenses for longer periods of time, even all year long. Another person recommended any hunters with unfilled tags should be able to participate in an extended season and additional tags should be issued.

Response: In some cases, multiple licenses are available. Hunters who have not filled their tags are allowed to hunt when a season is extended. Hunting throughout the year is not currently allowed as Montanans have traditionally respected sensitive calving and fawning periods.

Comment 4: A few people wanted a return to early or late season hunts. They thought the late seasons hunts offered more opportunity to harvest game animals and decrease herd populations than the current 35 day season with season extensions. These people stated that late seasons should be reinstated when game numbers are over objectives. Those advocating a return to early and late season hunts thought the current five-week season was not flexible enough. One person said he thought the department needed to be able to extend a season on 24 hours notice.

Response: The intent of the ARM amendments is to increase the commission's flexibility to extend a hunting season when the need arises. Under ARM 12.9.1105, a season could be extended on 24 hours notice. The reason seasons are not usually extended this quickly is that the commission wishes to provide reasonable public notice.

The commission's recent decision to move away from broadly applied early and late seasons was based in large part on the fact that these seasons were not effective in managing game populations. The data revealed that the hunts failed to cap game populations in many areas and populations grew. The current 35 day season may be extended, under certain conditions, when game numbers are over objectives.

Comment 5: A few people addressed hunter access. One stated that the department should not extend a hunting season in an area where landowners do not allow hunter access. Another stated that the reason not enough elk are harvested is that there is not enough general hunting access to private lands because of outfitting. This person presented a specific plan pertaining to the Madison Valley.

Response: The commission agrees that better access should improve elk harvest. Available access is currently an element of season extensions criteria. ARM 12.9.1105(1)(c) requires that adequate public hunting access during the five-week general hunting season be present before any extension is applied. The Madison Valley data and recommendations were forwarded to the commission for its consideration when adopting the 2008 hunting regulations.

Comment 6: Two people thought the commission was not using data collected by biologists in making its season setting decisions. One maintained that less data was now being collected than in years past. Another person thought the past system of allowing early and late season hunts would still be in effect if the commission had made its decision based on data.

Response: The commission gives serious consideration to available data before making any season setting decisions. ARM 12.9.1105 sets out criteria based on biologic data that the commission must use when deciding whether or not to extend a hunting season. The department currently collects as much, if not more, data as it has in the past. Relative to both population and harvest surveys, the department continues to evaluate what information is best to collect, how best to collect it and how best to apply it. This effort includes internal and external review and research.

Game survey data revealed that the former practice of conducting numerous early and late season hunts did not successfully manage game populations in many areas. This information was one of several reasons the commission decided to adopt the current five-week hunting season.

/s/ Steve Doherty

Steve Doherty, Chair

Fish, Wildlife and Parks Commission

/s/ Rebecca J. Dockter

Rebecca J. Dockter

Rule Reviewer

Certified to the Secretary of State September 10, 2007.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 18.4.110 through 18.4.115)
pertaining to acceptance and use of)
electronic records and electronic)
signatures)

TO: All Concerned Persons

1. On July 26, 2007, the Department of Transportation published MAR Notice No. 18-119 pertaining to the proposed amendment of the above-stated rules at page 998 of the 2007 Montana Administrative Register, Issue Number 14.

2. No comments were received, but the department amends ARM 18.4.110 with the following changes, new matter underlined, deleted matter interlined:

18.4.110 DEFINITIONS

(1) through (18) remain as proposed.

(19) "Subscriber" means a person holding a private key that corresponds to a public key listed or identified in a certificate and who is the person to whom digitally signed records verified by reference to the certificate are to be attributed.

(19) and (20) remain as proposed but are renumbered (20) and (21).

AUTH: 30-18-118, MCA

IMP: 30-18-104, 30-18-107, 30-18-109, 30-18-113, 30-18-114, 30-18-116, 30-18-117, MCA

3. This change is being made because the definition was inadvertently omitted from the Notice published on July 26, 2007.

4. Therefore, the department amends ARM 18.4.110 with the changes listed above and amends ARM 18.4.111, 18.4.112, 18.4.113, 18.4.114, and 18.4.115 as proposed. The amended rules are effective on October 1, 2007.

/s/ Lyle Manley
Lyle Manley
Rule Reviewer

/s/ Jim Lynch
Jim Lynch
Director, Department of Transportation

Certified to the Secretary of State September 10, 2007

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
AND THE BOARD OF RESPIRATORY CARE PRACTITIONERS
STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF AMENDMENT
of ARM 24.101.413 renewal dates and	)	AND REPEAL
requirements, 24.213.401 fee schedule,)	
24.213.402 application for licensure,)	
24.213.412 renewals, 24.213.415 inactive)	
status, 24.213.2101 continuing education)	
requirements, 24.213.2107 traditional)	
education by nonsponsored organizations,)	
24.213.2121 waiver of continuing)	
education requirement, and repeal of)	
24.213.405 temporary permit)	

TO: All Concerned Persons

1. On May 10, 2007, the Department of Labor and Industry (department) and Board of Respiratory Care Practitioners (board) published MAR Notice No. 24-213-16 regarding the proposed amendment and repeal of the above-stated rules, at page 574 of the 2007 Montana Administrative Register, issue no. 9.

2. On June 5, 2007, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. Several comments were received by the June 13, 2007, deadline.

3. The department and board have thoroughly considered the comments and testimony received. A summary of the comments received and the department and board's responses are as follows:

COMMENT 1: Numerous commenters opposed the increase in the annual renewal fee at ARM 24.213.401, asserting that the board did not adequately explain the necessity of a 100 percent increase and that such an increase is a burden to Montana licensees with fixed incomes. The commenters believe the proposed increase is not justified and questioned the specific increases in the board's budget.

RESPONSE 1: After considering the commenters' concerns, the board had staff project several different fee increases to determine how the board could meet both expected and unexpected budget items while keeping fees commensurate with costs, per 37-1-134, MCA, and avoid the need to increase fees again so soon. Although a 100 percent increase of the renewal fee would provide the board with a greater margin to meet unforeseen expenditures, such as computer replacement or defending law suits, and would have prevented the board from seeking another possible fee increase for the next few years, the board reconsidered the matter and voted to set the fee at \$75 annually. This increase allows the board to meet operating expenses and provides a thin margin for unforeseen expenses.

The board would like to note that the department is required biennially to provide detailed information to the Montana Legislature on current and projected licensee numbers and board revenues, expenses, activities, goals, objectives, and complaints. The board also reviews a detailed, current financial report, including the board's fiscal year income and expenditures to date, at each full board meeting. This fiscal information is publicly available from the board and is open to public inspection and scrutiny.

COMMENT 2: One commenter suggested the board require licensees submit continuing education units (CEU) with the annual renewal instead of every two years as a way of reducing the processing time of CEUs.

RESPONSE 2: The board decided to continue requiring biennial CEU reporting to permit the licensee the flexibility to obtain the 24 CEUs in the preceding 24 months as opposed to 12 units per year. Biennial reporting also allows the board to conduct biennial random audits thereby reducing staff time involved in conducting the audits.

COMMENT 3: One commenter asked whether more than one person will approve or disapprove CEUs if all CEUs must be preapproved. The commenter also questioned whether hospitals that are major healthcare facilities could gain approval to provide CEUs.

RESPONSE 3: Current rules provide several options for obtaining CEUs, including ARM 24.213.2104, identifying numerous preapproved organizations that provide continuing education germane to the practice of respiratory care. Course preapproval is required only when a licensee chooses to obtain continuing education from a nonsponsored organization or by teaching educational courses. The question of hospitals providing CEUs is outside the scope of this rule notice and therefore cannot be addressed at this time.

COMMENT 4: Numerous licensees signed a petition in opposition to every proposed amendment in the board's rule notice, but failed to provide reasoning for the opposition.

RESPONSE 4: The board acknowledges the comments and is decreasing the amount of the annual renewal fee. The board is unable to respond in detail to a broad opposition to the proposed rule amendments.

4. The department has amended ARM 24.101.413 exactly as proposed.

5. The board has amended ARM 24.213.402, 24.213.412, 24.213.415, 24.213.2101, 24.213.2107, and 24.213.2121 exactly as proposed.

6. The board has amended ARM 24.213.401 with the following changes, stricken matter interlined, new matter underlined:

24.213.401 FEE SCHEDULE (1) through (1)(b) remain as proposed.

(c) Renewal fee (annual) 400 75
(d) and (e) remain as proposed.

7. The board has repealed ARM 24.213.405 exactly as proposed.

BOARD OF RESPIRATORY CARE
PRACTITIONERS
EILEEN CARNEY, BOARD CHAIRPERSON

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

DEPARTMENT OF LABOR AND INDUSTRY

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State September 10, 2007

BEFORE THE BOARD OF OCCUPATIONAL THERAPY PRACTICE
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF AMENDMENT
24.165.404 applications, 24.165.501)
supervision, 24.165.509 instruction,)
24.165.510 training, 24.165.513 modalities,)
and 24.165.2301 unprofessional conduct)

TO: All Concerned Persons

1. On June 7, 2007, the Board of Occupational Therapy Practice (board) published MAR Notice No. 24-165-18 regarding the public hearing on the proposed amendment of the above-stated rules, at page 757 of the 2007 Montana Administrative Register, issue no. 11.

2. On June 28, 2007, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Two comments were received by the July 6, 2007, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments received and the board's responses are as follows:

COMMENT 1: One commenter opposed the requirement that instructors hold a Montana license stating it would limit course availability and not all states have licensure. The commenter suggested amending ARM 24.165.509(4)(a) to read, "is a licensed or otherwise regulated professional."

RESPONSE 1: The board agrees with the comment and is amending the rule accordingly.

COMMENT 2: One commenter asked whether the new requirement for board pre-approval applies to all instruction providers or if those who are already approved under (2) are exempt from this requirement.

RESPONSE 2: The board acknowledges the potential confusion in the rule and will discuss the issue at a future board meeting.

COMMENT 3: One commenter suggested the board amend the second sentence of ARM 24.165.513(1)(c)(ii)(C) to specify that no more than five hours of proctored treatments in each of sound physical agent modality devices and electrical physical agent modality devices may be counted toward the 40 hour requirement.

RESPONSE 3: The board agrees with the comment and is amending the rule accordingly.

4. The board has amended ARM 24.165.404, 24.165.501, 24.165.510, and 24.165.2301 exactly as proposed.

5. The board has amended ARM 24.165.509 and 24.165.513 with the following changes, stricken matter interlined, new matter underlined:

24.165.509 APPROVED INSTRUCTION (1) through (4) remain as proposed.

(a) is a ~~Montana~~ licensed or otherwise regulated professional allowed to use sound and electrical physical agent modalities or superficial physical agent modalities; and

(b) remains as proposed.

24.165.513 APPROVAL TO USE SOUND AND ELECTRICAL PHYSICAL AGENT MODALITIES (1) through (1)(c)(ii)(B) remain as proposed.

(C) two proctored treatments equal one hour of instruction or training for the purpose of 37-24-106, MCA. No more than five hours of proctored treatments in each modality may count toward the 40 hour instruction or training requirement in sound and electrical physical agent modalities.

(2) remains as proposed.

BOARD OF OCCUPATIONAL THERAPY
PRACTICE
DEB AMMONDSON, OTR, CHAIRPERSON

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State September 10, 2007

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.

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, 2007. This table includes those rules adopted during the period July 1 through September 30, 2007, and any proposed rule action that was pending during the past six-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, 2007, this table, and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule, and the page number at which the action is published in the 2006 and 2007 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.

GENERAL PROVISIONS, Title 1

1.2.419 Scheduled Dates for the 2008 Montana Administrative Register,
p. 1310

ADMINISTRATION, Department of, Title 2

2.4.401 and other rule - Single Audit Act, p. 552, 964
2.5.120 and other rules - Procurement of Supplies and Services - Surplus
Property, p. 1116
2.6.101 Insurance Requirements, p. 1130
2.21.6606 and other rules - Employee Record Keeping Policy, p. 165, 612

(Public Employees' Retirement Board)

2.43.1002 and other rule - Investment Policy Statement for the Defined
Contribution Retirement Plan - Investment Policy Statement for the
457 Deferred Compensation Plan, p. 320, 677

(Teachers' Retirement Board)

2.44.301A and other rules - Definitions - Optional Retirement Program -
Calculating Service Credits - Corrections of Errors, Family Law Orders
- Withholding of Insurance Premium from Retirement Benefit, p. 1132

(State Lottery Commission)

2.63.1201 and other rule - State Lottery's Procedures Pertaining to Prizes and Sales Incentives, p. 1139

AGRICULTURE, Department of, Title 4

4.12.1410 and other rules - Virus-indexing Program, p. 1247

4.17.102 and other rules - Organic Certification Program, p. 990

4.17.102 Organic Certification Program, p. 71, 295

STATE AUDITOR, Title 6

I-IX Military Sales Practices, p. 902, 1180

(Classification Review Committee)

6.6.8301 Updating References to the NCCI Basic Manual for New Classifications for Various Industries, p. 400

COMMERCE, Department of, Title 8

I Administration of the 2007-2008 Federal Community Development Block Grant (CDBG) Program, p. 2999, 501

8.99.803 Grant Review Committee - Submission and Review of Applications for Workforce Training Grants, p. 740, 1314

8.99.901 and other rules - Award of Grants and Loans under the Big Sky Economic Development Program, p. 1, 346

8.119.101 Tourism Advisory Council, p. 323, 617

(Board of Housing)

I-III Board of Housing - Low Income Housing Tax Credit Program, p. 1061

EDUCATION, Title 10

(Superintendent of Public Instruction)

10.16.3007 and other rules - Access to Instructional Materials - Procedural Safeguards - Special Education Data Collection and Reporting - Resolution Process - Expedited Due Process Hearing Resolution Process - Response to Scientific, Research Based Intervention in Learning Disability Identification - Severe Discrepancy in Learning Disability Identification - Documentation Requirements in Learning Disability Identification - Extended School Year Services - Special Education, p. 220, 678

(Board of Public Education)

10.55.602 and other rules - Accreditation Standards, p. 169, 692

10.55.716 Substitute Teachers, p. 173, 504

(Montana State Library)

10.102.8101 and other rule - Depository Procedures for State Documents, p. 1065

FISH, WILDLIFE, AND PARKS, Department of, Title 12

- I Purchase of Duplicate Licenses, p. 912, 1024
- 12.3.403 Replacement Licenses, p. 995, 1323
- 12.6.1601 and other rules - Game Bird Farms - Possession of Captive-Reared Game Birds - Field Trial Permits, p. 743, 1025

(Fish, Wildlife, and Parks Commission)

- I Notice of Adoption of a Temporary Emergency Rule - Closing a Portion of Rock Creek in Granite and Missoula Counties, p. 1320
- I Notice of Adoption of a Temporary Emergency Rule - Closing Placid Lake and Seeley Lake, Missoula County, MT, p. 1183, 1315, 1318
- I Notice of Adoption of a Temporary Emergency Rule - Closing Lake Inez, Missoula County, MT, p. 1185, 1319
- I Notice of Adoption of a Temporary Emergency Rule - Closing the Missouri River From American Bar Gulch to Beartooth Landing, Lewis and Clark County, MT, p. 1094, 1182
- 12.3.185 Adding Three New Species to the Annual Lottery of Hunting Licenses, p. 565, 965
- 12.6.401 Time Zones, p. 1142
- 12.6.2203 and other rules - Exotic Species, p. 560, 632, 1187
- 12.9.1105 Hunting Season Extensions, p. 750
- 12.11.3205 No Wake Zone at White Sandy Recreation Area on Hauser Lake, p. 326, 776

ENVIRONMENTAL QUALITY, Department of, Title 17

- 17.56.101 and other rules - Underground Storage Tanks - Management of Underground Storage Tanks - Incorporation by Reference - Assessment of Administrative Penalties, p. 915, 1189
- 17.74.401 and other rules - Asbestos - Asbestos Control Program Fees, p. 942

(Board of Environmental Review)

- 17.8.102 and other rules - Air Quality - Incorporation by Reference of Current Federal Regulations and Other Materials into Air Quality Rules, p. 800
- 17.8.501 and other rules - Air Quality - Definitions - Air Quality Operation Fees - Open Burning Fees, p. 795
- 17.30.617 and other rule - Water Quality - Outstanding Resource Water Designation for the Gallatin River, p. 2294, 328
- 17.38.101 and other rule - Public Water and Sewage Systems - Plans for Public Water Supply or Wastewater System - Fees, p 1067

TRANSPORTATION, Department of, Title 18

18.4.110 and other rules - Acceptance and Use of Electronic Records and Electronic Signatures, p. 998

CORRECTIONS, Department of, Title 20

I-VI Security and Confidentiality of Youth Records, p. 1144

JUSTICE, Department of, Title 23

23.4.201 and other rules - Definitions - Field Certification-Breath Analysis Instruments - Lab Certification - Qualification-Breath Analysis Location - Personnel Qualifications - Recertification-Breath Test Personnel - Blood Sample Collections - Preliminary Alcohol Screening Tests, p. 330, 618

(Gambling Control Division)

23.16.209 and other rules - Possession and Display of Antique Slot Machines - Approved Accounting and Reporting System Availability Date - General Specifications of Approved Automated Accounting and Reporting Systems, p. 1149

23.16.209 and other rules - Display of Antique Illegal Gambling Devices - Dealer License Application Process - Temporary Dealer Licenses - Possession of Dealer License - Card Game Tournament Rules - Card Dealer Restrictions - House Player Restrictions - Rake Restrictions - Casino Night Requirements, p. 567, 848, 966

LABOR AND INDUSTRY, Department of, Title 24

Boards under the Business Standards Division are listed in alphabetical order following the department rules.

I Insurer Reporting Requirements, p. 337, 697

I-III Medical Benefits Payable by the Uninsured Employers Fund, p. 1077

I-V Country of Origin Placarding for Beef, Pork, Poultry, and Lamb, p. 2469, 454

24.7.201 and other rules - Board of Labor Appeals - Procedural Rules, p. 813, 1325

24.11.445 and other rules - Unemployment Insurance Matters, p. 1258

24.17.127 Prevailing Wage Rates for Public Works Projects - Building Construction Services - Heavy and Highway Construction Services - Nonconstruction Services, p. 404, 851, 968

24.29.207 and other rules - Workers' Compensation Medical Fee Schedule for Nonfacilities - Workers' Compensation Medical Treatment and Utilization Guidelines for Occupational Therapists, Physical

- Therapists, and Chiropractors - Other Matters Related to Workers' Compensation Claims, p. 1265
- 24.29.1416 and other rule - Allowable Charges for Prescription Drugs Under a Workers' Compensation Claim, p. 753, 1192
- 24.29.1529 Allowable Charges for Prescription Drugs Under a Workers' Compensation Claim, p. 1152
- 24.29.4315 Insurer Reporting Requirements, p. 633, 1028
- 24.30.102 Occupational Safety Matters in Public Sector Employment, p. 823, 1097
- 24.301.131 and other rules - Building Codes, p. 2319, 112, 300

(Board of Barbers and Cosmetologists)

- 24.121.407 and other rule - Premises and General Requirements - Restrooms, p. 4, 859

(Board of Dentistry)

- 24.138.403 and other rules - Mandatory Certification - Initial Licensure of Dentists by Examination - Initial Licensure of Hygienists by Examination - Dentist Licensure by Credentials - Dental Hygienist Licensure by Credentials - Dentist Licensure by Credentials for Specialists - Dental Hygiene Local Anesthetic Agent Certification - Denturist Application Requirements - Application to Convert an Inactive Status License to an Active Status License - Renewals - Reactivation of an Expired License - Licensure of Retired or Nonpracticing Dentist or Dental Hygienist for Volunteer Service - Reactivation of a Lapsed License, p. 1004

(Board of Hearing Aid Dispensers)

- 24.150.401 and other rules - Fees - Examination Pass/Fail Point - Traineeship Requirements and Standards - Transactional Document Requirements - Form and Content - Exceptions - Fee Abatement, p. 175, 468

(Board of Medical Examiners)

- 24.101.413 and other rule - With the Department of Labor and Industry - Renewal Dates and Requirements - Renewals, p. 11, 505
- 24.156.901 and other rules - Fees - Applications - Approval of Schools - Reciprocity Licenses - Renewals Pertaining to Osteopathic Physicians, p. 8, 506
- 24.156.2701 and other rules - Definitions - Unprofessional Conduct - EMT License Application - Equivalent Education - License Renewal - Fees - EMT Training Program/Course Application and Approval - Examinations - EMT Levels of Licensure - EMT Course Requirements - EMT Clinical Requirements - Revision of Curriculum and Statewide Protocols - Scope of Practice, p. 1081
- 24.156.2701 and other rule - Definitions - Scope of Practice - Emergency Medical Technicians, p. 180, 507

(Board of Occupational Therapy Practice)

24.165.404 and other rules - Applications - Supervision - Instruction - Training - Modalities - Unprofessional Conduct, p. 757

(Board of Optometry)

24.168.301 and other rules - Definitions - General Provisions - Diagnostic Permissible Drugs - Therapeutic Pharmaceutical Agents - Continuing Education - Screening Panel - Fee Abatement - Examinations - Approved Courses and Examinations - New Licensees - Applicants for Licensure - Therapeutic Pharmaceutical Agents-Complaint Procedure, p. 2450, 296

(Board of Outfitters)

24.171.401 and other rules - Fees - Inactive License - Transfer of River-use Days - Unprofessional Conduct and Misconduct - Guide Logs, p. 2769, 298, 347

(Board of Pharmacy)

24.174.301 and other rules - Definitions - Internship - Fee Schedules - Examination - Transfer - Vaccines - Collaborative Practice - Preceptor Requirements - General Licensure - Ownership - Ambulatory Facilities - Wholesale Licensing - Pharmacy Closure - Change in Location - Change in Ownership - Medical Gas - Foreign Interns - Technicians - Centralized Prescription and Drug Orders - Central Filling by Hub Pharmacies, p. 636

(Board of Plumbers)

24.180.401 Fee Schedule, p. 498, 970, 1029

24.180.401 and other rules - General Provisions - Licensing and Scope of Practice - Reciprocity Licensure - Temporary Exemptions - Reciprocity, p. 2892, 471

(Board of Professional Engineers and Professional Land Surveyors)

24.101.413 and other rules - Renewal Dates - Fees - Applications - Application Disposal - Examination Procedures - Grant and Issue Licenses - Inactive Status - Teaching Engineering Subjects - Certificate of Authorization, p. 762, 1327

(Board of Psychologists)

24.189.301 and other rules - Definitions - Fee Schedule - Use of Title - Required Supervised Experience, p. 2461, 348

24.189.401 and other rule - Fees - Minimum Standards, p. 771, 1337

(Board of Real Estate Appraisers)

24.207.506 and other rules - Qualifying Education Requirements for Residential Certification - Qualifying Experience - Trainee Requirements - Continuing Education - Scope of Practice, p. 75, 472

(Board of Realty Regulation)

- 24.101.413 and other rules - Renewal Dates and Requirements - Definitions - General Provisions - Brokers and Salespersons - Property Management - Inactive Status - Continuing Education - Application of Rules - Investigations Committee - Application for Examination - Nonresident License - Application for Examination, p. 407, 1329
- 24.210.401 and other rules - Fees - Unprofessional Conduct - Continuing Education - Timeshare Course - Timeshare Exam - Timeshare Renewal - Fee Schedule, p. 947

(Board of Respiratory Care Practitioners)

- 24.101.413 and other rules - Renewal Dates and Requirements - Fee Schedule - Application for Licensure - Renewals - Inactive Status - Continuing Education Requirements - Traditional Education by Nonsponsored Organizations - Waiver of Continuing Education Requirement - Temporary Permit, p. 574

(Board of Sanitarians)

- 24.216.402 and other rules - Fee Schedule - Minimum Standards for Licensure - Examination, p. 953

LIVESTOCK, Department of, Title 32

- 32.2.403 Diagnostic Laboratory Fees, p. 1285
- 32.18.101 Hot Iron Brands, p. 1294

(Board of Horse Racing)

- I-VII Match Bronc Rides Under the Parimutuel System, p. 340, 620

MILITARY AFFAIRS, Department of, Title 34

- I-XV Montana Military Family Relief Fund, p. 1157
- 34.7.102 and other rules - Eligibility - Limitations on Reimbursement - Application for Reimbursement - Termination Date; Further Appropriation Required Pertaining to Military Life Insurance Reimbursement - Termination Date - United States Assumes Payment of Premiums or Increases Death Gratuity Pertaining to Military Life Insurance Reimbursement, p. 1154

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

- 36.12.101 and other rule - Definitions - Basin Closure Area Exceptions and Compliance, p. 1164
- 36.12.101 Reinstatement of Municipal Use Definition per Court Order, p. 508
- 36.12.101 and other rule - Definitions - Reservoir Standards, p. 456, 774, 1098

(Board of Oil and Gas Conservation)

36.22.1308 and other rule - Plugging and Restoration Bond - Financial Responsibility, p. 82, 350

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37.5.125 and other rules - Older Blind Program, p. 1987, 48, 475
37.12.401 Laboratory Testing Fees, p. 581, 973
37.30.102 Vocational Rehabilitation IPE Care Requirements, p. 18, 474
37.30.404 and other rule - Vocational Rehabilitation Program Financial Need Standards and Payment for Services, p. 458, 860
37.40.307 and other rules - Medicaid Nursing Facility Reimbursement, p. 826, 1100
37.70.305 and other rules - Low Income Energy Assistance Program (LIEAP) - Low Income Weatherization Assistance Program (LIWAP), p. 584, 974
37.78.102 and other rules - Temporary Assistance for Needy Families (TANF), p. 1296
37.78.102 and other rules - Temporary Assistance for Needy Families (TANF), p. 597, 976
37.78.102 and other rule - Temporary Assistance for Needy Families (TANF) Incorporation of Policy Manuals, p. 3026, 301
37.82.101 and other rules - Medicaid Assistance, p. 21, 302
37.85.207 and other rules - Inpatient Hospital, Outpatient Hospital, and Rural Health Clinic (RHC) Services, p. 957
37.85.212 Resource Based Relative Value Scale (RBRVS), p. 462, 1339
37.86.3607 Case Management Services for Persons With Developmental Disabilities, Reimbursement, p. 1015
37.86.3701 and other rules - Case Management Services for Youth With Serious Emotional Disturbance, p. 660, 1197
37.86.5201 and other rules - Disease Management Program, p. 656, 978
37.108.507 Components of Quality Assessment Activities, p. 14, 303
37.112.101 and other rules - Tattooing and Body Piercing, p. 2339, 351

PUBLIC SERVICE REGULATION, Department of, Title 38

38.2.5001 and other rules - Protective Orders - Protection of Confidential Information, p. 833
38.5.1902 Cogeneration and Small Power Production, p. 1020

REVENUE, Department of, Title 42

I Tax Benefit Rule - Individual Income Taxes, p. 257, 485
I & II Taxpayer Qualifications for the 2006 Property Tax Refund, p. 845, 1101
42.2.621 and other rule - Final Agency Decisions, p. 254, 477
42.3.101 and other rules - Waiver of Penalties and Interest, p. 3051, 509

- 42.11.104 and other rules - Liquor Vendors, Purchasing, and Distribution,
p. 3031, 478
- 42.13.101 and other rules - Regulations of Liquor Licensees, p. 3044, 483, 512

Secretary of State, Office of, Title 44

- 1.2.419 Scheduled Dates for the 2008 Montana Administrative Register,
p. 1310
- 44.14.301 and other rules - Records and Information Management Fees, p. 1175

(Commissioner of Political Practices)

- 44.10.331 Limitations on Receipts from Political Committees to Legislative
Candidates, p. 1172

BOARD APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of appointees and upcoming or current vacancies on those boards and councils.

In this issue, appointments effective in August 2007 appear. Vacancies scheduled to appear from October 1, 2007, through December 31, 2007, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

Each month, the previous month's appointees are printed, and current and upcoming vacancies for the next three months are published.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of September 1, 2007.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Aging Advisory Council (Governor)			
Ms. Grace Bowman Billings Qualifications (if required): public representative	Governor	Cramer	8/6/2007 7/18/2010
Ms. Connie Bremner Browning Qualifications (if required): public representative	Governor	Croff	8/6/2007 7/18/2010
Ms. Jessie James-Hawley Harlem Qualifications (if required): public representative	Governor	Tallbull	8/6/2007 7/18/2008
Ms. Pat Ludwig Chester Qualifications (if required): public representative	Governor	reappointed	8/6/2007 7/18/2010
Ms. Lauren Lynch Butte Qualifications (if required): public representative	Governor	Klingman	8/6/2007 7/18/2008
Mr. Robert Maxson Billings Qualifications (if required): public representative	Governor	Ebzery	8/6/2007 7/18/2010

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
American Indian Monument and Tribal Flag Circle Advisory Council (Historical Society)			
Mr. Major Robinson	Governor	Charette	8/27/2007
Helena			0/0/0
Qualifications (if required): Acting Coordinator of Indian Affairs			
Board of Architects and Landscape Architects (Labor and Industry)			
Ms. Shelly Engler	Governor	not listed	8/15/2007
Bozeman			3/27/2010
Qualifications (if required): licensed landscape architect			
Mr. Carl Thuesen	Governor	not listed	8/15/2007
Billings			3/27/2010
Qualifications (if required): licensed landscape architect			
Ms. Teresa Wilson	Governor	Fontaine	8/15/2007
Butte			3/27/2010
Qualifications (if required): public representative			
Board of Water Well Contractors (Natural Resources and Conservation)			
Mr. Pat Byrne	Governor	reappointed	8/20/2007
Great Falls			7/1/2010
Qualifications (if required): water well contractor			
County Printing Board (Administration)			
Mr. Dan Killoy	Governor	reappointed	8/6/2007
Miles City			4/1/2009
Qualifications (if required): printing industry representative			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
County Printing Board (Administration) cont.			
Commissioner Gary Macdonald Wolf Point	Governor	reappointed	8/6/2007 4/1/2009
Qualifications (if required): County Commissioner			
Mr. Calvin J. Oraw Sidney	Governor	reappointed	8/6/2007 4/1/2009
Qualifications (if required): public representative			
Commissioner Marianne Roose Eureka	Governor	reappointed	8/6/2007 4/1/2009
Qualifications (if required): County Commissioner			
Mr. Milton Wester Laurel	Governor	reappointed	8/6/2007 4/1/2009
Qualifications (if required): printing industry representative			
Family Health Advisory Council (Public Health and Human Services)			
Ms. Jill Baker Great Falls	Governor	not listed	8/15/2007 3/22/2009
Qualifications (if required): public representative			
Ms. Linda Best Deer Lodge	Governor	not listed	8/15/2007 3/22/2009
Qualifications (if required): public representative			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Family Health Advisory Council (Public Health and Human Services) cont.			
Ms. Peggy Cochran Missoula	Governor	not listed	8/15/2007 3/22/2009
Qualifications (if required): public representative			
Ms. Debra Donovan Billings	Governor	not listed	8/15/2007 3/22/2009
Qualifications (if required): public representative			
Dr. Jane Gillette Bozeman	Governor	not listed	8/15/2007 3/22/2009
Qualifications (if required): public representative			
Ms. Betty Hall-Munger Helena	Governor	not listed	8/15/2007 3/22/2009
Qualifications (if required): public representative			
Ms. Rhonda Howlett Arlee	Governor	not listed	8/15/2007 3/22/2009
Qualifications (if required): public representative			
Ms. Carol Keaster Belt	Governor	not listed	8/15/2007 3/22/2009
Qualifications (if required): public representative			
Ms. Janet Runnion Box Elder	Governor	not listed	8/15/2007 3/22/2009
Qualifications (if required): public representative			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Family Health Advisory Council (Public Health and Human Services) cont.			
Ms. Jeanne Seifert	Governor	not listed	8/15/2007
Glendive			3/22/2009
Qualifications (if required): public representative			
Governor's HIV/AIDS Advisory Council (Public Health and Human Services)			
Ms. Donna Davis	Governor	reappointed	8/29/2007
Helena			8/29/2009
Qualifications (if required): public representative			
Ms. Wendy Doely	Governor	reappointed	8/29/2007
Kalispell			8/29/2009
Qualifications (if required): public representative			
Mr. Frank Gary	Governor	reappointed	8/29/2007
Butte			8/29/2009
Qualifications (if required): public representative			
Ms. Kathy Hall	Governor	reappointed	8/29/2007
Billings			8/29/2009
Qualifications (if required): public representative			
Mr. David Herrera	Governor	reappointed	8/29/2007
Missoula			8/29/2009
Qualifications (if required): public representative			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Governor's HIV/AIDS Advisory Council (Public Health and Human Services) cont.			
Mr. Rick Holman	Governor	reappointed	8/29/2007
Butte			8/29/2009
Qualifications (if required): public representative			
Mr. Andrew Laue	Governor	reappointed	8/29/2007
Missoula			8/29/2009
Qualifications (if required): public representative			
Ms. Mary Jane Nealon	Governor	reappointed	8/29/2007
Missoula			8/29/2009
Qualifications (if required): public representative			
Ms. Kelly Parsley	Governor	reappointed	8/29/2007
Helena			8/29/2009
Qualifications (if required): public representative			
Ms. Vicki Peterson	Governor	reappointed	8/29/2007
Pablo			8/29/2009
Qualifications (if required): public representative			
Mr. Casey Rudd	Governor	reappointed	8/29/2007
Belgrade			8/29/2009
Qualifications (if required): public representative			
Mr. Alexander White Tail Feather	Governor	reappointed	8/29/2007
Poplar			8/29/2009
Qualifications (if required): public representative			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Historical Records Advisory Board (Historical Society)			
Ms. Jodi L. Allison-Bunnell	Governor	reappointed	8/29/2007
Missoula			8/29/2009
Qualifications (if required): public representative			
Ms. Faith Bad Bear-Bartlett	Governor	Chandler	8/29/2007
Hardin			8/29/2009
Qualifications (if required): public representative			
Ms. Jodie Foley	Governor	reappointed	8/29/2007
Helena			8/29/2009
Qualifications (if required): State Archivist			
Ms. Peggy Gow	Governor	reappointed	8/29/2007
Deer Lodge			8/29/2009
Qualifications (if required): public representative			
Ms. Donna McCrea	Governor	reappointed	8/29/2007
Missoula			8/29/2009
Qualifications (if required): public representative			
Ms. Samantha K. Pierson	Governor	reappointed	8/29/2007
Libby			8/29/2009
Qualifications (if required): public representative			
Mr. Kim Allen Scott	Governor	reappointed	8/29/2007
Bozeman			8/29/2009
Qualifications (if required): public representative			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
House District 24 (House)			
Mr. Steve Bolstad	Commissioners	Franklin	8/30/2007
Great Falls			1/1/2009
Qualifications (if required): none specified			
Mental Health Ombudsman (Governor)			
Rep. Eve Franklin	Governor	Garrity	8/20/2007
Helena			8/2/2011
Qualifications (if required): none specified			
Montana Heritage Preservation and Development Commission (Commerce)			
Mr. Randy Hafer	Governor	Skelton	8/15/2007
Billings			5/23/2010
Qualifications (if required): business person			
Mr. Philip Maechling	Governor	Cossitt	8/15/2007
Florence			5/23/2010
Qualifications (if required): community planner			
Mr. Colin Mathews	Governor	Keim	8/15/2007
Virginia City			5/23/2010
Qualifications (if required): public representative			
Ms. Marilyn Ross	Governor	McNally	8/15/2007
Twin Bridges			5/23/2010
Qualifications (if required): public representative			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Wheat and Barley Committee (Agriculture)			
Mr. Donald L. Fast Glasgow	Governor	reappointed	8/20/2007 8/20/2010
Qualifications (if required): resident of District 2			
Mr. Arlo Skari Chester	Governor	Mattson	8/20/2007 8/20/2010
Qualifications (if required): resident of District 3			
Noxious Weed Summit Advisory Council (Agriculture)			
Ms. Sandi Birch Dutton	Governor	reappointed	8/20/2007 7/26/2009
Qualifications (if required): representative of the crop protection product industry			
Mr. Scott Bockness Billings	Governor	reappointed	8/20/2007 7/26/2009
Qualifications (if required): representative of a weed control association			
Mr. Darrell Briebe Havre	Governor	reappointed	8/20/2007 7/26/2009
Qualifications (if required): representative of an irrigation district			
Mr. Dave Burch Helena	Governor	reappointed	8/20/2007 7/26/2009
Qualifications (if required): representative of the Department of Agriculture			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Noxious Weed Summit Advisory Council (Agriculture) cont.			
Mr. Kevin Chappell Helena	Governor	reappointed	8/20/2007 7/26/2009
Qualifications (if required): representative of a state agency			
Mr. Bert Corcoran Box Elder	Governor	reappointed	8/20/2007 7/26/2009
Qualifications (if required): Tribal representative			
Mr. Jim Ghekiere Chester	Governor	reappointed	8/20/2007 7/26/2009
Qualifications (if required): representative of a county weed district			
Mr. Jerry Marks Missoula	Governor	reappointed	8/20/2007 7/26/2009
Qualifications (if required): representative of the MSU Extension Agency			
Mr. Jim Olivarez Missoula	Governor	reappointed	8/20/2007 7/26/2009
Qualifications (if required): representative of a federal agency			
Commissioner Dave Schulz Virginia City	Governor	reappointed	8/20/2007 7/26/2009
Qualifications (if required): representative of the Montana Association of Counties			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Noxious Weed Summit Advisory Council (Agriculture) cont.			
Mr. Jon Wraith Bozeman	Governor	reappointed	8/20/2007 7/26/2009
Qualifications (if required): representative of the MSU Agricultural Experiment Station			
Director Ron de Yong Helena	Governor	Peterson	8/20/2007 7/26/2009
Qualifications (if required): Governor's representative			
Poet Laureate (Montana Arts Council)			
Mr. Greg Pape Stevensville	Governor	Alcosser	8/2/2007 7/13/2009
Qualifications (if required): Montana poet			
Private Lands/Public Wildlife Council (Fish, Wildlife and Parks)			
Mr. Jamie Byrne Ekalaka	Governor	reappointed	8/9/2007 6/30/2009
Qualifications (if required): outfitter			
Ms. Lindsay Giem Twin Bridges	Governor	Skari	8/9/2007 6/30/2009
Qualifications (if required): landowner			
Ms. Kathy Hadley Deer Lodge	Governor	Eissinger	8/9/2007 6/30/2009
Qualifications (if required): landowner			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Private Lands/Public Wildlife Council (Fish, Wildlife and Parks) cont.			
Mr. Gordon Haugen Bozeman Qualifications (if required): sportsperson	Governor	reappointed	8/9/2007 6/30/2009
Mr. Richard Iverson Culbertson Qualifications (if required): landowner	Governor	Falls Down	8/9/2007 6/30/2009
Sen. Lane L. Larson Billings Qualifications (if required): legislator	Governor	reappointed	8/9/2007 6/30/2009
Ms. Donna McDonald Alder Qualifications (if required): outfitter	Governor	reappointed	8/9/2007 6/30/2009
Mr. Max McDonald Vaughn Qualifications (if required): landowner	Governor	reappointed	8/9/2007 6/30/2009
Mr. Rick Miller Helena Qualifications (if required): sportsperson	Governor	Millenbach	8/9/2007 6/30/2009
Mr. Mike Penfold Billings Qualifications (if required): sportsperson	Governor	Roberts	8/9/2007 6/30/2009

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Private Lands/Public Wildlife Council (Fish, Wildlife and Parks) cont.			
Mr. Doug Schott Stevensville Qualifications (if required): outfitter	Governor	reappointed	8/9/2007 6/30/2009
Mr. Land Tawny Missoula Qualifications (if required): sportsperson	Governor	reappointed	8/9/2007 6/30/2009
Mr. Brett Todd Big Timber Qualifications (if required): outfitter	Governor	Rich	8/9/2007 6/30/2009
Mr. Dan Vermillion Livingston Qualifications (if required): Fish, Wildlife and Parks commissioner	Governor	Colon	8/9/2007 6/30/2009
Rep. John Ward Helena Qualifications (if required): legislator	Governor	Warden	8/9/2007 6/30/2009
Mr. Daniel Belcourt Missoula Qualifications (if required): public representative	Governor	Hughes	8/21/2007 6/1/2011

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Private Lands/Public Wildlife Council (Fish, Wildlife and Parks) cont.			
Rep. Dorothy Bradley Bozeman	Governor	Grosfield	8/21/2007 6/1/2011
Qualifications (if required): public representative			
Mr. Gene Etchart Glasgow	Governor	reappointed	8/21/2007 6/1/2011
Qualifications (if required): public representative			
State Workforce Investment Board (Labor and Industry)			
Mr. Evan Barrett Butte	Governor	reappointed	8/17/2007 7/1/2009
Qualifications (if required): Governor's representative			
Ms. Martina Copps Broadus	Governor	reappointed	8/17/2007 7/1/2009
Qualifications (if required): private sector representative			
Mr. Dave Crum Great Falls	Governor	reappointed	8/17/2007 7/1/2009
Qualifications (if required): private sector representative			
Mr. Thomas Curry Billings	Governor	reappointed	8/17/2007 7/1/2009
Qualifications (if required): labor representative			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Workforce Investment Board (Labor and Industry) cont.			
Mr. Michael DesRosier Browning Qualifications (if required): county commissioner	Governor	reappointed	8/17/2007 7/1/2009
Ms. Connie Eissinger Brockway Qualifications (if required): private sector representative	Governor	Jordan	8/17/2007 7/1/2009
Ms. Georgia Gibbus-Atkinson Poplar Qualifications (if required): private sector representative	Governor	reappointed	8/17/2007 7/1/2009
Mr. Michael Grove White Sulphur Springs Qualifications (if required): private sector representative	Governor	reappointed	8/17/2007 7/1/2009
Mr. Kirk Hammerquist Kalispell Qualifications (if required): private sector representative	Governor	reappointed	8/17/2007 7/1/2009
Ms. Jacquie Helt Missoula Qualifications (if required): labor representative	Governor	reappointed	8/17/2007 7/1/2009
Director Keith Kelly Helena Qualifications (if required): veteran and a public sector representative	Governor	reappointed	8/17/2007 7/1/2009

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Workforce Investment Board (Labor and Industry) cont.			
Ms. Maureen Kenneally Butte Qualifications (if required): private sector representative	Governor	reappointed	8/17/2007 7/1/2009
Mr. George Kipp Browning Qualifications (if required): Section 166 representative	Governor	Wall-McDonald	8/17/2007 7/1/2009
Mr. Robbe Lindsay Missoula Qualifications (if required): private sector representative	Governor	reappointed	8/17/2007 7/1/2009
Superintendent Linda McCulloch Helena Qualifications (if required): public sector representative	Governor	reappointed	8/17/2007 7/1/2009
Mr. Michael McGinley Dillon Qualifications (if required): county commissioner	Governor	reappointed	8/17/2007 7/1/2009
Mr. Thomas McKenna Lewistown Qualifications (if required): private sector representative	Governor	reappointed	8/17/2007 7/1/2009
Mr. Dan Miles Butte Qualifications (if required): private sector representative	Governor	reappointed	8/17/2007 7/1/2009

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Workforce Investment Board (Labor and Industry) cont.			
Director Joan Miles Helena Qualifications (if required): public sector representative	Governor	reappointed	8/17/2007 7/1/2009
Mr. Rodney Miller Wolf Point Qualifications (if required): Sector 166 representative	Governor	reappointed	8/17/2007 7/1/2009
Ms. Sandi Miller Helena Qualifications (if required): private sector representative	Governor	reappointed	8/17/2007 7/1/2009
Mr. Michael O'Neill Butte Qualifications (if required): private sector representative	Governor	reappointed	8/17/2007 7/1/2009
Ms. Arlene Parisot Helena Qualifications (if required): public sector representative	Governor	reappointed	8/17/2007 7/1/2009
Director Tony Preite Helena Qualifications (if required): public sector representative	Governor	reappointed	8/17/2007 7/1/2009
Ms. Gail Richardson Bozeman Qualifications (if required): private sector representative	Governor	reappointed	8/17/2007 7/1/2009

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Workforce Investment Board (Labor and Industry) cont.			
Mr. Jeff Rupp Bozeman	Governor	reappointed	8/17/2007 7/1/2009
Qualifications (if required): public sector representative			
Mr. Alan Skari Chester	Governor	reappointed	8/17/2007 7/1/2009
Qualifications (if required): private sector representative			
Ms. Karen Sullivan Missoula	Governor	reappointed	8/17/2007 7/1/2009
Qualifications (if required): private sector representative			
Mr. Jeff Tochihara Columbus	Governor	Beaudry	8/21/2007 7/1/2009
Qualifications (if required): private sector representative			
Ms. Linda Woods Darby	Governor	reappointed	8/17/2007 7/1/2009
Qualifications (if required): public sector representative			
State-Tribal Economic Development Commission (Commerce)			
Mr. Ronald (Smiley) Kittson Browning	Governor	Davis-Bird	8/21/2007 6/30/2010
Qualifications (if required): alternate representative of the Blackfeet Tribe			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2007

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State-Tribal Economic Development Commission (Commerce) cont.			
Ms. Lola Wippert	Governor	Running Crane	8/21/2007
Browning			6/30/2010
Qualifications (if required): representative of the Blackfeet Tribe			
Telecommunications Advisory Council Services for Persons with Disabilities (Public Health and Human Services)			
Mr. Ron Bibler	Governor	reappointed	8/10/2007
Great Falls			7/1/2010
Qualifications (if required): individual with a hearing disability			
Mr. Matt Bugni	Governor	Matthews	8/10/2007
Helena			7/1/2010
Qualifications (if required): agency representative			
Ms. Chris Caniglia	Governor	reappointed	8/10/2007
Helena			7/1/2010
Qualifications (if required): nondisabled business person			
Ms. Linda Kirkland	Governor	reappointed	8/10/2007
Helena			7/1/2010
Qualifications (if required): agency representative			
Ms. Amber Lang	Governor	reappointed	8/10/2007
Kalispell			7/1/2010
Qualifications (if required): individual with a hearing disability			

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2007 through DECEMBER 31, 2007

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Barbers and Cosmetologists (Labor and Industry)		
Ms. Darlene Battaiola, Butte	Governor	10/1/2007
Qualifications (if required): cosmetologist		
Ms. Sharon Richie, Hamilton	Governor	10/1/2007
Qualifications (if required): barber		
Ms. Maggie Burton-Blize, Missoula	Governor	10/1/2007
Qualifications (if required): barber		
Board of Outfitters (Labor and Industry)		
Mr. Kelly Flynn, Townsend	Governor	10/1/2007
Qualifications (if required): hunting and fishing outfitter		
Capital Finance Advisory Council (Governor)		
Attorney Mike McGrath, Helena	Governor	11/22/2007
Qualifications (if required): Attorney General		
Rep. David Ewer, Helena	Governor	11/22/2007
Qualifications (if required): Budget Director		
Director Janet Kelly, Helena	Governor	11/22/2007
Qualifications (if required): Department of Administration Director		
Sen. Rick Laible, Victor	Governor	11/22/2007
Qualifications (if required): state senator		

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2007 through DECEMBER 31, 2007

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Capital Finance Advisory Council (Governor) cont.		
Director Mary Sexton, Helena Qualifications (if required): Department of Natural Resources and Conservation	Governor	11/22/2007
Ms. Karen B. Fagg, Billings Qualifications (if required): Board of Investments representative	Governor	11/22/2007
Rep. Kevin Furey, Milltown Qualifications (if required): state representative	Governor	11/22/2007
Director Tony Preite, Helena Qualifications (if required): Department of Commerce Director	Governor	11/22/2007
Director Richard Opper, Helena Qualifications (if required): Department of Environmental Quality Director	Governor	11/22/2007
Director Jim Lynch, Helena Qualifications (if required): Department of Transportation Director	Governor	11/22/2007
Mr. J. P. Crowley, Helena Qualifications (if required): Board of Housing representative	Governor	11/22/2007
Secretary Brad Johnson, Helena Qualifications (if required): Secretary of State	Governor	11/22/2007
Mr. Bill Kearns, Townsend Qualifications (if required): Facility Finance Authority representative	Governor	11/22/2007

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2007 through DECEMBER 31, 2007

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Capital Finance Advisory Council (Governor) cont. Mr. Mark Semmons, Great Falls Qualifications (if required): Board of Regents representative	Governor	11/22/2007
Lewis and Clark Bicentennial Commission (Historical Society) Mr. Darrell Kipp, Browning Qualifications (if required): Tribal representative	Governor	12/31/2007
Ms. Betty Stone, Glasgow Qualifications (if required): public representative	Governor	12/31/2007
Mr. Homer Staves, Billings Qualifications (if required): public representative	Governor	12/31/2007
Montana Alfalfa Seed Committee (Agriculture) Mr. Thomas Matchett, Billings Qualifications (if required): representative of alfalfa seed growers	Governor	12/21/2007
Mr. Tom Neibur, Malta Qualifications (if required): representative of alfalfa seed growers	Governor	12/21/2007
Montana Licensed Addiction Counselors' Program Advisory Council (Labor and Industry) Ms. Karen Workman, Great Falls Qualifications (if required): Licensed Addiction Counselor	Director	12/27/2007
Ms. Kim McNamara, Billings Qualifications (if required): Private Practitioner	Director	12/27/2007

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2007 through DECEMBER 31, 2007

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Licensed Addiction Counselors' Program Advisory Council (Labor and Industry) cont.		
Ms. Vanessa Sexson, Bozeman	Director	12/27/2007
Qualifications (if required): Montana Association of Alcoholism and Drug Abuse Counselor		
Ms. Marlene O'Connell, Great Falls	Director	12/27/2007
Qualifications (if required): University Member		
Ms. Linda Carpenter, Whitefish	Director	12/27/2007
Qualifications (if required): Public Member		
Montana Organic Commodity Advisory Council (Agriculture)		
Ms. Laura Garber, Hamilton	Director	11/7/2007
Qualifications (if required): organic producer		
Ms. Andre Giles, Fort Benton	Director	11/7/2007
Qualifications (if required): organic handler		
Mr. Mark Bruckner, Malta	Director	11/7/2007
Qualifications (if required): organic producer		
State Emergency Response Commission (Military Affairs)		
Sen. Barry "Spook" Stang, Helena	Governor	10/1/2007
Qualifications (if required): representing Trucking Association		
Mr. Mike Tooley, Helena	Governor	10/1/2007
Qualifications (if required): representing Montana Department of Justice		

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2007 through DECEMBER 31, 2007

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Emergency Response Commission (Military Affairs) cont.		
Ms. Linda Williams, Fort Benton Qualifications (if required): representing DES Association	Governor	10/1/2007
Mr. Daniel Dennehy, Butte Qualifications (if required): representing Local Emergency Planning Committee	Governor	10/1/2007
Mr. Tom Ellerhoff, Helena Qualifications (if required): representing Department of Environmental Quality	Governor	10/1/2007
Mr. Bill Rhoads, Butte Qualifications (if required): representing a Utility Company	Governor	10/1/2007
Sheriff Clifford Brophy, Columbus Qualifications (if required): representing a Law Enforcement Association	Governor	10/1/2007
Mr. Seldon Weedon, Great Falls Qualifications (if required): representing Fire Training School	Governor	10/1/2007
Mr. Jim Greene, Helena Qualifications (if required): representing Disaster and Emergency Services	Governor	10/1/2007
Mr. Royce A. Shipley, Great Falls Qualifications (if required): representing Malmstrom Air Force Base	Governor	10/1/2007
Mr. Steve Larson, Helena Qualifications (if required): representing Fire Service Association	Governor	10/1/2007

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2007 through DECEMBER 31, 2007

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Emergency Response Commission (Military Affairs) cont.		
Mr. Jim Johnson, Missoula Qualifications (if required): representing a Railroad Company	Governor	10/1/2007
Mr. Tim Burton, Helena Qualifications (if required): representing League of Cities and Towns	Governor	10/1/2007
Ms. Jolene Jacobson, Polson Qualifications (if required): representing Tribal Emergency Response Committee	Governor	10/1/2007
Ms. Sally Buckles, Boulder Qualifications (if required): representing Emergency Management Association	Governor	10/1/2007
Mr. Stephen Brueske, Great Falls Qualifications (if required): representing National Weather Service	Governor	10/1/2007
Commissioner Ed Tinsley, Helena Qualifications (if required): representing Montana Association of Counties	Governor	10/1/2007
Mr. Mike Vogel, Bozeman Qualifications (if required): representing the University System	Governor	10/1/2007
Ms. Sally Johnson, Helena Qualifications (if required): representing Department of Public Health and Human Services	Governor	10/1/2007
Mr. Joe Marcotte, Billings Qualifications (if required): representing Hospitals	Governor	10/1/2007

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2007 through DECEMBER 31, 2007

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Emergency Response Commission (Military Affairs) cont.		
Mr. Jim DeTienne, Helena Qualifications (if required): Department of Public Health and Human Services	Governor	10/1/2007
Major Don Emerson, Helena Qualifications (if required): Montana National Guard Representative	Governor	10/1/2007
Mr. Ted Mead, Missoula Qualifications (if required): Department of Natural Resources and Conservation representative	Governor	10/1/2007
Dr. D. L. Moore, M.D., Billings Qualifications (if required): public health representative	Governor	10/1/2007
Ms. Sheena Wilson, Helena Qualifications (if required): Governor's office representative	Governor	10/1/2007
Ms. Cheryl Richman, Helena Qualifications (if required): Department of Transportation representative	Governor	10/1/2007
Mr. Ron Jendro, Helena Qualifications (if required): Department of Fish, Wildlife and Parks representative	Governor	10/1/2007
Trauma Care Committee (Public Health and Human Services)		
Mr. Joseph D. Hansen, Big Timber Qualifications (if required): representative of the Eastern Region Trauma Advisory Committee	Governor	11/2/2007
Dr. Gregory J. Moore, Missoula Qualifications (if required): representative of the Western Region Trauma Advisory Committee	Governor	11/2/2007

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2007 through DECEMBER 31, 2007

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Trauma Care Committee (Public Health and Human Services) cont.		
Mr. Michael P. McGree, Butte Qualifications (if required): representative of private ambulance operators	Governor	11/2/2007
Dr. Kirby Peden, Big Timber Qualifications (if required): representative of the Eastern Region Trauma Advisory Committee	Governor	11/2/2007
Mr. Tim Sinton, Choteau Qualifications (if required): representative of the Central Region Trauma Advisory Committee	Governor	11/2/2007
Mr. John Bleicher, Missoula Qualifications (if required): representative of Montana Trauma Coordinators	Governor	11/2/2007
Ms. Pauline Linnell, Bigfork Qualifications (if required): representative of Montana Emergency Medical Services Association	Governor	11/2/2007
Mr. William Taylor, Bigfork Qualifications (if required): representative of Montana Emergency Nurses Association	Governor	11/2/2007
Mr. Randall Combs, Lame Deer Qualifications (if required): representative of Indian Health Service	Governor	11/2/2007
Dr. James Bentler, Billings Qualifications (if required): American College of Emergency Physicians representative	Governor	11/2/2007
Dr. Dennis Maier, Billings Qualifications (if required): American College of Surgeons/Trauma Committee representative	Governor	11/2/2007

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2007 through DECEMBER 31, 2007

Board/current position holder

Appointed by

Term end

Water and Waste Water Operators' Advisory Council (Environmental Quality)

Mr. Donald Coffman, Harlem

Governor

10/16/2007

Qualifications (if required): water treatment plant operator