

# MONTANA ADMINISTRATIVE REGISTER

## ISSUE NO. 23

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 The Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 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

#### JUSTICE, Department of, Title 23

23-12-184 Notice of Extension of Comment Period on Proposed Adoption and Amendment - Responsibility for Costs - Criminal History Records Program.	2959-2960
---	-----------

### RULE SECTION

#### ENVIRONMENTAL QUALITY, Department of, Title 17

AMD (Motor Vehicle Recycling and Disposal) Reimbursement Payments for Abandoned Vehicle Removal.	2961
AMD (Asbestos Control) Incorporation by Reference - Definitions - Asbestos Project Control Measures - Clearing Asbestos Projects.	2962
AMD (Methamphetamine Cleanup Program) Incorporation by Reference of Current Federal Regulations into the Methamphetamine Cleanup Rules - Clearance Sampling.	2963

#### PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

AMD Child Care Assistance Program.	2964-2965
------------------------------------	-----------

PUBLIC SERVICE REGULATION, Department of, Title 38

AMD Pipeline Safety - National Electrical Safety Code. 2966

AMD Telecommunications Service Standards.  
REP 2967-2978

REVENUE, Department of, Title 42

AMD Personal, Industrial, and Centrally Assessed Property  
Taxes. 2979-2981

SECRETARY OF STATE, Office of, Title 44

AMD (Commissioner of Political Practices) Payment Threshold -  
Inflation Adjustment for Lobbyists. 2982

SPECIAL NOTICE AND TABLE SECTION

Function of Administrative Rule Review Committee. 2983-2984

How to Use ARM and MAR. 2985

Accumulative Table. 2986-2995

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the matter of the proposed adoption of ) NOTICE OF EXTENSION OF  
NEW RULE I, responsibility for costs; and ) COMMENT PERIOD ON  
proposed amendment of ARM 23.12.103 ) PROPOSED ADOPTION  
through 23.12.105, concerning criminal ) AND AMENDMENT  
history records program )

TO: All Concerned Persons

1. On October 26, 2006, the Department of Justice published MAR Notice No. 23-12-180 at page 2447 of the 2006 Montana Administrative Register, issue No. 20, regarding the proposed adoption and amendment of the above-stated rules.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on December 21, 2006, to advise us of the nature of the accommodation that you need. Please contact Jon Ellingson, Department of Justice, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401; (406) 444-2026; Montana Relay Service 711; fax (406) 444-3549; or e-mail [jellingson@mt.gov](mailto:jellingson@mt.gov).

3. A public hearing was held on November 15, 2006. Several attendees requested that the department extend the comment period beyond November 24, 2006, which was the date published in MAR Notice No. 23-12-180.

4. The department grants this request and extends the comment period to January 2, 2007. The text of the rules remains as originally proposed. See MAR Notice No. 23-12-180 on the department's web page or in issue No. 20 of the 2006 Montana Administrative Register for the text of the rules.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Jon Ellingson, Department of Justice, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401, fax (406) 444-3549, or e-mail [jellingson@mt.gov](mailto:jellingson@mt.gov), and must be received no later than 5:00 p.m. on January 2, 2007.

6. The Department of Justice 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, mailed or delivered to Jon Ellingson, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401, faxed to the office at (406) 444-3549, ATTN: Jon Ellingson, e-mailed to [jellingson@mt.gov](mailto:jellingson@mt.gov), or may be made by completing a request form at any rules hearing held by the Department of Justice.

By: /s/ Mike McGrath \_\_\_\_\_  
MIKE McGRATH  
Attorney General  
Department of Justice

/s/ Jon Ellingson \_\_\_\_\_  
JON ELLINGSON  
Rule Reviewer

Certified to the Secretary of State on November 27, 2006.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM )	NOTICE OF AMENDMENT
17.50.213 pertaining to reimbursement )	
payments for abandoned vehicle )	(MOTOR VEHICLE RECYCLING
removal )	AND DISPOSAL)

TO: All Concerned Persons

1. On October 26, 2006, the Department of Environmental Quality published MAR Notice No. 17-255 regarding a notice of public hearing on the proposed amendment of the above-stated rule at page 2444, 2006 Montana Administrative Register, issue number 20.

2. The department has amended the rule exactly as proposed.

3. The following comment was received and appears with the department's response:

COMMENT NO. 1: The department received one written comment in support of the proposed amendment.

RESPONSE: The department acknowledges the comment.

Reviewed by: DEPARTMENT OF ENVIRONMENTAL QUALITY

/s/ David Rusoff  
DAVID RUSOFF  
Rule Reviewer

By: /s/ Richard H. Opper  
RICHARD H. OPPER  
Director

Certified to the Secretary of State, November 27, 2006.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM )	NOTICE OF AMENDMENT
17.74.350, 17.74.352, 17.74.356, and )	
17.74.357 pertaining to incorporation by )	(ASBESTOS CONTROL)
reference, definitions, asbestos project )	
control measures, and clearing asbestos )	
projects )	

TO: All Concerned Persons

1. On October 5, 2006, the Department of Environmental Quality published MAR Notice No. 17-253 regarding a notice of public hearing on the proposed amendment of the above-stated rules at page 2291, 2006 Montana Administrative Register, issue number 19.

2. The department has amended the rules exactly as proposed.

3. No public comments or testimony were received.

Reviewed by:	DEPARTMENT OF ENVIRONMENTAL QUALITY
--------------	--

/s/ David Rusoff  
 DAVID RUSOFF  
 Rule Reviewer

By: /s/ Richard H. Opper  
 RICHARD H. OPPER  
 Director

Certified to the Secretary of State, November 27, 2006.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM )	NOTICE OF AMENDMENT
17.74.502, 17.74.503, and 17.74.507 )	
pertaining to incorporation by reference )	(METHAMPHETAMINE CLEANUP
of current federal regulations into the )	PROGRAM)
methamphetamine cleanup rules and )	
clearance sampling )	

TO: All Concerned Persons

1. On October 5, 2006, the Department of Environmental Quality published MAR Notice No. 17-251 regarding a notice of public hearing on the proposed amendment of the above-stated rules at page 2285, 2006 Montana Administrative Register, issue number 19.

2. The department has amended the rules exactly as proposed.

3. The following comment was received and appears with the department's response:

COMMENT NO. 1: The department should require additional clandestine methamphetamine lab cleanup experience for the contractors conducting clearance sampling.

RESPONSE: The amendment to ARM 17.74.507 requires an independent contractor who conducts clearance sampling to be certified pursuant to ARM Title 17, chapter 74, subchapter 5, to perform that work. The experience requirement for certification is 40 or more hours of on-site experience in methamphetamine lab cleanup projects. Because this is a new program in Montana and other states, there have been limited opportunities for contractors to acquire significant methamphetamine cleanup experience. At this time, if the department increases the methamphetamine cleanup experience requirement for contractors conducting clearance sampling, very few contractors would meet that requirement, resulting in a bottleneck in methamphetamine lab cleanup project clearance. After the methamphetamine lab cleanup program has operated for a sufficient time, the department will reconsider the experience requirement.

Reviewed by: DEPARTMENT OF ENVIRONMENTAL QUALITY

/s/ David Rusoff  
DAVID RUSOFF  
Rule Reviewer

By: /s/ Richard H. Oppen  
RICHARD H. OPPEN  
Director

Certified to the Secretary of State, November 27, 2006.

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

In the matter of the amendment of ARM     )  
37.80.101, 37.80.202, 37.80.203,         )  
37.80.301, and 37.80.501 pertaining to     )  
the child care assistance program         )

NOTICE OF AMENDMENT

TO: All Interested Persons

1. On June 22, 2006, the Department of Public Health and Human Services published MAR Notice No. 37-386 pertaining to the public hearing on the proposed amendment of the above-stated rules, at page 1555 of the 2006 Montana Administrative Register, issue number 12.

2. The department has amended ARM 37.80.101, 37.80.202, 37.80.203, 37.80.301, and 37.80.501 as proposed.

3. The department received comments regarding proposed changes to the following child care manual sections:

COMMENT #1: Section 6-2 - The commentor pointed out that the inclusion of Washington State in the Western Identification Network (WIN) for background check purposes was incorrect and should not be added.

RESPONSE: The department concurs. Washington State will not be included in the list of states that participate in the WIN network for purposes of regional background checks.

COMMENT #2: Section 6-13 - The name of the DPHHS Fiscal-Accounts Receivable contact was incorrect.

RESPONSE: The department will include the correct contact information in the revised manual material.

COMMENT #3: Section 6-13 - The manual material states "Legally Unregistered In-home (LUI) payments should generate a 1099. LUI payments are issued directly to the parent who employs the LUI. Child Care Response and Referral Organizations (CCR&Rs) should mark the W-9 'Head of Household'." The commentor states that LUI payments Head of Household Payments DO NOT generate a 1099.

RESPONSE: The department will include an accurate description of the 1099 process for Legally Unregistered In-home providers in the updated manual material.

COMMENT #4: Section 7-1 - The reference to the National School Age Care Alliance is incorrect. This entity has changed its name to National Afterschool



Association (NAA).

RESPONSE: The department will include the correct name of the National Afterschool Association in the revised manual material.

/s/ Francis Clinch for  
Rule Reviewer

/s/ Joan Miles  
Director, Public Health and  
Human Services

Certified to the Secretary of State November 27, 2006.

BEFORE THE DEPARTMENT  
OF PUBLIC SERVICE REGULATION  
OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF AMENDMENT  
of ARM 38.5.2202 and 38.5.2302, )  
pertaining to pipeline safety, and )  
ARM 38.5.1010 and 38.5.1907, )  
pertaining to the National Electrical )  
Safety Code )

TO: All Concerned Persons

1. On October 5, 2006, the Department of Public Service Regulation, Public Service Commission (PSC) published MAR Notice No. 38-2-195 regarding a public hearing on the proposed amendment of the above-stated rules at page 2372 of the 2006 Montana Administrative Register, issue number 19.
2. The PSC has amended ARM 38.5.2202, 38.5.2302, 38.5.1010, and 38.5.1907 as proposed.
3. No comments or testimony were received.

/s/ Greg Jergeson  
Greg Jergeson, Chairman  
Public Service Commission

/s/ Robin A. McHugh  
Reviewed by Robin A. McHugh

Certified to the Secretary of State November 27, 2006.

BEFORE THE DEPARTMENT  
OF PUBLIC SERVICE REGULATION  
OF THE STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF AMENDMENT
of ARM 38.5.3301, 38.5.3302,	)	AND REPEAL
38.5.3320, 38.5.3330, 38.5.3331,	)	
38.5.3332, 38.5.3334, 38.5.3335,	)	
38.5.3336, 38.5.3339, 38.5.3350,	)	
38.5.3353, 38.5.3360, 38.5.3361,	)	
38.5.3362, 38.5.3371, and the	)	
repeal of ARM 38.5.3333, 38.5.3337,	)	
38.5.3338, 38.5.3341, 38.5.3343,	)	
38.5.3352, and 38.5.3370, all	)	
pertaining to Telecommunications)	)	
Service Standards	)	

TO: All Concerned Persons

1. On July 27, 2006, the Department of Public Service Regulation, Public Service Commission (PSC or commission), published MAR Notice No. 38-2-194, regarding a public hearing on the proposed amendment and repeal of the above-stated rules at page 1844 of the 2006 Montana Administrative Register, issue number 14.

2. The PSC has amended the following rules as proposed: ARM 38.5.3301, 38.5.3320, 38.5.3331, 38.5.3334, 38.5.3335, 38.5.3339, 38.5.3350, 38.5.3360, and 38.5.3361.

3. The PSC has amended the following rules as proposed, but with the following changes, stricken matter interlined, new matter underlined:

38.5.3302 DEFINITIONS In the interpretation of these rules, the following definitions shall be used:

(1) through (9) remain as proposed.

(10) "Facilities-based carrier" for purposes of these rules means a carrier that owns a majority of the facilities by which the carrier provides telecommunications service in Montana.

(10) through (14) remain as proposed, but are renumbered (11) through (15).

(16) "Local exchange carrier" means a carrier that provides local exchange service.

(15) through (19) remain as proposed, but are renumbered (17) through (21).

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

38.5.3330 RATE AND SPECIAL CHARGES INFORMATION (1) ~~Each carrier whose tariff or price list is filed with the commission must have its tariff or price list available for viewing at each business office. If the carrier has no local business office in Montana, the Montana tariff or price list must be posted on its website. A carrier must provide all information and assistance needed by applicants, customers, or others to determine the lowest cost telecommunications service available from the carrier that meets their stated needs. The carrier must provide written rate information at the request of customers and as otherwise required by the commission.~~

~~(2) A carrier must provide all information and assistance needed by applicants, customers, or others to determine the lowest cost telecommunications service available from the carrier that meets their stated needs. The carrier must provide written rate information at the request of customers and as otherwise required by the commission. Each carrier whose tariff or price list is filed with the commission must have its tariff or price list available for viewing at each business office. If the carrier has no local business office in Montana, the Montana tariff or price list must be posted on its web site.~~

(3) Prior to taking any action or offering any service, the local exchange carrier must notify customers of any connection charge or other charge and must provide an estimate of the initial bill for flat monthly services and other applicable charges. The local exchange carrier shall inform the customer whether or not taxes and other fees are included in the estimate.

(4) The local exchange carrier must offer to give an applicant a written estimate of special charges for services not established by tariff, such as construction charges, which are levied on an actual cost basis.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

38.5.3332 CUSTOMER BILLING (1) through (4) remain as proposed.

(5) Local exchange service cannot be denied or terminated because of nonpayment of unregulated services, toll services, or services provided by other carriers, except when a local exchange carrier's local, toll, or unregulated services are combined into one service package at a single rate. A carrier's bill to its customer shall clearly distinguish between regulated and unregulated service.

~~(a)~~ (6) Undesignated partial payments of a bill shall be applied first to local exchange carrier regulated local exchange services and then to service other than local exchange carrier regulated local exchange services in such percentage as each other service provider's charges represent of the total charges. When a local exchange carrier's local, toll, or unregulated services are combined into one service package at a single rate, undesignated partial payments shall be applied first to the service package, then to other services as described above.

(6) remains as proposed, but is renumbered (7).

~~(7)~~ (8) All carriers are prohibited from charging any amount for ~~incomplete or~~ unanswered calls.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, 69-3-221, MCA

38.5.3336 DIRECTORIES (1) through (3) remain as proposed.

(4) Information pertaining to emergency calls, such as for the police and fire departments, must be conspicuously printed on the inside front cover of the directory.

(4) through (6) remain as proposed, but are renumbered (5) through (7).

(7) (8) If Except when the number listed in error is in use by another customer or is assigned to a different carrier, if there is an error in the directory listing for a customer, the local exchange carrier must intercept all calls to the listed number at no charge, for six months or until a new directory is published, whichever occurs first. Alternatively, the local exchange carrier may forward all calls to the listed number to the correct number. If there is an error or omission in the name listing of a customer, the correct name and telephone number must be placed in the files of the directory assistance and/or intercept operators and the correct number furnished the calling party upon request or interception. Competitive local exchange carriers are exempt from this requirement if technically unable to comply with it.

(8) remains as proposed, but is renumbered (9).

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

38.5.3353 NETWORK INTERFACE (1) Each facilities-based local exchange carrier ~~providing service by means of its own facilities to the customer's location~~ shall establish a point of demarcation between the utility carrier facilities and a customer's premises wiring and equipment. It shall be the responsibility of the utility to install and maintain a network interface device (NID) in accordance with commission guidelines, the local exchange carrier's tariff, and with rules established by the Federal Communications Commission.

(2) and (3) remain as proposed.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

38.5.3362 SERVICE INTERRUPTIONS (1) In the event that a facilities-based local exchange service must be interrupted for over four hours for planned work on the facilities or equipment, the work shall be done at a time which will cause minimal inconvenience to customers. In the event that local exchange service must be so interrupted, the facilities-based local exchange carrier shall attempt to notify each affected customer at least 24 hours in advance of the interruption.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

38.5.3371 SERVICE REQUIREMENTS (1) These rules establish service quality requirements for facilities-based local exchange carriers ~~providing service by means of their own facilities~~. The carrier shall be expected to meet generally

accepted industry standards for quality on any service provided by the carrier that is not covered by these rules.

(2) Based on commission receipt of increasing consumer complaints or other relevant information about the level of service being provided by a carrier to which these service quality requirements apply, the commission may require the carrier to begin documenting its compliance with any or all of these service requirements and providing periodic service quality reports containing such documentation to the commission. If a carrier is required by the commission to provide records or documentation regarding its compliance, the records or documentation must be reported on individual exchange and statewide aggregate bases.

(3) and (3)(a) remain as proposed.

(b) Each ~~exchange~~ carrier shall make commitments to customers as to the date of installation of all service orders.

(c) remains as proposed.

(d) A carrier shall not cancel customer installation orders at its own discretion. An installation order received by a carrier shall remain a pending order until the installation is completed or the customer requests cancellation at his or her own initiative or in response to the carrier's inquiry. An installation order may be cancelled if the carrier has made a good faith effort to contact the customer and the customer has not responded to the carrier's inquiries.

(4) through (7) remain as proposed.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-201, MCA

4. The PSC has repealed ARM 38.5.3333, 38.5.3337, 38.5.3338, 38.5.3341, 38.5.3343, 38.5.3352, and 38.5.3370 as proposed.

5. The following comments were received and appear with the PSC's responses:

COMMENT (general): Qwest Corporation (Qwest) commented it supports the rulemaking and generally agrees with the amendments, with qualifications. The Montana Telecommunications Association (MTA), the Montana Independent Telecommunications Systems (MITS), Blackfoot Telephone Cooperative, Inc., and Blackfoot Communications, Inc. (Blackfoot), Verizon (on behalf of affiliates), and the Montana Consumer Counsel (MCC) appeared as opponents or to provide information. In its written comments, MTA questioned whether service quality standards have a role to play in the increasingly competitive telecommunications environment. MTA commented that service quality rules should apply only to eligible telecommunications carriers and only to a minimum extent. MTA and Blackfoot recommended that the rules should not apply to any carrier unless a carrier's service quality has been determined in a formal proceeding to be measurably inferior. Blackfoot suggested that if the PSC preferred a firmer test for applying the rules to a carrier, the appropriate threshold would be if the PSC had received consumer complaints on more than one-half of 1% of the carrier's total access lines in a year. MTA and Blackfoot commented generally that the proposed rules are often unclear

as to applicability to all carriers or to a subset of them and recommended revising rules where necessary to clarify their applicability and to maintain the consistent use of terms throughout. MCC commented that, because there is no evidence that competitive alternatives exist for all Montana customers, there is no justification for across-the-board reduction in service quality standards statewide. MCC also expressed concern that the quality of basic phone service should be prioritized in an environment where providers are investing in advanced services and products. Verizon and AT&T Communications of the Mountain States, Inc., and SBC Long Distance, LLC, dba AT&T Long Distance (AT&T) recommended the PSC limit the rules' application to residential service only because business customers are sophisticated, there is competition for business customers, and many business customers' telecommunications service is provided under contract. Citing ambiguity about the applicability of the rules to rural cooperatives, Blackfoot recommended amending the rules to simply state that they do not apply to cooperatives. Blackfoot also commented that competitive local exchange carriers should be exempt from the rules because it could place them at a competitive disadvantage. If the PSC does not exempt competitive local exchange carriers from the rules, Blackfoot suggested that the rules be modified to ensure all carriers in this group, such as carriers using packet-switching technology, are subject to them.

RESPONSE: Under Montana law, the PSC is responsible for ensuring that regulated telecommunications carriers provide adequate service. These rules' consumer protections and service standards establish for the PSC and for regulated carriers the minimum expectations for the provision of adequate service. In this rulemaking the PSC recognizes the need for updating and eliminating rules in light of the changes in the telecommunications marketplace that were noted by many commenters. The PSC agrees with MCC regarding the importance of ensuring the service quality of plain old telephone service. The rules have been amended in several places to clarify their applicability. The rules that provide consumer protections, such as the billing, deposits, and termination requirements, are reasonably applied to all carriers, including competitive local exchange carriers. It is equally reasonable that other rules do not apply to all carriers. No argument has been presented by AT&T or Verizon that persuades the PSC to apply the rules to provision of residential service only. The PSC reiterates yet again that these rules do not apply to rural telephone cooperatives or wireless carriers, both of which are exempt from PSC jurisdiction by law.

COMMENT (ARM 38.5.3301): AT&T proposed revising section (2) to state the rules apply only to residential retail local exchange service.

RESPONSE: The PSC declines to revise the rule as suggested by AT&T. The significant narrowing of the applicability of the rules proposed by AT&T is beyond the scope of the rules as noticed and would require a new rulemaking proceeding to provide interested persons with an opportunity to comment on the proposal.

COMMENT (ARM 38.5.3302): Qwest recommended adding its suggested

definitions of the terms "facilities-based carrier" and "unavoidable causalities and acts of God," and revising the definition of "installation order" to include, rather than exclude, change orders and requests for feature additions. MCC also recommended a definition of the term "facilities-based carrier." MTA commented confusion results because the term "local exchange carrier" is not defined and the definition of "incumbent local exchange carrier" does not include an exemption for rural cooperative or wireless carriers. MTA recommended the use of a single term for "carrier" throughout the rules. AT&T recommended elimination of the language "through any means" from the definition of "competitive local exchange carrier" to make clear that unregulated services are not included inappropriately.

RESPONSE: The PSC agrees "facilities-based carrier" and "local exchange carrier" should be defined and has amended the rule accordingly. The PSC overrules the remaining comments. Qwest's proposed definition of "unavoidable causalities and acts of God" is overly long and unnecessarily detailed. The term "installation order" is purposely limited to orders regarding installation of access lines because the PSC's concern is that carriers provide working telephone service to customers within a reasonable time. The PSC declines to revise the "incumbent local exchange carrier" definition to clarify that it does not include unregulated entities because the definition of "carrier" already expressly states that these rules do not apply to rural cooperatives or wireless carriers. Because one purpose of this rulemaking is to revise the existing rules to clarify which rules apply to which categories of carriers, it is not possible to use just the term "carrier" throughout the rules. The definition of "competitive local exchange carrier" is clearly limited to regulated local exchange service.

COMMENT (ARM 38.5.3320): MTA commented that incumbent local exchange carriers would be subject to section (1), while a separate class of carriers would be subject to sections (2) and (3). AT&T commented that section (3) needs clarification as to the definition of "facilities-based carrier" and recommended a definition.

RESPONSE: MTA is correct that only regulated incumbent local exchange carriers are required to file exchange maps and tariffs, only facilities-based carriers must report service outages, and all carriers must provide commission-requested information. The PSC has added a definition of "facilities-based carrier" in the definitions section.

COMMENT (ARM 38.5.3330): MTA requested clarification of the applicability of each section.

RESPONSE: Sections (1) and (2) are clear in this regard, but the order in which they appear in the rule is rearranged to effect a more logical progression from general application to all carriers through the narrowing applicability of the remaining sections. The words "local exchange" have been inserted before the word "carrier" in sections (3) and (4) to clarify the requirements regarding cost estimates apply to local exchange carriers.



COMMENT (ARM 38.5.3331): MTA requested clarification as to whether its assumption that this rule applies to all carriers is correct.

RESPONSE: The rule requires all carriers to have a business office to respond to customers' inquiries and further ensures that customers are provided with the toll-free numbers of carriers or other entities whose charges appear on their local phone bills.

COMMENT (ARM 38.5.3332): AT&T commented that subsection (1)(a) should allow carriers and customers to agree on alternative billing schedules. AT&T commented it assumes that the "new provider" referred to in subsection (1)(e) is a provider with whom the customer does not have a continuing relationship. MTA recommended amending sections (5) and (5)(a) to create exceptions for service packages in the rules related to separating regulated from unregulated services on a bill and allocation of undesignated partial payments. Verizon agreed with MTA that service packages should be exempted from the allocation of partial payment rule and commented that subsection (5)(a) regarding the allocation of partial payments among several providers may be problematic, impractical, and possibly costly for carriers to implement. Verizon agreed with the concept that no carrier is favored over another when partial payments are allocated, but commented the rule's language needs clarification. Regarding the prohibition at section (7) against billing for incomplete calls, Verizon recommended the term "incomplete calls" be defined.

RESPONSE: Regarding AT&T's comment that carriers and customers should be allowed to agree on alternative billing schedules, that is exactly what subsection (1)(a) provides. AT&T is incorrect in its limited interpretation of what a "new provider" is in subsection (1)(e) because the rule requires clear and conspicuous identification on the bill of any provider that did not have any charges billed to the customer in the previous month. The PSC agrees with MTA that consistency requires the service-package exception to be included in sections (5) and (5)(a). Those sections have been revised accordingly. Subsection (5)(a) has been renumbered (6) to meet standard rule-numbering conventions. The PSC does not agree with Verizon that the allocation of partial payments rule needs clarification because, except for the change that partial payments must be applied first to regulated local exchange service, the allocation method is unchanged from the existing rule that has been in place for many years. The PSC agrees with the point made by Verizon regarding section (7) and has deleted the reference to "incomplete" calls.

COMMENT (ARM 38.5.3336): MTA requested clarification of applicability of section (2) and questioned whether the rule is consistent with federal and state ETC designations. MCC commented that section (4), which requires emergency call information be included in directories, should not be deleted because the PSC should not assume every person knows how to contact emergency services. Regarding section (5), MTA commented the rule imposes a new discriminatory requirement that incumbent local exchange carriers set aside limited and valuable

space in their directories for other carriers' information. MITS objected to section (7), which requires that when a directory listing is mistaken, the local exchange carrier must intercept calls to listed number. MITS and AT&T commented this rule fails to take into account the situation where the number listed in error is being used by another customer or has been assigned to another carrier. MTA commented that section (7) exempts competitive local exchange carriers from addressing directory listing errors. MCC objected to deletion of section (9), which requires the carrier, in cases where the customer's number has changed after directory publication, to offer to intercept calls to the published number. MCC recommended keeping that requirement, at least where the carrier has changed the customer's number or there has been a publishing error.

RESPONSE: Because a definition of the term "local exchange carrier" has been added, MTA's confusion over applicability of section (2) should be resolved. There is no conflict between this section and federal and state ETC requirements. The PSC agrees with MCC's suggestion to keep, rather than delete, the requirement that emergency call information be included in directories and that sentence of the section is retained in the rule. The existing requirement in section (5) that incumbent local exchange carriers make space available in their directories at a reasonable charge for interexchange carriers' information is expanded to making space available to all carriers because the types of competing carriers today include more than just long-distance carriers. The PSC agrees with MITS and AT&T that an exception needs to be inserted in section (7) for circumstances in which the number listed in error is in use by another customer or assigned to a different carrier. The PSC declines MCC's suggestion to keep section (9) because a customer interested in purchasing call intercept service from a carrier will likely inquire about it when he or she changes phone numbers.

COMMENT (ARM 38.5.3339): Verizon objected to the requirement in section (6) that a carrier must provide seven-days notice before terminating service unless there is both excessive toll usage and an identifiable risk of nonpayment because, according to Verizon, it undermines carriers' efforts to prevent fraud. Verizon recommended that the rule be amended to allow termination with reduced notice requirements if either there is excessive toll usage or identifiable risk of nonpayment, but not necessarily both. AT&T commented that both interstate and intrastate toll usage be included in this rule's calculation and also recommended that the toll usage threshold of \$100 be reduced to \$50.

RESPONSE: The amendments to section (6) were made to remove the internal catchphrases that are not allowed in administrative rulemaking format. The PSC declines at this time to revise the substantive requirements of the section, which have been in effect for many years, and would be beyond the scope of this rulemaking.

COMMENT (ARM 38.5.3352): Qwest recommended deletion of the term "exchange" preceding "carrier" in the title in order to maintain consistency.

RESPONSE: This rule is being repealed and is not subject to revision.

COMMENT (ARM 38.5.3353): MTA objected to the use of the term "utility" in this rule. MCC objected to deletion of section (4) because the rule ensures the NID is not placed away from the customer's inside wiring which would cause the customer to pay more to connect the NID. MCC also objected to the deletions of sections (5) and (6) unless the PSC is certain that all customers' premises have NIDs.

RESPONSE: The PSC inserts "facilities-based" in section (1) for clarification. The PSC agrees with MTA and has revised the rule to replace "utility" with "carrier." It is not necessary to keep sections (4) through (6) because they are restatements of the requirement in section (1) that a facilities-based local exchange carrier must install and maintain a NID as the point of demarcation between its facilities and a customer's premise and wiring.

COMMENT (ARM 38.5.3362): MTA requested clarification of applicability of this rule. MCC recommends keeping section (1) and suggests providers should provide emergency service by means of a temporary pay telephone. AT&T commented that section (1) should be amended to apply to facilities-based local exchange carriers and recommended the rule be amended to allow non-facilities-based carriers' interconnection agreements with facilities-based carriers address customer notification issues or, alternatively, direct incumbent carriers in this rule to timely inform competitors in order to allow them to meet the 24-hour notice timeframe.

RESPONSE: The rule has been revised to clarify it applies only to facilities-based local exchange carriers. The PSC does not agree with MCC's suggestion that a temporary pay telephone be installed when a carrier is working on its facilities because there is no information in this proceeding as to the suggestion's technical and legal feasibility or cost.

COMMENT (ARM 38.5.3371): MITS commented generally that applying service quality standards based on a percentage of a carrier's orders, installations, and so forth, means that small carriers are held to higher standards than large carriers because one or two violations by a small carrier could result in noncompliance. MITS also recommended amending this rule to exempt small telecommunications carriers as defined in 69-3-901, MCA, from the record maintenance, documentation, and reporting requirements unless, following a formal complaint proceeding, the PSC determines a service quality problem exists. Qwest recommended revising the first sentence of section (1) to state that the rule's requirements apply to local exchange carriers providing service "primarily through" their own facilities, rather than "by means of" their own facilities. MTA requested clarification of applicability of section (1). Blackfoot and AT&T commented that competitive local exchange carriers who purchase facilities from another carrier often have no control over when service will be installed and recommended that competitive local exchange carriers be exempt from installation standards. AT&T

also recommended defining "facilities-based carrier" and commented the service quality standards should not apply to local service resellers or those who provision service via unbundled network element platform type arrangements. Qwest commented that the language in section (2) that relates to the trigger for requiring service quality compliance reporting is vague and should be clarified to specify that the PSC could require documentation and reporting if the number of consumer complaints to the PSC indicated a carrier exhibited a pattern of service quality violations. MTA recommended new language at section (2) to require service quality reporting if the PSC receives a "sufficient number" of consumer complaints and proves in a formal proceeding that the carrier's service quality warrants application of documentation and reporting requirements. AT&T recommended amending the rule to allow competitive local exchange carriers to collect and report data on a statewide basis to reflect their network architecture. MCC recommended that no changes be made to the existing service quality documentation and reporting requirements because: they provide carriers an incentive to comply; without the reporting requirements the PSC will not know when service quality deteriorates or have the data necessary for comparisons and corrections; and the PSC should monitor and regulate service quality until local exchange markets are workably competitive as determined by the PSC. Regarding section (3), Qwest and MTA proposed inserting force majeure language and recommended the 95% installation standard should apply only to orders that do not require construction. MTA additionally recommended excluding orders where fees have not been paid, and noted carriers may not have systems in place to track customer-requested due dates. Qwest recommended the 100% installation standard within 180 days in subsection (3)(a) be revised to 99% and that it apply to service orders requiring facilities. MITS objected to the 100% standard as well because it would be nearly impossible for small carriers to meet. MTA recommended that subsection (3)(a) and (3)(c) include exceptions to take into account extenuating circumstances. MTA requested that deleted language in the former subsection (3)(b) be retained. Qwest recommended deletion of (3)(c), which specifies the circumstances under which certain installation orders not completed on time may not be counted as rule violations. Citing system modification costs, Qwest recommended deletion of the prohibition against a carrier excluding orders from this measurement due to no access to the customer's location when the carrier fails to show up at the location during the four-hour appointment window. Qwest commented that the prohibition in subsection (3)(d) against a carrier cancelling a customer's installation order at its own discretion is not reasonable and suggested adding language to allow a carrier to cancel an order if the carrier attempts to contact the customer and receives no response. AT&T commented it cancels a residential customer's order if it will be held more than 14 days and recommended deletion of this rule. Qwest suggested deletion of the term "exchange" preceding "carrier" at subsection (3)(b) in order to maintain consistency and MTA submitted the same comment about (3)(c). AT&T recommended deletion of the answering time metrics in section (4) because they are relics of the past. Qwest commented that the exceptions in subsection (7)(b) should be deleted and that a reference to Qwest's proposed force majeure section be inserted instead. AT&T commented that non-facilities-based carriers may not be able to meet the 24-hour standard in subsection (7)(b) because they have to

coordinate with another carrier and recommended revised language and a lower standard in cases where more than one carrier is involved. MTA recommended that (7)(d)(iv) be revised to allow carriers to charge for investigating trouble reports on the carrier's side of the service if the customer caused the trouble.

RESPONSE: MITS's concerns about the installation standards' effect on small carriers are unfounded for two reasons: compliance documentation and reporting is not triggered under the rule unless the PSC has good reason to suspect a service quality problem exists based on complaints received, which should alleviate small carriers' concerns because the PSC typically receives few service-related complaints from their customers; and the rule recognizes that sometimes installation orders are not completed for reasons that are not within the carrier's control and provides violation exceptions in those circumstances. Section (1) has been revised as suggested by several commenters to make clear that the rule applies to "facilities-based local exchange carriers." The PSC has revised the trigger provision at section (2) to insert the modifier "increasing" preceding "consumer complaints" in response to Qwest's and MTA's concerns. However, the PSC must retain some flexibility within reason when applying the documentation and reporting trigger. Regarding AT&T's suggestion to allow collection and reporting of data on a statewide basis to reflect a carrier's network architecture, the PSC declines to revise the section because a carrier that is required to document and report compliance can make its case at that time about any reporting limitations. Regarding MCC's concerns, the PSC continues to monitor and regulate service quality under this rule; however, carriers have argued persuasively that the requirements for service quality compliance documentation and reporting should not be applied unless the PSC has reason to suspect a carrier is not meeting the standards. The revised standard of section (3), requiring completion of 95% of all installation orders within five business days is reasonable because by far the majority of a carrier's installation orders do not require construction. The revised rule's time frame of five business days is more lenient than the former rule's requirement that 95% of installation orders not requiring construction be completed within three business days. The rule at subsection (3)(a) then allows 180 days for completion of 100% of installation orders, which is a reasonable time frame and standard for the small percentage of a carrier's orders that require more time to complete, usually because construction is required, especially when a carrier is allowed by rule to exclude orders if the carrier is unable to comply due to customer reasons, work stoppages, or other circumstances outside the carrier's control. There is no need, given the scope of the provided exclusions, to insert additional exclusions or force majeure language as suggested by several commenters. The PSC does not adopt Qwest's recommendation that the prohibition be deleted in subsection (3)(c) against a carrier excluding orders due to no access to the customer's location when the carrier fails to show up at the appointed time. These circumstances do not constitute a true "no access" exclusion. The PSC agrees with Qwest's comment that subsection (3)(d) should allow a carrier to cancel an order if the carrier can document attempts to contact the customer and the customer did not respond. The subsection has been revised accordingly. AT&T's practice of cancelling a customer's order if AT&T cannot complete it in 14 days is not reasonable from a customer perspective. As

suggested by Qwest and MTA, the word "exchange" preceding "carrier" has been deleted in subsection (3)(b). The PSC declines to accept AT&T's suggestion that answering time metrics in section (4) be deleted because deletion of these metrics was not proposed in this rulemaking and other parties have therefore not had the opportunity to comment on it. The PSC declines to accept Qwest's suggestion that the exclusions in subsection (7)(b) be deleted because deletion of these exclusions was not proposed in this rulemaking and other parties have therefore not had the opportunity to comment on it. Regarding MTA's suggestion that subsection (7)(d)(iv) be revised to allow carriers to charge for trouble report investigation when the customer caused the trouble, the PSC disagrees. The carrier may certainly charge a customer for repair of the carrier's facilities when the customer caused the damage that must be repaired, but if a carrier charges customers to investigate trouble reports, it may not charge for investigating a trouble report on its own facilities.

/s/ Greg Jergeson  
Greg Jergeson, Chairman  
Public Service Commission

/s/ Robin A. McHugh  
Reviewed by Robin A. McHugh

Certified to the Secretary of State November 27, 2006.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT
ARM 42.21.113; 42.21.123; 42.21.131;	)	
42.21.137; 42.21.138; 42.21.139;	)	
42.21.140; 42.21.151; 42.21.153;	)	
42.21.155; and 42.22.1311 relating to	)	
personal, industrial, and centrally	)	
assessed property taxes	)	

TO: All Concerned Persons

1. On October 5, 2006, the department published MAR Notice No. 42-2-763 regarding the proposed amendment of the above-stated rules at page 2375 of the 2006 Montana Administrative Register, issue no. 19.

2. A public hearing was held on October 26, 2006, to consider the proposed amendment. No oral comments were received during the hearing. Written comments were received prior to the hearing date and are summarized as follows along with the response of the department:

COMMENT NO. 1: Dwaine Iverson, Certified Public Accountant, submitted a comment inquiring why the department was referencing specific years such as 2005, 2004, etc. and not the current year of assessment, first prior year, etc.

RESPONSE NO. 1: The years are specified due to the fact that some of the tables relate to both an acquired year and/or a year of manufacture. By identifying the specific year, it makes it easier for all taxpayers to understand how to complete the personal property reporting forms.

COMMENT NO. 2: Mr. Iverson also stated that the trended percent good should stay the same and he asked why there should be any change in the percentages and questioned the fairness of assessing the taxes in this manner.

RESPONSE NO. 2: Current law requires that all taxable property must be assessed at market value (15-8-111, MCA). The law also specifically identifies that for special mobile equipment and agricultural tools, implements, and machinery, market value is the average wholesale value in national guides. It goes further to say the department shall prepare valuation schedules showing the average wholesale value when national appraisal guides do not exist.

In analysis of the national appraisal guides, the average wholesale value of the equipment may fluctuate from year to year, either positive or negative. The trend tables utilize those same trends in the determination of market value.

The department has used the trend and depreciation method since the late 1970s. In a 1986 District Court ruling, Judge Gordon Bennett of the First Judicial District issued an order requiring the department to comply with the Montana

Administrative Procedure Act in promulgating these trending and depreciation tables by rule. In that order, Judge Bennett stated "new trending and depreciation schedules constitute a new plan for property appraisal and their promulgation calls for compliance with the MAPA procedure."

COMMENT NO. 3: Mr. Iverson stated that if the change in date is made, there would not be any annual arbitrary changes to the percentages. He stated that he felt that changing the dates and some of the percentages every year is an abuse of the administrative rules process.

RESPONSE NO. 3: The annual changes to the trend factors are not an arbitrary change. The trend factors used come from national publications which analyze the current installed cost of various equipment types by industry. These trends are then applied against the appropriate depreciation percentages to determine a trended depreciation factor. Taxpayers that are affected by the valuation methodology for personal property are able to annually review and provide input through the Montana administrative rule process, which is also in compliance with the order issued by Judge Bennett.

3. The department discovered that an address contained in ARM 42.21.131 and 42.21.151 is incorrect so the department further amends those rules as follows:

42.21.131 HEAVY EQUIPMENT (1) remains as proposed.

(2) For all heavy equipment which cannot be valued under (1), the department shall try to ascertain the original FOB through old heavy equipment valuation guidebooks. If an original FOB cannot be ascertained, the department may use trending to determine the FOB. The FOB or "trended" FOB will be used in conjunction with the depreciation schedule in (5) to arrive at a value which approximates wholesale value. The trend factors are the most recent available in the Marshall Valuation Service Manual for the year of assessment. The Marshall Valuation Service Manual published by Marshall and Swift Publication Company, 944 915 Wilshire Boulevard, ~~46th~~ 8th Floor, P.O. Box 26307, Los Angeles, California 90026-0307, is adopted by reference.

(3) through (6) remain as proposed.

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

42.21.151 TELEVISION CABLE SYSTEMS (1) remains as proposed.

(2) The average market value for the dishes and towers will be determined by using a five-year trended depreciation schedule on dishes and ten-year trended depreciation schedule on towers. Both the trend factors and the depreciation tables will be derived from the Marshall and Swift Publication Company, 944 915 Wilshire Boulevard, ~~46th~~ 8th Floor, P.O. Box 26307, Los Angeles, California 90026-0307. The trend factors shall be the most recent available from the "Average of all Indexes" listed in the above publication.



(3) through (5) remain as proposed.

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

4. Therefore, the department amends ARM 42.21.131 and 42.21.151 with the amendments listed above and amends ARM 42.21.113; 42.21.123; 42.21.137; 42.21.138; 42.21.139; 42.21.140; 42.21.153; 42.21.155; and 42.22.1311 as proposed.

5. An electronic copy of this Adoption Notice is available through the department's site on the World Wide Web at [www.mt.gov/revenue](http://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 Adoption Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

/s/ Cleo Anderson  
CLEO ANDERSON  
Rule Reviewer

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

Certified to Secretary of State November 27, 2006

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES  
OF THE STATE OF MONTANA

In the matter of the amendment )  
of ARM 44.12.204 relating to the ) NOTICE OF AMENDMENT  
payment threshold--inflation adjustment )  
for lobbyists )

TO: All Concerned Persons

1. On October 5, 2006, the Commissioner of Political Practices published MAR Notice No. 44-2-136 pertaining to the proposed amendment of the above-stated rule at page 2400 of the 2006 Montana Administrative Register, issue number 19.
2. The commissioner has amended ARM 44.12.204 as proposed.
3. No comments or testimony were received.

/s/ Dennis Unsworth  
Dennis Unsworth  
Commissioner

/s/ Jim Scheier  
Jim Scheier  
Rule Reviewer

Certified to the Secretary of State November 27, 2006.

## **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 PO 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.<br>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, 2006. This table includes those rules adopted during the period July 1 through September 30, 2006 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, 2006, 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 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 2007 Montana Administrative Register,  
p. 2820

### ADMINISTRATION, Department of, Title 2

I                Retention of Credit Union Records, p. 1759  
I-VIII         Montana Land Information Act, p. 950, 1864  
2.21.3702      and other rules - Recruitment and Selection Policy, p. 1482, 2901  
2.21.6505      and other rules - Discipline Handling, p. 1923, 2565  
2.55.320       and other rule - Classifications of Employments - Individual Loss  
                  Sensitive Dividend Plans, p. 2440  
2.59.111       Retention of Bank Records, p. 1762  
2.59.1409      Duration of Loans - Interest - Extensions, p. 1099, 1866  
2.59.1501      and other rules - Definitions - Application Procedure Required to  
                  Engage in Deposit Lending - Reports - Schedule of Charges -  
                  Employees' Character and Fitness - Electronic Deductions - Income  
                  Verification, p. 375, 614, 1373  
2.59.1705      and other rule - Licensing Examination and Continuing Education  
                  Provider Requirements - Records to be Maintained, p. 1498, 2104

(Office of the State Public Defender)

I-VI            Office of the State Public Defender, p. 2068, 2572

AGRICULTURE, Department of, Title 4

- I-IV Montana Pulse Crop Research and Market Development Program, p. 1977, 2403
- 4.11.1201 and other rule - Specific Agricultural Ground Water Management Plan, p. 1765, 2109
- 4.12.3009 and other rule - Seed Laboratory Fees, p. 1929, 2129
- 4.13.1001A State Grain Laboratory Fees, p. 1193, 1731

STATE AUDITOR, Title 6

- 6.6.5203 Small Business Health Insurance Purchasing Pool - Premium Assistance and Premium Incentive Payments - Tax Credits, p. 1502, 1954
- 6.6.8301 Updating References to the NCCI Basic Manual for New Classifications Affecting the Aviation Industry, p. 1334

COMMERCE, Department of, Title 8

(Montana Coal Board)

- 8.101.101 and other rules - Community Development Division - Administration of Coal Board Grants, p. 816, 1378

(Board of Housing)

- 8.111.409 Cash Advances Made to Borrowers or Third Parties, p. 1102, 1732

EDUCATION, Title 10

(Superintendent of Public Instruction)

- 10.7.106 and other rules - General Fund: Quality Educator Payments - At Risk Student Payments - Indian Education for All Payments - American Indian Achievement Gap Payments - School Finance, p. 2728

(Board of Public Education)

- I Assignment of Persons Providing Instruction to Braille Students, p. 2869
- 10.54.5010 and other rules - Science Content Standards - Performance Descriptors, p. 2175, 2910
- 10.58.102 and other rules - Educator Preparation Programs, p. 2198
- 10.65.101 Pupil Instruction-related Days, p. 1769, 2404

(Montana State Library)

- 10.102.1151 and other rules - Public Library Standards, p. 2491, 1571
- 10.102.4001 Reimbursement to Libraries for Interlibrary Loans, p. 1197, 2405

FISH, WILDLIFE, AND PARKS, Department of, Title 12

(Fish, Wildlife, and Parks Commission)

- 12.6.2205 and other rules - Exotic Species, p. 1771, 1935, 2823
- 12.8.211 and other rules - Commercial Use of Lands under the Control of the Department, p. 1779
- 12.9.802 and other rules - Game Damage Hunts - Management Seasons - Game Damage Response and Assistance, p. 1105, 1201, 1867

ENVIRONMENTAL QUALITY, Department of, Title 17

- 17.50.213 Motor Vehicle Recycling and Disposal - Reimbursement Payments for Abandoned Vehicle Removal, p. 2444
- 17.53.105 Hazardous Waste - Incorporation by Reference of Current Federal Regulations into the Hazardous Waste Program, p. 2288
- 17.74.343 and other rules - Asbestos Control - Asbestos Control Program, p. 125, 1574, 1876
- 17.74.350 and other rules - Asbestos Control - Incorporation by Reference of Current Federal Regulations into the Asbestos Control Program - Definitions - Asbestos Project Control Measures, and Clearing Asbestos Projects, p. 2291
- 17.74.502 and other rules - Methamphetamine Cleanup Program - Incorporation by Reference of Current Federal Regulations into the Methamphetamine Cleanup Rules and Clearance Sampling, p. 2285
- 17.85.101 and other rules - Alternative Energy Revolving Loan Program, p. 1678

(Board of Environmental Review)

- 17.8.101 and other rules - Incorporation by Reference of Current Federal Regulations and Other Materials into Air Quality Rules, p. 823, 1956
- 17.8.501 and other rules - Air Quality - Definitions - Air Quality Operation Fees - Open Burning Fees, p. 1504, 2410
- 17.8.740 and other rules - Air Quality - Definitions - Incorporation by Reference - Mercury Emission Standards - Mercury Emission Credit Allocations, p. 1112, 2575
- 17.30.617 and other rule - Water Quality - Outstanding Resource Water Designation for the Gallatin River, p. 2294
- 17.30.630 Water Quality - Temporary Water Quality Standards, p. 1981
- 17.30.670 and other rules - Water Quality - Nondegradation Requirements for Electrical Conductivity (EC) and Sodium Adsorption Ratio (SAR) - Definitions for Technology-based Effluent Limitations - Minimum Technology-based Controls - Treatment Requirements for the Coal Bed Methane Industry, p. 1844, 2288, 1247, 1733

(Board of Environmental Review and the Department of Environmental Quality)

- 17.24.132 and other rules - Air Quality - Asbestos - Hazardous Waste - Junk Vehicles - Major Facility Siting - Metal Mine Reclamation - Opencut Mining - Public Water Supply - Septic Pumpers - Solid Waste - Strip



and Underground Mine Reclamation - Subdivisions - Underground Storage Tanks - Water Quality - Revising Enforcement Procedures Under the Montana Strip and Underground Mine Reclamation Act, Metal Mine Reclamation Laws, and Opencut Mining Act - Providing Uniform Factors for Determining Penalties, p. 2523, 1139, 1379, 1874

(Petroleum Tank Release Compensation Board)

17.58.326 and other rule - Applicable Rules Governing the Operation and Management of Petroleum Storage Tanks and Review of Claims, p. 1202, 1734

TRANSPORTATION, Department of, Title 18

18.6.202 and other rules - Transportation Commission - Outdoor Advertising, p. 276, 1878

CORRECTIONS, Department of, Title 20

I-XIX Regional Correctional Facilities, p. 2872

JUSTICE, Department of, Title 23

23.12.103 and other rules - Responsibility for Costs - Criminal History Records Program, p. 2477

23.16.101 and other rules - Accounting System Vendor License Fee - General Specifications of Approved Automated Accounting and Reporting Systems - Modification of Approved Automated Accounting and Reporting Systems - System May Not be Utilized for Player Tracking - Testing of Automated Accounting and Reporting Systems - Application to Utilize an Approved System - Continuation of Use of System When Vendor License Lapses - Definitions for Vendors and System Licensing of System Vendors - Information to be Provided to Department - Testing Fees, p. 1206, 1735

23.16.1802 and other rules - Frequency of Reporting by Approved Accounting Systems - Definitions - Letters of Withdrawal - Record Keeping Requirements, p. 2297, 2916

23.16.1802 and other rules - Identification Decal for Video Gambling Machines - Define System Availability - Definitions - Online Permitting for Video Gambling Machines - Issuance of Updated Gambling Operator Licenses After Permitting - Renewal of Gambling Operator Licenses - Quarterly Reporting Requirements - Accounting System Vendor License Fee - Requirement for Parties to Multi-game Agreements to Connect to an Approved System, p. 1936, 2131

23.16.1901 Video Gambling Machine Specifications, p. 2890

23.17.101 and other rules - MLEA Attendance - MLEA Performance Criteria - Rules, Regulations, Policies, and Procedures - Waiver of Rules, p. 1690, 2302, 2917

LABOR AND INDUSTRY, Department of, Title 24

Boards under the Business Standards Division are listed in alphabetical order following the department rules.

- I Board of Personnel Appeals - Summary Judgment Practice and Procedure, p. 2311
- I-V Country of Origin Placarding for Beef, Pork, Poultry, and Lamb, p. 2469
- I-XIV and other rules - Department and All Boards - Fees - Licensing - Renewals, p. 383, 1584
- 24.11.452A and other rules - Unemployment Insurance, p. 1699, 2411
- 24.17.127 Prevailing Wage Rates for Public Work Projects - Building Construction Services, p. 1217, 2832
- 24.21.411 and other rules - Apprenticeship and Training Program, p. 2073, 2658
- 24.29.1401 and other rules - Allowable Medical Service Billing Rates for Workers' Compensation Claims, p. 2759
- 24.29.2831 Penalties Assessed Against Uninsured Employers, p. 1703, 2040
- 24.30.102 Occupational Safety Matters in Public Sector Employment, p. 1220, 1740
- 24.30.1302 and other rule - Occupational Health and Safety in Mines, p. 1706, 2041
- 24.301.131 and other rules - Building Codes, p. 2319
- 24.351.215 License Fee Schedule for Weighing and Measuring Devices, p. 1356, 2661

(Board of Alternative Health Care)

- I & II Fee Abatement - License Renewal for Activated Military Reservists, p. 706, 1881

(Board of Architects)

- 24.114.301 and other rules - Definitions - General Provisions - Licensing - Renewals - Unprofessional Conduct - Screening Panel - Complaint Procedure, p. 620, 1381

(Board of Barbers and Cosmetologists)

- 24.121.301 and other rules - Definitions - Fees - Variances - Applications for Licensure - Out-of-State Applicants - School Requirements - School Operating Standards - Student Withdrawal, Transfer, or Graduating - Teacher-Training Curriculum - Continuing Education - Instructors/Inactive Instructors - Unprofessional Conduct - Fee Abatement - Continuing Education - Licensees/Inactive Licensees - Field Trips, p. 629, 1383

(Board of Chiropractors)

24.126.301 and other rules - Definitions - Fee Schedule - Licensing and Scope of Practice - Licensing and Board Specific Rules - Impairment Evaluators - Renewals-Continuing Education Requirements - Unprofessional Conduct - Fee Abatement - Participation in Disaster and Emergency Care-Liability of Chiropractor, p. 845, 1609

(Crane and Hoisting Operating Engineers Program)

I Incorporation by Reference of ANSI B30.5, p. 1509, 2042

(Board of Dentistry)

24.138.301 and other rules - General Provisions - Licensing - Renewals and Continuing Education - Unprofessional Conduct - Screening Panel - Anesthesia - Professional Assistance Program - Reactivation of a Lapsed License - Reactivation of an Expired License - Definition of Nonroutine Application - Fee Abatement - Reinstatement of License for Nonpayment of Renewal Fee - Denturist License Reinstatement - Complaint Procedure, p. 1795

(State Electrical Board)

24.141.405 and other rules - Fee Schedule - Continuing Education - Licensee Responsibilities - Fee Abatement, p. 17, 1278, 1612

(Board of Medical Examiners)

I-IX Professional Assistance Program, p. 1015, 1957

24.156.1601 and other rules - Physician Assistant Licensure, p. 483, 1958

(Board of Nursing)

8.32.301 and other rules - Nursing, p. 956, 2035

(Board of Occupational Therapy Practice)

24.165.404 and other rules - Application for Licensure - Examinations - Continuing Education, p. 710, 1614

(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

(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

(Board of Pharmacy)

- 24.174.301 and other rules - Definitions - General Provisions - Licensing - Internship Regulations - Pharmacy Technicians - Certified Pharmacies - Mail Service Pharmacies - Institutional Pharmacies - Wholesale Drug Distributors Licensing - Dangerous Drugs - Renewals and Continuing Education - Screening Panel - Inactive License - Telepharmacy Operations - Remote Telepharmacy Dispensing Machine Sites - Central Filling by Hub Pharmacies - Ambulatory Surgical Facilities - Fee Abatement, p. 23, 1615
- 24.174.401 and other rule - Fees - Dangerous Drug Fee Schedule, p. 1814, 2134

(Board of Plumbers)

- 24.180.401 and other rules - General Provisions - Licensing and Scope of Practice - Reciprocity Licensure - Temporary Exemptions - Reciprocity, p. 2892

(Board of Private Security Patrol Officers and Investigators)

- 8.50.423 and other rules - Private Security Patrol Officers and Investigators - Fee Schedule - Firearms Training Course Curriculum and Standards, p. 605, 1926
- 24.182.401 and other rules - Fee Schedule - Licensure Requirements - Type of Firearm - Requirements for Firearms Instructor Licensure - Armed Requalification Required Annually - Company Licensure and Branch Offices - Rules for Branch Office, p. 1710, 2918

(Board of Professional Engineers and Professional Land Surveyors)

- 24.183.404 and other rules - Fee Schedule - License Seal - Classification of Experience for Engineering Applicants - Continuing Education - Safety, Health, and Welfare of the Public - Classification of Experience - Branch Offices - Fee Abatement, p. 303, 1630
- 24.183.2101 and other rule - Expiration of License - Renewal - Expired Certificate - Renewal Grace Period, p. 713, 1633

(Board of Psychologists)

- 24.189.301 and other rules - Definitions - Fee Schedule - Use of Title - Required Supervised Experience, p. 2461

(Board of Radiologic Technologists)

- 24.204.208 and other rules - Applications - Limited Permit Applications - Types - Permits - Practice Limitations - Permit Examinations - Renewal - Proof of Good Standing, p. 1819, 2659
- 24.204.401 and other rules - Fee Schedule - Limited Permit Holder Fees - Continuing Education - Unprofessional Conduct, p. 2314

(Board of Real Estate Appraisers)

- 24.207.505 and other rules - Qualifying Education Requirements for Licensed Real Estate Appraisers - Qualifying Education Requirements for

Residential Certification - Qualifying Education Requirements for  
General Certification - Trainee Requirements, p. 716, 1634

(Board of Realty Regulation)

24.210.602 Examination, p. 1824

(Board of Respiratory Care Practitioners)

24.213.402 and other rule - Application for Licensure - Examination, p. 1716, 2660

(Board of Speech-Language Pathologists and Audiologists)

24.222.301 and other rules - Definitions - Fees - Licensing and Scope of Practice -  
Speech Pathology and Audiology Aides - Continuing Education -  
Unprofessional Conduct - Fee Abatement - Licensure of Speech-  
Language Pathologists and Audiologists, p. 1337, 2413

LIVESTOCK, Department of, Title 32

32.2.403 Diagnostic Laboratory Fees, p. 1359, 1882

32.3.104 and other rules - Disease Control, p. 2775

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

36.11.304 and other rules - Equipment Operation in the SMZ - Retention of Trees  
and Clearcutting in the SMZ - Site-specific Alternative Practices -  
Definitions - Penalties for Violation of the Streamside Management  
Zone Law, p. 499, 1883

36.12.101 Municipal Use of Water, p. 2316, 199, 1387

(Board of Oil and Gas Conservation)

36.22.1242 Privilege and License Tax Rates on Oil and Gas, p. 1827, 2110

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

I Determining Unenforceable Case Status in Child Support Cases,  
p. 2898

I-XIV State Trauma Care System, p. 723, 1896

I-XXVIII Home and Community-based Services for Adults with Severe  
Disabling Mental Illness, p. 1996, 2665

37.5.103 and other rules - Fair Hearing Procedures and Temporary Assistance  
for Needy Families (TANF), p. 2784

37.5.125 and other rules - Older Blind Program, p. 1987

37.12.401 Laboratory Testing Fees, p. 1227, 2043

37.30.405 Vocational Rehabilitation Program Payment for Services, p. 1223,  
1892

37.37.101 and other rules - Implementation of a Children's Mental Health Direct  
Care Worker Wage Increase, p. 863, 1635

- 37.37.316 and other rules - Youth Foster Homes - Further Amendment of Rule V, p. 2379, 524, 1395
- 37.40.307 and other rules - Medicaid Reimbursement of Nursing Facilities, p. 1024, 1638
- 37.62.101 and other rules - Child Support Guidelines, p. 2476
- 37.78.102 and other rules - Temporary Assistance for Needy Families (TANF), p. 1720, 2415
- 37.80.101 and other rules - Child Care Assistance Program, p. 1555
- 37.82.101 and other rule - Medicaid Eligibility, p. 1830, 2418
- 37.82.101 Medicaid Assistance, p. 1550, 2417
- 37.85.212 Resource Based Relative Value Scale (RBRVS), p. 872, 1422
- 37.85.406 and other rules - Medicaid Reimbursement of Hospitals, Provider Based Entities, and Birthing Centers, p. 2793
- 37.86.1001 and other rules - Medicaid Dental Services - Durable Medical Equipment - Eyeglass Services - Ambulance Services - Transportation, p. 1126, 1894
- 37.86.2803 and other rules - Medicaid Reimbursement for Inpatient and Outpatient Hospital Services, p. 2024, 2849
- 37.86.2901 and other rules - Medicaid Reimbursement for Inpatient and Outpatient Hospital Services, p. 1030, 1640
- 37.95.102 and other rules - Licensure of Day Care Facilities, p. 2572, 201, 1424, 2136
- 37.104.101 and other rules - Emergency Medical Services, p. 1368, 2420
- 37.108.507 Components of Quality Assessment Activities, p. 520, 1642
- 37.112.101 and other rules - Tattooing and Body Piercing, p. 2339
- 37.114.101 and other rules - Control of Communicable Diseases, p. 1512, 2112

PUBLIC SERVICE REGULATION, Department of, Title 38

- 38.5.2001 and other rules - Energy Standards for Public Utilities, p. 878, 1461
- 38.5.2202 and other rules - Pipeline Safety - National Electrical Safety Code, p. 2372
- 38.5.3301 and other rules - Telecommunications Service Standards, p. 1844

REVENUE, Department of, Title 42

- I & II Hospital Utilization Fee for Inpatient Bed Days, p. 2562
- I-VI Movie and Television Industries and Related Media - Tax Credit, p. 1564, 1960
- 42.18.107 and other rules - General Provisions and Certification Requirements for Appraising Property, p. 2520
- 42.19.401 and other rules - Low Income Property - Disabled Veterans Tax Exemptions - Energy Related Tax Incentives - New Industrial Property, p. 2555
- 42.20.100 and other rules - Valuation of Real Property - Classification of Nonproductive Patented Mining Claims, Agricultural Land, and Forest Land, p. 2533

- 42.20.106 and other rule - Manufactured and Mobile Homes, p. 1238, 1961
- 42.21.113 and other rules - Personal, Industrial, and Centrally Assessed Property Taxes, p. 2375
- 42.21.116 and other rules - Personal Property, p. 2529
- 42.21.158 Property Reporting Requirements, p. 1235, 1962
- 42.31.102 and other rules - Tobacco Products and Cigarettes, p. 1943

SECRETARY OF STATE, Title 44

- 1.2.419 Scheduled Dates for the 2007 Montana Administrative Register, p. 2820
- 44.2.203 Priority Handling of Documents, p. 1569, 2138
- 44.3.101 and other rules - Elections, p. 2077, 2671
- 44.3.2203 Absentee and Mail Ballot Voting, p. 1242, 1741

(Commissioner of Political Practices)

- 44.12.204 Payment Threshold--Inflation Adjustment for Lobbyists, p. 2400