

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 2

The Montana Administrative Register (MAR), a twice-monthly publication, has three sections. The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The rule section indicates that the proposed rule action is adopted and lists any changes made since the proposed stage. The interpretation section contains the attorney general's opinions and state declaratory rulings. Special notices and tables are found at the back 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 Administrative Rules Bureau at (406) 444-2055.

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BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PUBLIC HEARING
proposed amendment of ARM	)	ON PROPOSED AMENDMENT
10.55.1003, 10.57.107,	)	AND TRANSFER
10.57.110, 10.57.201,	)	
10.57.201A, 10.57.215,	)	
10.57.220, 10.57.411,	)	
10.57.418, 10.57.419,	)	
10.57.431, 10.57.432,	)	
10.57.436, 10.57.604, and	)	
10.57.611 relating to	)	
accreditation and educator	)	
licensure and the transfer of	)	
ARM 10.57.113 relating to	)	
substitute teachers	)	

TO: All Concerned Persons

1. On February 25, 2003 at 9:00 a.m. a public hearing will be held at the Office of the Commissioner of Higher Education, Room 142, 2500 Broadway, Helena, Montana, to consider the amendment and transfer of rules relating to accreditation, educator licensure and substitute teachers.

2. The Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Education no later than 5:00 p.m. on February 11, 2003 to advise us of the nature of the accommodation that you need. Please contact Steve Meloy, P.O. Box 200601, Helena, MT 59620-0601, telephone: (406) 444-6576, FAX: (406) 444-0847, e-mail: smeloy@bpe.montana.edu.

3. Statement of Reasonable Necessity: The Board of Public Education has determined that it is reasonable and necessary to amend ARM 10.55.1003 to provide clear guidance on what is considered "best practice" regarding teacher preparation for elementary teachers and for a basic elementary education program.

The amendments to the remaining rules are to correct errors, for clarification and consistency and to further the intent of the Board in adopting the recent changes to accreditation and educator licensing rules.

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

10.55.1003 PROGRAM FOUNDATION STANDARDS (1) through (1)(a)(i) remain the same.

(ii) provide effective health enhancement instruction to all grades and provide such instruction on a daily basis as part of the basic elementary education program;

(ii) through (vi) remain the same but are renumbered (iii) through (vii).

(b) through (c)(i) remain the same.

(ii) qualified staff necessary to support the instructional process, including elementary teachers (00 endorsement) with at least 10 semester credits in assigned subject areas when teaching departmentalized grades 5-8;

(iii) through (vi) remain the same.

AUTH: Sec. 20-2-114, MCA

IMP: Sec. 20-2-121, 20-3-106, 20-7-101, MCA

10.57.107 EMERGENCY AUTHORIZATION OF EMPLOYMENT

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

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

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

(iii) shall provide acceptable evidence of cultural expertise related to the area for which the emergency authorization of employment is being sought.

(d) and (2) remain the same.

AUTH: Sec. 20-4-102, MCA

IMP: Sec. 20-4-111, MCA

10.57.110 AREA OF PERMISSIVE SPECIALIZED COMPETENCY

(1) A holder of a Montana teaching license may apply for a statement of specialized competency to appear on the license. A license holder may qualify for a statement of specialized competency by the completion of a minimum of 20 semester college credit hours or equivalency in a specific academic area as approved by the board of public education. Accredited areas of permissive ~~special~~ specialized competency are early childhood education and gifted and talented education.

AUTH: Sec. 20-4-102, MCA

IMP: Sec. 20-4-103, MCA

10.57.201 GENERAL PROVISIONS TO ISSUE LICENSES

(1) and (2) remain the same.

(a) individuals who have held, ~~within the last five years,~~ a current professional - not provisional or alternative - teacher, specialist, or administrator license from another state in an area that can be licensed in Montana. This section applies only to individuals who have completed an applicable accredited professional educator preparation program in an area that can be licensed in Montana; and

(b) through (3) remain the same.

AUTH: Sec. 20-4-102, MCA  
IMP: Sec. 20-4-103, MCA

10.57.201A CRIMINAL HISTORY BACKGROUND CHECK (1) and (2) remain the same.

- (a) "authorized agency" means the Montana ~~department of justice office of public instruction~~;
- (b) through (11) remain the same.

AUTH: Sec. 20-4-102, MCA  
IMP: Sec. 20-4-103, 20-4-104, MCA

10.57.215 RENEWAL REQUIREMENTS (1) Sixty units of renewal activities are required for renewal of class 1, 3, and 7 licenses. Sixty units of renewal activities are also required for renewal of class 2 licenses, 40 of which must be earned through college credit. Four graduate semester credits or equivalent renewal units are required for renewal of class 6 licenses. All renewal units must be earned during the valid term of the license.

(2) through (2)(d) remain the same.

(e) the completion of the assessment process for national board licensure, or renewal of national board licensure through ~~the standards of the national board for professional teaching standards~~. Verification of completion of the national board assessment shall result in 60 renewal units. Renewal units earned may apply to renewal of an expiring license. Class 2 license holders may use national board renewal units in lieu of college course credits as required in (1). This process may also be used in lieu of any credits required to reinstate a lapsed license.

(3) ~~Unless limited by restrictions in (4),~~ Participation in renewal activities are is equivalent to the following renewal units:

- (a) one renewal unit = one hour of attendance at a workshop;
- (b) through (6) remain the same.

AUTH: Sec. 20-2-121, 20-4-102, MCA  
IMP: Sec. 20-4-102, 20-4-108, MCA

10.57.220 RECENCY OF CREDIT (1) An applicant for initial class 1, 2, ~~or 3 or 6~~ licensure whose degree is more than five years old and who does not have current out-of-state licensure must have earned eight semester credits within the five-year period preceding the effective date of the license.

(2) An applicant for an initial class 6 license whose degree is more than five years old and who does not have current out-of-state licensure must have earned eight graduate semester credits within the five-year period preceding the effective date of the license.

AUTH: Sec. 20-4-102, 20-4-103, MCA  
IMP: Sec. 20-4-102, 20-4-103, 20-4-106, MCA

10.57.411 CLASS 1 PROFESSIONAL TEACHER'S LICENSE

(1) and (2) remain the same.

(a) a master's degree or one year of study consisting of at least 30 graduate semester credits beyond the bachelor's degree in professional education or an endorsable teaching area(s) from an accredited college or university; and

(b) through (5) remain the same.

AUTH: Sec. 20-4-102, MCA

IMP: Sec. 20-4-106, 20-4-108, MCA

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

(a) of successful completion, at an accredited ~~institution of higher learning~~ college or university, of a master's degree in the area requested for endorsement;

(b) through (e) remain the same.

AUTH: Sec. 20-4-102, MCA

IMP: Sec. 20-4-106, 20-4-108, MCA

10.57.419 CLASS 3 ADMINISTRATIVE LICENSE - SPECIAL EDUCATION SUPERVISOR ENDORSEMENT (1) remains the same.

(a) successful completion, at an accredited ~~institution of higher learning~~ college or university, of a master's degree in special education or a master's degree in a special education related services, field, i.e., of school psychologist, speech-language pathologist, audiologist, physical therapist, occupational therapist, registered nurse, clinical social worker, or clinical professional counselor;

(b) through (e) remain the same.

AUTH: Sec. 20-4-102, MCA

IMP: Sec. 20-4-106, 20-4-108, MCA

10.57.431 CLASS 5 ALTERNATIVE LICENSE - SUPERVISOR ENDORSEMENT (1) remains the same.

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

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

AUTH: Sec. 20-4-102, MCA

IMP: Sec. 20-4-106, 20-4-108, MCA

10.57.432 CLASS 5 ALTERNATIVE LICENSE - SPECIALIST ENDORSEMENT (1) through (1)(c) remain the same.

(2) To obtain a class 5 ~~provisional~~ alternative license with a specialist endorsement in school counseling an applicant must provide verification of:

(a) and (b) remain the same.

AUTH: Sec. 20-4-102, MCA  
IMP: Sec. 20-4-106, 20-4-108, MCA

10.57.436 CLASS 7 AMERICAN INDIAN LANGUAGE AND CULTURE SPECIALIST (1) Term: ~~5 years~~ —renewable. A class 7 American Indian language and culture specialist license shall be valid for a period of five years.

(2) ~~Basic qualification:~~ The office superintendent of public instruction shall issue a class 7 certificate license based upon verification by the American Indian tribe for which the language and culture certification licensure is desired that the individual has met tribal standards for competency and fluency as a requisite for teaching that language and culture. Candidates for class 7 certification licensure must meet all non-academic requirements for certification licensure in Montana.

(3) ~~Qualification criteria:~~ The board will accept and place on file the criteria developed by each tribe for qualifying an individual as competent to be a specialist in its language and culture.

(4) ~~Renewal:~~ Sixty units of renewal activities authorized and verified by the tribe will be required for renewal of a class 7 certificate license.

(5) ~~Responsibilities:~~ A school district may assign an individual certified licensed under this rule to only, specialist services within the field of American Indian language and culture under such supervision as the district may deem appropriate. No teaching certificate license or endorsement is required for duties within this prescribed field.

AUTH: Sec. 20-4-102, MCA  
IMP: Sec. 20-4-103, 20-4-106, MCA

10.57.604 POST HEARING PROCEDURE (1) remains the same.

(a) adopt findings of fact, conclusions of law and an order issuing a letter of reprimand or suspending or revoking the teacher, specialist or administrator license; or

(b) and (2) remain the same.

AUTH: Sec. 20-2-121, 20-4-102, MCA  
IMP: Sec. 20-4-102, 20-4-110, MCA

10.57.611 SUBSTANTIAL AND MATERIAL NON-PERFORMANCE

(1) A certified licensed staff member commits a violation of 20-4-110, MCA, if, after signing a binding contract of employment with a Montana school district, the certified licensed staff member substantially and materially breaches such contract without good cause.

(2) remains the same.

(a) substantial hardship to the certified licensed staff member's family due to a change in employment of the spouse of the certified licensed staff member that necessitates a move;

(b) illness of a family member of the certified licensed staff member that necessitates a move for purposes of providing for, caring for, or tending to the ill family member; or

(c) remains the same.

(3) Certified Licensed staff members violating 20-4-110(1)(g), MCA shall be penalized according to the following guidelines:

(a) a first violation committed not more than 30 calendar days prior to the beginning of the school year may result in a sanction not to exceed placement of a letter of reprimand in the certified licensed staff member's public record certification licensure file;

(b) a first violation committed on or after school starts shall result in a sanction ranging from placement of a letter of reprimand in the certified licensed staff member's public record certification licensure file to temporary suspension of the certified licensed staff member's certificate license for not more than 30 days; and

(c) a second or subsequent violation shall result in a sanction ranging from a temporary suspension of the certified licensed staff member's certificate license to revocation of the certificate license.

(4) remains the same.

(a) the length of prior notice, if any, provided to the employing board by the certified licensed staff member;

(b) the arrangements made and resources provided by the certified licensed staff member to ensure continuing instruction to pupils;

(c) remains the same.

(d) the impact of the certified licensed staff member's breach of contract on the district's compliance with accreditation standards; and

(e) other hardships suffered by the employing district as a result of the certified licensed staff member's breach of contract.

(5) This rule provides guidelines only and shall not be construed to either require or to prohibit the board from exercising its discretion in overseeing discipline of certificate license holders.

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

IMP: Sec. 20-2-121, 20-4-110, MCA

5. The rule proposed to be amended and transferred to Chapter 55, Sub-chapter 7 provides as follows, stricken matter interlined, new matter underlined:

10.57.113 (10.55.716) SUBSTITUTE TEACHERS (1) and (1)(a) remain the same.

(b) If the absence of the regular, licensed or



authorized teacher continues for more than 35 consecutive teaching days, the substitute may be placed under contract if licensed or the board of trustees shall place a licensed teacher under contract. If the board of trustees makes a written declaration to the superintendent of public instruction that no licensed teacher is available, the district shall pursue the employment of a teacher authorized under the provisions of ARM ~~10-57-707~~ 10.57.107.

(2) through (5) remain the same.

AUTH: Sec. 20-4-102, MCA

IMP: Sec. 20-4-102, MCA

6. 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 by mail to the Board of Public Education, P.O. Box 200601, Helena, Montana 59620-0601, or by e-mail to smeloy@bpe.montana.edu and must be received no later than 5:00 p.m. on February 27, 2003.

7. Steve Meloy has been designated to preside over and conduct the hearing.

8. The Board of Public Education 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 accreditation, educator licensure and substitute teachers or other Board of Public Education related rulemaking actions. Such written request may be mailed or delivered to Steve Meloy, P.O. Box 200601, Helena, Montana 59620-0601, faxed to the office at (406) 444-0847, or may be made by completing a request form at any rules hearing held by the Board of Public Education.

9. The bill sponsor requirements of 2-4-302, MCA, do not apply. The requirements of 20-1-501, MCA, have been fulfilled. Copies of these rules have been sent to all tribal governments in Montana.

/s/ Dr. Kirk Miller  
Dr. Kirk Miller  
Chairperson  
Board of Public Education

/s/ Steve Meloy  
Steve Meloy  
Rule Reviewer  
Board of Public Education

Certified to the Secretary of State January 17, 2003.

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

In the matter of the adoption )  
of new rules I through V ) AMENDED NOTICE OF  
regulating and distributing ) PUBLIC HEARINGS ON  
recreational use on the ) PROPOSED ADOPTION  
Beaverhead and Big Hole rivers)

TO: All Concerned Persons

1. On December 26, 2002, the Fish, Wildlife and Parks Commission (commission) published MAR Notice No. 12-287 regarding the proposed adoption of new rules regulating and distributing recreational use on the Beaverhead and Big Hole rivers at page 3462 of the 2002 Montana Administrative Register, Issue No. 24. Public Hearings will be held on that proposal as well as the material added to the rules by this Amended Notice. The hearing dates and places are as follows:

February 26, 2003, 7 p.m.  
Red Lion Inn  
2100 Cornell Street  
Butte, MT

February 27, 2003, 7 p.m.  
Lewis and Clark Room  
Western Montana College  
Dillon, MT

February 28, 2003, 7 p.m.  
Bethany Hall, Educational Room  
211 1/2 South Main Street  
Sheridan, MT

2. This Amended Notice of Public Hearings on Proposed Adoption is being filed to add material inadvertently omitted and correct three errors made in the initial rulemaking notice, MAR Notice No. 12-287. The commission is filing this amended notice instead of adding material and making corrections by amending the rule in the final adoption notice because the material should have been included in the original rule proposal. The commission wants the public to have opportunity to comment on the material that was added in this notice at the hearings and through written comment.

3. The commission will make reasonable accommodations for persons with disabilities who wish to participate in these public hearings or need an alternative accessible format of this notice. If you require an accommodation, contact the commission not later than 5:00 p.m. on February 14, 2003, to advise us of the nature of the accommodation that you need. Please contact Kari Janikula; 1400 South 19th, Bozeman, MT 59718; phone (406) 994-4042; fax (406) 994-4090.

4. No changes are proposed to NEW RULE I.

5. The proposed rule changes provide as follows, new matter underlined, stricken matter interlined:

NEW RULE II BEAVERHEAD RIVER RECREATIONAL USE RESTRICTIONS (1) through (1)(e) remain the same.

(2) Float fishing by nonresidents and float outfitting is limited as follows on the Beaverhead River from the third Saturday in May through Labor Day:

(a) each ~~Sunday~~ Saturday float fishing by nonresidents and float outfitting is not permitted on the river reach from High Bridge fishing access site to Henneberry fishing access site;

(b) each ~~Saturday~~ Sunday float fishing by nonresidents and float outfitting is not permitted on the river reach from Henneberry fishing access site to Pipe Organ fishing access site.

(3) The commission shall repeal or amend this rule on or before May 1, 2005.

AUTH: 87-1-301, 87-1-303, MCA

IMP: 87-1-303, MCA

NEW RULE III BIG HOLE RIVER RECREATIONAL USE RESTRICTIONS

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

(f) each Friday, the river reach from Glen ~~Bridge~~ fishing access site to Notch Bottom fishing access site is closed to any float outfitting; and

(g) each Saturday, the river reach from Jerry Creek fishing access site to Divide fishing access site is closed to any float fishing by nonresidents and to any float outfitting.

(2) and (3) remain the same.

AUTH: 87-1-301, 87-1-303, MCA

IMP: 87-1-303, MCA

NEW RULE IV NEW OUTFITTER MORATORIUM AND OUTFITTER RESTRICTIONS ON THE BEAVERHEAD RIVER

(1) Only an outfitter with documented use of the Beaverhead River prior to December 31, 1998, may continue to operate on the Beaverhead River, except as provided in (2).

(2) An outfitter who has not documented use on the Beaverhead River prior to December 31, 1998, may not operate on the Beaverhead River unless the outfitter was licensed by the board of outfitters between December 1, 1998, and July 1, 1999, and the outfitter's operating plan included the Beaverhead River.

(3) Each outfitter from July 1 through August 31, inclusive, on the Beaverhead River shall not exceed the number of client days served by the outfitter on the Beaverhead River during those same months for the outfitter's highest client use year from among the years 1995, 1996, 1997, 1998, 1999, or 2000. The records submitted by the outfitter to and

maintained by the board of outfitters will determine the number of client days in each year.

(4) In the event of the death of an outfitter who has an opportunity to outfit on the Beaverhead River as outlined in this sub-chapter, that opportunity may be assumed by a member of the immediate family of the deceased outfitter. This provision does not supercede the outfitter licensing requirements and authority of the board of outfitters. No other transfers will be permitted for the opportunity to outfit on the Beaverhead River.

(5) All outfitters given the opportunity to operate on the Beaverhead River, as outlined in this sub-chapter, will be issued boat tags that will identify them as authorized by the commission to operate on this river. These boat tags must be displayed on all authorized outfitter boats when operating on the Beaverhead River.

~~(4)~~ (6) The commission shall repeal or amend this rule on or before May 1, 2005.

AUTH: 87-1-301, 87-1-303, MCA

IMP: 87-1-303, MCA

NEW RULE V NEW OUTFITTER MORATORIUM AND OUTFITTER RESTRICTIONS ON THE BIG HOLE RIVER

(1) Only an outfitter with documented use of the Big Hole River prior to December 31, 1998, may continue to operate on the Big Hole River, except as provided in (2).

(2) An outfitter who has not documented use on the Big Hole River prior to December 31, 1998, may not operate on the Big Hole River unless the outfitter was licensed by the board of outfitters between December 1, 1998, and July 1, 1999, and the outfitter's operating plan included the Big Hole River.

(3) Each outfitter from June 1 through July 31, inclusive, on the Big Hole River shall not exceed the number of client days served by the outfitter on the Big Hole River during those same months for the outfitter's highest client use year from among the years 1995, 1996, 1997, 1998, 1999, or 2000. The records submitted by the outfitter to and maintained by the board of outfitters will determine the number of client days in each year.

(4) In the event of the death of an outfitter who has an opportunity to outfit on the Big Hole River, as outlined in this sub-chapter, that opportunity may be assumed by a member of the immediate family of the deceased outfitter. This provision does not supercede the outfitter licensing requirements and authority of the board of outfitters. No other transfers will be permitted for the opportunity to outfit on the Big Hole River.

(5) All outfitters given the opportunity to operate on the Big Hole River, as outlined in this sub-chapter, will be issued boat tags that will identify them as authorized by the commission to operate on this river. These boat tags must be displayed on all authorized outfitter boats when operating on the Big Hole River.

~~(4)~~ (6) The commission shall repeal or amend this rule on or before May 1, 2005.

AUTH: 87-1-301, 87-1-303, MCA  
IMP: 87-1-303, MCA

6. This material should have been included in the original rule proposal and has been added to the rules to clarify transferability issues and boat tag requirements as they apply to outfitters on the Beaverhead and Big Hole rivers. These requirements are currently in the biennial rule for the regulation and distribution of river recreation use for the Beaverhead and Big Hole rivers which expires May 1, 2003. By addressing transferability issues the commission asserts that the use of a public resource is a privilege, not a right, and that the continuation of the outfitter moratorium in the 2001-2003 biennial rule and in new rule IV and new rule V does not in any way establish a property right by the outfitters benefiting from the moratorium. This rulemaking is in conjunction with MAR Notice No. 12-287, and the rulemaking rationale as explained in paragraph 4 of MAR Notice No. 12-287 at page 3462 of the 2002 Montana Administrative Register, Issue No. 24 applies to this additional rule material as well.

Additionally, three errors were discovered in the rules. An unintentional reversal of areas restricted on Saturdays and Sundays occurred in new rule II(2)(a) and (b). In new rule III(1)(f), Glen fishing access site was referred to as Glen Bridge, creating an inconsistent reference. The commission took this opportunity to make these corrections also.

7. 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 Bruce Rich, Department of Fish, Wildlife and Parks, Attention: Beaverhead/Big Hole, 1400 South 19th, Bozeman, MT 59718; email fwpccomments@montana.edu, and must be received no later than March 12, 2003.

8. Pat Flowers or another representative appointed by the department will preside over and conduct the hearings.

9. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by this department. Persons who wish to have their name added to the list shall make written request which 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, 1420 East Sixth Avenue, P.O. Box 200701, 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.

10. The commission has notified the sponsor of House Bill 626, 1999 Legislative Session, Laws of Montana, Chapter 569, of this rulemaking and the rulemaking proposed in MAR Notice No. 12-287, which is proposed in conjunction with this rulemaking notice. House Bill 626 modified commission rulemaking authority under 87-1-303, MCA.

By: /s/ M. Jeff Hagener  
M. Jeff Hagener  
Commission Secretary

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

Certified to the Secretary of State January 17, 2003

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

In the matter of the proposed ) NOTICE OF PUBLIC HEARING  
amendment of ARM 8.36.409, ) ON PROPOSED AMENDMENT  
pertaining to fees )

TO: All Concerned Persons

1. On February 24, 2003, at 10:00 a.m., a public hearing will be held in room 471, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rule.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Optometry no later than 5:00 p.m., February 14, 2003, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdopt@state.mt.us.

3. The rule proposed to be amended provides as follows. New material is underlined, deleted material is stricken.

8.36.409 FEE SCHEDULE

(1) Original certificate of registration	\$125 <u>175</u>
(2) Annual renewal	<u>75</u> <u>125</u>
(3) Penalty for late renewal	<u>100</u> <u>150</u>
(4) Out-of-state license application	<u>250</u> <u>300</u>
(5) through (7) remain the same.	

AUTH: Sec. 37-10-202, MCA

IMP: Sec. 37-1-134, 37-1-304, 37-10-302, 37-10-307, MCA

REASON: The Board of Optometry (Board) has determined that there is reasonable necessity to make the proposed fee changes in order to comply with the provisions of 37-1-134, MCA, and to keep the Board's fees commensurate with program costs. The Board estimates that approximately 297 persons (272 active licensees and 25 new applicants) will be affected by the proposed fee changes. The estimated annual increase in revenue is approximately \$16,395. Under the proposed fee schedule, the Board's projected annual revenue is \$40,085. The Board's appropriation for fiscal year 2003 is \$41,835. A legislative audit of the Business Standards Division required that all boards pay their portion of the costs of conversion to the Oracle database system. The Oracle reallocation for the Board is \$900 and is in addition to the appropriation for the Board. The reallocation is required to be paid in fiscal year 2003.

The Board's recharge will be increased by \$11,863 in 2004 and \$12,712 in 2005. The recharge calculation was based on the Board-allocated FTE. The percentage of total board allocated FTE was based on the daily time distribution sheet, personnel services charges for the HCLB, personnel allocation without investigator (4 FTE), HCLB Bureau budget, Business Standards Division recharge, and BSD Legal Allocation. The BSD has implemented the alternative pay plan with those increases reflected in the Board's recharge. The Board last raised its fees in fiscal year 1998.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsdopt@state.mt.us](mailto:dlibsdopt@state.mt.us) and must be received no later than 5:00 p.m., February 28, 2003.

5. An electronic copy of this Notice of Public Hearing is available through the Department and Board's site on the World Wide Web at <http://www.discoveringmontana.com/dli/opt>, in the Rules Notices section. 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 website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address does not excuse late submission of comments.

6. The Board of Optometry maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Optometry administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibsdopt@state.mt.us](mailto:dlibsdopt@state.mt.us) or may be made by completing a request form at any rules hearing held by the agency.

7. Darcee Moe, attorney, has been designated to preside over and conduct this hearing.



8. The Board of Optometry will meet via telephone on March 3, 2003, 8:00 a.m. at the Board offices, 301 South Park Avenue, Helena, to consider the comments made by the public, the responses to those comments, and take final action on the proposed amendments. Members of the public are welcome to attend the meeting and listen to the Board's deliberations, but the Board cannot accept any comments concerning the proposed amendments beyond the February 28, 2003, deadline.

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

BOARD OF OPTOMETRY  
LARRY OBIE, CHAIRMAN

/s/ KEVIN BRAUN  
Kevin Braun  
Rule Reviewer

/s/ WENDY J. KEATING  
Wendy J. Keating, Commissioner  
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State, January 17, 2003.

BEFORE THE BOARD OF REAL ESTATE APPRAISERS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC HEARING  
amendment of ARM 24.207.402, ) ON PROPOSED AMENDMENT  
regarding adoption of USPAP )  
by reference )

TO: All Concerned Persons

1. On February 19, 2003, at 1:00 p.m., a public hearing will be held in the Business Standards Division conference room 471, Park Avenue Building, 301 South Park, Helena, Montana to consider the proposed amendment of the above-stated rule.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Real Estate Appraisers no later than 5:00 p.m., on February 13, 2003, to advise us of the nature of the accommodation that you need. Please contact Billie Veerkamp, Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2381; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsrdrea@state.mt.us.

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

24.207.402 ADOPTION OF USPAP BY REFERENCE (1) Upon review of the publication known as the Uniform Standards of the Professional Appraisal Practice (USPAP), published by the Appraisal Foundation, the board hereby adopts and incorporates by reference the ~~2002~~ 2003 edition of USPAP. The board adopts and incorporates by reference the advisory opinions listed as an addendum to the USPAP publication, for the purpose of explaining and interpreting professional appraisal practice standards as required by 37-54-105, MCA.

(2) Upon review of the publication known as USPAP Frequently Asked Questions (USPAP FAQ), published by the Appraisal Foundation, the board hereby adopts and incorporates by reference the ~~2002~~ 2003 edition of USPAP FAQ, for the purpose of explaining and interpreting the standards as provided by 37-54-105, MCA.

(3) and (4) remain the same.

AUTH: 37-54-105, MCA  
IMP: 37-54-105, 37-54-403, MCA

REASON: The Board finds there is reasonable necessity to incorporate by reference the most current version of professional standards established by the appraisal standards board of the Appraisal Foundation, as required by the provisions of 37-54-403, MCA. The Board finds there is reasonable necessity to incorporate by reference the various publications and documents by which the Board will use to explain and interpret the USPAP, as directed in 37-54-105(6), MCA. The Board finds that the USPAP are the generally accepted standards of professional appraisal practice.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsirea@state.mt.us](mailto:dlibsirea@state.mt.us) and must be received no later than 5:00 p.m., February 28, 2003.

5. An electronic copy of this Notice of Public Hearing is available through the Board's site on the World Wide Web at <http://www.discoveringmontana.com/dli/rea>. 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.

6. The Board of Real Estate Appraisers will meet on March 3, 2003, at 9:00 a.m. in Helena, Montana to consider the comments made by the public, the proposed responses to those comments, and take final action on the proposed rule changes. The public may attend at the Business Standards Division, conference room 438, Park Avenue Building, 301 South Park Avenue, Helena, Montana. Members of the public are welcome to attend and listen to the Board's deliberations, but the Board cannot accept any additional comments concerning the proposed rule changes beyond the February 28, 2003 deadline.

7. The Board of Real Estate Appraisers maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Real Estate Appraisers administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to

dlibsarea@state.mt.us or may be made by completing a request form at any rules hearing held by the agency.

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

9. Lon Mitchell, attorney, has been designated to preside over and conduct this hearing.

BOARD OF REAL ESTATE APPRIASERS  
TIMOTHY MOORE, CHAIRMAN

/s/ WENDY J. KEATING  
Wendy J. Keating, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

/s/ Kevin Braun  
Kevin Braun,  
Rule Reviewer

Certified to the Secretary of State January 17, 2003.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC HEARING  
adoption of New Rule I ) ON PROPOSED ADOPTION  
relating to the issuance of )  
final agency decisions )

TO: All Concerned Persons

1. On February 24, 2003, at 11:00 a.m., a public hearing will be held in the Fourth Floor Conference Room of the Sam W. Mitchell Building, at Helena, Montana, to consider the adoption of New Rule I relating to issuance of final agency decisions.

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 not later than 5:00 p.m., February 10, 2003, 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 5805, Helena, Montana 59604-5805; telephone (406) 444-2855; fax (406) 444-3696; or e-mail canderson@state.mt.us.

3. The proposed new rule does not replace or modify any section currently found in the Administrative Rules of Montana. The proposed new rule provides as follows:

NEW RULE I FINAL AGENCY DECISIONS (1) In accordance with the authority of the director as provided in 2-15-112, MCA, the director delegates the authority to issue final agency decisions to the office of dispute resolution (ODR) for all matters except liquor license violations.

(2) This delegation to issue a final agency decision (FAD) applies only to matters referred to the ODR and that are not excepted in (1).

(3) A FAD issued by the director or an ODR hearing examiner may be appealed as follows:

(a) all tax matters shall be appealed to the state tax appeal board (STAB) as provided in 15-2-302, MCA; and

(b) all liquor matters shall be appealed to the appropriate district court for the state of Montana as provided in 16-4-411, MCA.

AUTH: Sec. 15-1-217 and 16-1-303, MCA

IMP: Sec. 2-4-621, 2-4-623, 2-4-631, 2-15-112, 2-15-1302, 15-2-302, 16-1-302, and 16-4-411, MCA

**REASONABLE NECESSITY:** The department is proposing to adopt New Rule I to clarify that it intends to follow the acceptable practice stated in 2-4-621(3), MCA, whereby an agency may adopt the proposed findings of a hearing examiner as the final agency decision. Therefore, the director has delegated the authority to issue final agency decisions to the office of dispute resolution in order to expedite the decision process for department customers.

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:

Cleo Anderson  
Department of Revenue  
Director's Office  
P.O. Box 5805  
Helena, Montana 59604-5805

and must be received no later than February 28, 2003.

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

6. An electronic copy of this Notice of Public Hearing is available through the Department's site on the World Wide Web at [http://www.state.mt.us/revenue/rules\\_home\\_page.htm](http://www.state.mt.us/revenue/rules_home_page.htm), under the Notice of Rulemaking section. 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 website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

7. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, 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 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

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

/s/ Cleo Anderson  
CLEO ANDERSON  
Rule Reviewer

/s/ Kurt G. Alme  
KURT G. ALME  
Director of Revenue

Certified to Secretary of State January 17, 2003

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the proposed )	NOTICE OF PROPOSED
amendment of ARM 42.25.1813 )	AMENDMENT
relating to quarterly reporting)	
and distribution of oil and gas)	
production taxes )	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Concerned Persons

1. On March 28, 2003, the department proposes to amend ARM 42.25.1813 relating to quarterly reporting and distribution of oil and gas production taxes.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and 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. on February 10, 2003, 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 5805, Helena, Montana 59604-5805; telephone (406) 444-2855; fax number (406) 444-3696; e-mail address canderson@state.mt.us.

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

42.25.1813 APPLICABILITY (1) ~~A taxpayer is subject to the provisions of Title 15 and Title 82, chapter 11, part 1, MCA, and the corresponding administrative rules as those laws and rules read for all oil and natural gas produced and sold by the operator.~~

(2) ~~All oil and gas production taxes collected pursuant to audit or collected after the date the tax was due is payable will be distributed in accordance with according to the statutes and ARM governing the allocation of the tax in effect on the date the tax liability is considered paid or collected the statutes and administrative rules governing the distribution of the tax in effect on the date the tax revenue is received.~~

(2) For all oil and gas production taxes refunded, the amount of the refund allocated to each governmental entity will be determined in accordance with the statutes and administrative rules governing the distribution of any tax revenue in effect on the date the refund is made to the taxpayer.

(3) ~~All taxes collected pursuant to audit or collected after the date the tax is payable under the laws referred to in (1) will be distributed according to the statute and administrative rule governing the allocation of the tax in effect on the date when the tax liability was incurred by the taxpayer. In situations where all of the leases associated with taxes due or refunds as referred to in (1) or (2) are no longer~~



operational, the department will use the most recent quarter in which at least one lease had production taxes paid to distribute the tax or make the refund.

AUTH: Sec. 15-36-322, MCA

IMP: Sec. 15-1-501 and 15-36-324, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.25.1813 to reflect the department's current policy and interpretation of 15-1-501, MCA, on distributing tax collections and refunds and comply with the Montana Supreme Court's decision regarding how revenue collections should be distributed. The text from (2) becomes (1) and is being rewritten to clarify the department's policy and interpretation of 15-1-501, MCA, on how to distribute tax collections after the due date of the return. New (2) clarifies the process for handling refunds that are made after the due date of the return. These sections implement department policy and the Montana Supreme Court's decision in Madison County, et al. v. State of Montana, 291 Mont. 446 (1998). The department is also adding 15-1-501, MCA, as an implementing cite because it directs the department to distribute tax revenues according to the provisions of the law governing the allocations of the tax that were in effect for the period in which the tax revenue was recorded. Section (3) is necessary for situations where all of the leases associated with the tax or refund are no longer active. This will enable the department to go back to find the last time there was a producing well so a distribution of the tax or refund can be made.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to:

Cleo Anderson  
Department of Revenue  
Director's Office  
P.O. Box 5805  
Helena, Montana 59604-5805  
no later than February 28, 2003.

5. If persons who are directly affected by the proposed action wish to express their data, views and 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 they have to Cleo Anderson at the above address no later than February 28, 2003.

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 who are directly affected by the proposed action; from the appropriate administrative rule review committee; from a governmental subdivision or agency; or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

7. An electronic copy of this Proposal Notice is available through the Department's site on the World Wide Web at [http://www.state.mt.us/revenue/rules\\_home\\_page.htm](http://www.state.mt.us/revenue/rules_home_page.htm), under the Notice of Rulemaking section. The Department strives to make the electronic copy of this Proposal 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 website accessible at all times, concerned persons should be aware that the website 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 notice regarding particular subject matter or matters. Such written request may be mailed or delivered to the person in 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

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

/s/ Cleo Anderson  
CLEO ANDERSON  
Rule Reviewer

/s/ Kurt G. Alme  
KURT G. ALME  
Director of Revenue

Certified to Secretary of State January 17, 2003

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC HEARING  
amendment of ARM 42.22.101 and) ON PROPOSED AMENDMENT  
42.22.121 relating to the )  
taxation of railroad car )  
companies )

TO: All Concerned Persons

1. On February 27, 2003, at 8:30 a.m., a public hearing will be held in the Fourth Floor Conference Room of the Sam W. Mitchell Building, at Helena, Montana, to consider the amendment of ARM 42.22.101 and 42.22.121, relating to the taxation of railroad car companies.

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 not later than 5:00 p.m., February 10, 2003, 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 5805, Helena, Montana 59604-5805; telephone (406) 444-2855; fax (406) 444-3696; or e-mail canderson@state.mt.us.

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

42.22.101 DEFINITIONS The following definitions apply to this chapter:

(1) through (8) remain the same.

(9) "Equivalent car count" is equal to the total number of miles a railcar travels in Montana annually, divided by the product of Montana miles per day, multiplied by the number of days in a year.

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

(12) "Montana miles per day" equals the following:

(a) Tax year 2003:

(i) for flat, box, gondola, and coal gondola railcars, when reported by specific railcar type, 475 miles; and

(ii) for all other railcars, 265 miles.

(b) Tax year 2004 and subsequent tax years:

(i) for flat, box, gondola, and coal gondola railcars, when reported by specific railcar type, 450 miles;

(ii) for all other railcars, 250 miles; or

(iii) the number established by means of a speed study as described in (25).

(11) through (19) remain the same but are renumbered (13) through (21).

~~(20)~~~~(a)~~~~(22)~~ "Situs property" for a centrally assessed company, other than a railroad, is operating property that is not part of a transmission or distribution system, ~~that is not~~ rolling stock or airplanes, or ~~that~~ by nature is immovable.

~~(i)~~~~(a)~~ Situs property includes but is not limited to:

- ~~(i)~~ buildings~~<sub>T</sub>~~~~<sub>I</sub>~~
- ~~(ii)~~ dams~~<sub>T</sub>~~~~<sub>I</sub>~~
- ~~(iii)~~ powerhouses~~<sub>T</sub>~~~~<sub>I</sub>~~
- ~~(iv)~~ depots~~<sub>T</sub>~~~~<sub>I</sub>~~
- ~~(v)~~ stations~~<sub>T</sub>~~~~<sub>I</sub>~~
- ~~(vi)~~ shops~~<sub>T</sub>~~~~<sub>I</sub>~~
- ~~(vii)~~ furniture~~<sub>T</sub>~~~~<sub>I</sub>~~
- ~~(viii)~~ fixtures~~<sub>T</sub>~~~~<sub>I</sub>~~
- ~~(ix)~~ tools~~<sub>T</sub>~~~~<sub>I</sub>~~
- ~~(x)~~ substations~~<sub>T</sub>~~~~<sub>I</sub>~~
- ~~(xi)~~ electronic switching equipment~~<sub>T</sub>~~~~<sub>I</sub>~~
- ~~(xii)~~ machinery~~<sub>T</sub>~~~~<sub>I</sub>~~
- ~~(xiii)~~ meters~~<sub>T</sub>~~~~<sub>I</sub>~~
- ~~(xiv)~~ transformers~~<sub>T</sub>~~~~<sub>I</sub>~~ and
- ~~(xv)~~ operating lands not in the right-of-way.

~~(ii)~~~~(b)~~ Situs property does not include:

- ~~(i)~~ automobiles~~<sub>T</sub>~~~~<sub>I</sub>~~
- ~~(ii)~~ trucks~~<sub>T</sub>~~~~<sub>I</sub>~~ and
- ~~(iii)~~ special mobile equipment (as defined in 61-1-104, MCA) upon which property taxes or fees in lieu of property tax have been assessed and paid.

~~(b)~~~~(23)~~ "Situs property" for a centrally assessed railroad" is all operating property used by the railroad that is:

- ~~(i)~~ by its nature located at a specific site~~<sub>T</sub>~~~~<sub>L</sub>~~
- ~~(ii)~~ not part of the roadway, track structure, rails, roadbed or right-of-way~~<sub>T</sub>~~~~<sub>L</sub>~~
- ~~(iii)~~ not rolling stock~~<sub>T</sub>~~~~<sub>L</sub>~~ and
- ~~(iv)~~ not signals or signal systems, such as computerized traffic control and computerized traffic control (CTC) buildings.

~~(c)~~~~(a)~~ By way of illustration but not limitation, situs property of a railroad includes:

- ~~(i)~~ all operating land located outside the right-of-way;
- ~~(ii)~~ depots, stations, microwave and radio sites and towers;
- ~~(iii)~~ telecommunications equipment not specifically excluded;
- ~~(iv)~~ all shops and buildings not specifically identified elsewhere;
- ~~(v)~~ permanent fixed improvements, such as parking lots and parking structures~~<sub>T</sub>~~~~<sub>L</sub>~~, and all associated costs of grading and improvements at the location;
- ~~(vi)~~ construction work in progress associated with situs property; and
- ~~(vii)~~ furniture and fixtures, materials and supplies, and machinery and equipment which are not moved or movable in the ordinary course of railroad operations.

~~(d)~~~~(b)~~ By way of illustration but not limitation, situs property of a railroad does not include:

- (i) railroad ~~signalling~~ signaling and switching structures, equipment and devices;
- (ii) ballast, grading, and construction work in progress associated with the track or roadbed;
- (iii) machinery and equipment normally used to repair track; and
- (iv) automobiles, trucks, and special mobile equipment (as defined in 61-1-104, MCA) upon which property taxes or fees in lieu of property tax have been assessed and paid.

~~(e)~~(c) Situs property for a railroad normally consists of property in the following accounts in Schedules 330 and 200 of the Annual Report R1 to the surface transportation board:

(i) Schedule 330

Line No.	Account No.	
11	16	station and office buildings
12	17	roadway buildings
13	18	water station
14	19	fuel stations
15	20	shops and enginehouses
16	22	storage warehouses
17	23	wharves and docks
18	24	coal and ore wharves
19	25	tofc/cofc terminals
22	29	power plants
24	35	miscellaneous structures
27	44	shop machinery
28	45	power plant machinery
38	59	comp. systems and word proc. equipment

(ii) Schedule 200

Line No.	Account No.	
12	712	materials & <u>and</u> supplies

~~(f)~~(d) Situs property for a railroad normally consists of a portion of the property in the following accounts in Schedule 330 of the Annual Report R1 to the surface transportation board:

(i) Schedule 330

Line No.	Account No.	
1	2	land for transportation purposes
2	3	grading
10	13	fences, snowsheds, and signs
20	26	communication systems
23	31	power-transmission systems
25	37	roadway machines
26	39	public improvements-construction
29		other
37	58	miscellaneous equipment
42	90	construction work in progress

(24) "Speed" means the Montana miles per day.

(25) "Speed study" means a statistically valid sampling of

railcar movement in Montana designed to establish the average number of miles that a railcar company's railcars travel in Montana per day for tax year 2004 and subsequent tax years.

(21) through (27) remain the same but are renumbered (26) through (32).

AUTH: Sec. 15-23-108, MCA

IMP: Sec. 15-6-156, 15-23-101, 15-23-104, 15-23-211, 15-23-213, 15-53-145, 15-53-147, and 15-72-104, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.22.101 to clarify the meaning of the terms "equivalent car count," "Montana miles per day," "speed," and "speed study" as those terms apply to the allocation procedure described in ARM 42.22.121.

42.22.121 ALLOCATION PROCEDURE (1) through (3) remain the same.

~~(4) For allocation of railroad car company property for each company, the department, as an alternative to the allocation formula provided in 15-23-213 (2), MCA, will use the two following factors, giving equal consideration to both: As an alternative to the allocation formula provided in 15-23-213, MCA, the department will use an equivalent car count for each company as the sole factor for allocating railcar property in Montana.~~

~~(a) car miles in Montana to total car miles in system; and~~

~~(b) equivalent car count for all private railroad cars is the total annual Montana car miles divided by the product of 500 miles / day multiplied by the number of days in the year.~~

(5) For tax year 2003, the department will utilize the following miles as the Montana miles per day:

(a) 475 miles for flat, box, gondola, and coal gondola railcars, when specifically reported by railcar type; and

(b) 265 miles for all other railcars.

(6) For tax year 2004 and subsequent tax years, and in the absence of a speed study supplied by a railcar company, the department will utilize the following default miles as the Montana miles per day:

(a) 450 miles for flat, box, gondola, and coal gondola railcars, when specifically reported by railcar type; and

(b) 250 miles for all other railcars.

(7) A railcar company must report by specific railcar type to qualify for the higher default figure. In the event that a railcar company does not report by specific railcar type, the lower default figure will be applied to all of the railcar company's railcars.

(8) Commencing with the 2004 tax year, if a railcar company believes that 250 or 450 miles per day does not accurately reflect the speed of its cars, it may submit a speed study to establish its Montana miles per day.

(9) A speed study must include a statistically valid sample of the cars that reside or travel in the state, and must include data from one month, the month to be determined by the department. The department shall identify to the railcar

companies the month to be utilized in the speed study by February 1 of the tax year.

(10) The sample population for a speed study must include all railcars and railcar types that were present in the state at any time during the time period being analyzed for the speed study.

(11) Cars shall be selected randomly from the sample population.

(12) For each car selected for the speed study, the company will report the time required to travel from the nearest timing point before the car entered the state to the nearest timing point after the car left the state and the total miles between those points. The company will then total the mileage and time for all cars in the study, and compute a speed from those totals. Speed will be computed by dividing the total miles by the total time, multiplied by 24, to equal miles per day.

(13) If the department determines that a speed study is not representative of the movement of cars within the state, or that the data were incorrectly compiled, the speed study will not be utilized to determine Montana miles per day, and the department shall use the appropriate default number, pursuant to (6).

(14) A speed study will only be valid for three years. A new speed study must be resubmitted after three years, unless the department agrees in writing to accept a previously submitted speed study.

(15) A speed study must be submitted to the department no later than December 1 prior to the tax year for which the speed study is to be applied. The department will apply the default provision in (6) to railcar companies that fail to provide a speed study by the time specified in this section.

(5) remains the same but is renumbered (16).

AUTH: Sec. 15-23-108, MCA

IMP: ~~Sec. Title 15, Chapter 23, part 2 15-23-211 and 15-23-213, MCA~~

REASONABLE NECESSITY: The department is proposing to amend ARM 42.22.121 to more accurately allocate the amount of time that railcar property is located in the state.

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:

Cleo Anderson  
Department of Revenue  
Director's Office  
P.O. Box 5805  
Helena, Montana 59604-5805

and must be received no later than March 7, 2003.

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

hearing.

6. An electronic copy of this Notice of Public Hearing is available through the Department's site on the World Wide Web at [http://www.state.mt.us/revenue/rules\\_home\\_page.htm](http://www.state.mt.us/revenue/rules_home_page.htm), under the Notice of Rulemaking section. 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 website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

7. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, 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 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

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

/s/ Cleo Anderson  
CLEO ANDERSON  
Rule Reviewer

/s/ Kurt G. Alme  
KURT G. ALME  
Director of Revenue

Certified to Secretary of State January 17, 2003



BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA

In the matter of the adoption )	CORRECTED NOTICE OF
of NEW RULES I through XVIII, )	AMENDMENT
the amendment of 17.8.101, )	
17.8.110, 17.8.309, 17.8.310, )	(AIR QUALITY)
17.8.316, 17.8.342, 17.8.818, )	
17.8.825, 17.8.826, 17.8.901, )	
17.8.904, 17.8.905, 17.8.906, )	
17.8.1004, 17.8.1005, )	
17.8.1106, 17.8.1109, )	
17.8.1201, 17.8.1204, )	
17.8.1205, 17.8.1220, )	
17.8.1224, and 17.8.1226, and )	
the repeal of 17.8.701, )	
17.8.702, 17.8.704 through )	
17.8.707, 17.8.710, 17.8.715 )	
through 17.8.717, 17.8.720, )	
and 17.8.730 through 17.8.734 )	
pertaining to the issuance of )	
Montana air quality permits )	

TO: All Concerned Persons

1. On August 15, 2002, the Board of Environmental Review published MAR Notice No. 17-165 regarding the proposed amendment of the above-stated rules at page 2076, 2002 Montana Administrative Register, issue number 15. On December 26, 2002, the Board published the notice of adoption and amendment of the rules at page 3567, 2002 Montana Administrative Register, issue number 24.

2. This corrected notice of amendment is being published to reflect that ARM 17.8.1004(2) should have been amended in the original notice as follows, new matter underlined, stricken matter interlined:

17.8.1004 WHEN MONTANA AIR QUALITY PERMIT REQUIRED

(1) remains as amended.

(2) In the absence of emission reductions compensating for the adverse impact of the source, the Montana air quality ~~pre-construction~~ permit will be denied.

3. The replacement pages for this corrected notice of amendment were filed with the Secretary of State's office on December 31, 2002.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

David Rusoff  
DAVID RUSOFF  
Rule Reviewer

By: Joseph W. Russell  
JOSEPH W. RUSSELL, M.P.H.,  
Chairman

Certified to the Secretary of State, January 17, 2003.

BEFORE THE DEPARTMENT OF CORRECTIONS  
OF THE STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF ADOPTION,
of new rules I - IV, amendment	)	AMENDMENT, AND REPEAL
of ARM 20.9.315 and 20.9.320,	)	
and repeal of ARM 20.9.301,	)	
20.9.305, 20.9.307, and	)	
20.9.310 pertaining to	)	
Juvenile Corrections - Parole	)	
Agreement Violation, Initial	)	
Investigation and Detainer -	)	
Scheduling and Notice of	)	
Hearing - Procedures - Appeal	)	
- Waiver of Right to Hearing -	)	
Failure to Appear	)	

TO: All Concerned Persons

1. On October 17, 2002, the department published MAR Notice No. 20-7-27 regarding the public hearing on the proposed amendment, adoption and repeal of the above-stated rules at page 2809 of the 2002 Montana Administrative Register, issue no. 19.

2. The Department has adopted new Rule I (ARM 20.9.302), new Rule II (ARM 20.9.306), new Rule III (ARM 20.9.308) and new Rule IV (ARM 20.9.311) exactly as proposed.

3. The Department has amended ARM 20.9.315 and 20.9.320 exactly as proposed.

4. The Department has repealed ARM 20.9.301, 20.9.305, 20.9.307 and 20.9.310 as proposed.

5. No comments or testimony concerning the rules were received.

DEPARTMENT OF CORRECTIONS

/s/ Bill Slaughter  
Bill Slaughter, Director

/s/ Colleen A. White  
Colleen A. White, Rule Reviewer

Certified to the Secretary of State January 17, 2003

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

In the matter of the )  
amendment of ARM 24.174.2106, )  
pertaining to continuing )  
education requirements )

CORRECTED NOTICE OF  
AMENDMENT

TO: All Concerned Persons

1. On July 11, 2002, the Board of Pharmacy published MAR Notice No. 24-174-52 regarding the above-stated rule at page 1868, 2002 Montana Administrative Register, Issue Number 13. On August 15, 2002, the Board of Pharmacy published MAR Notice No. 24-174-53 providing for an additional public hearing and extension of the comment period at page 2159, 2002 Montana Administrative Register, Issue Number 15. On December 26, 2002, the Board of Pharmacy published a notice of the amendment of the above-stated rule at page 3605, 2002 Montana Administrative Register, Issue Number 24.

2. In the review of ARM replacement pages for the fourth quarter of 2002, it was discovered that the earmarking for the subsections of ARM 24.174.2106(1) was incorrect. The correct earmarking is as follows:

- 24.174.2106 REGISTERED PHARMACIST CONTINUING EDUCATION - APPROVED PROGRAMS (1) remains the same.
- (i) through (iii) remain the same, but are renumbered (a) through (c).
- (2) and (3) remain the same.

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

3. Replacement pages for ARM 24.174.2106 were filed with the Secretary of State on December 31, 2002.

BOARD OF PHARMACY  
ALBERT A. FISHER, R.Ph.,  
PRESIDENT

By: /s/ KEVIN BRAUN  
Kevin Braun  
Rule Reviewer

By: /s/ WENDY J. KEATING  
Wendy J. Keating, Commissioner  
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State, January 17, 2003.

BEFORE THE BOARD OF REAL ESTATE APPRAISERS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the ) NOTICE OF ADOPTION  
amendment of ARM 24.207.502, ) AND AMENDMENT  
24.207.504, 24.207.506, )  
24.207.509, 24.207.2101, and )  
the adoption of NEW RULE I, )  
all pertaining to real )  
estate appraisers )

TO: All Concerned Persons

1. On October 17, 2002, the Board of Real Estate Appraisers published MAR Notice No. 24-207-18 regarding the public hearing on the proposed amendment and adoption of the above-stated rules relating to real estate appraisers at page 2827, 2002 Montana Administrative Register, issue number 19. The hearing was held on November 7, 2002.

2. The Board has amended ARM 24.207.502, 24.207.504, 24.207.506, 24.207.509, and 24.207.2101 exactly as proposed.

3. The Board adopted NEW RULE I (24.207.2102) exactly as proposed.

4. One general written comment was received and appears with the Board's response:

COMMENT: The Appraisal Subcommittee stated that the proposed changes do not appear to be inconsistent with TITLE XI or the Appraisal Subcommittee policy statements.

RESPONSE: The Board stated that it appreciated the Appraisal Subcommittee's review and input on the proposed rule change(s).

BOARD OF REAL ESTATE APRAISERS  
TIMOTHY MOORE, CHAIR

/s/ Wendy J. Keating  
Wendy J. Keating, Commissioner  
Department of Labor and Industry

/s/ Kevin Braun  
Kevin Braun,  
Rule Reviewer

Certified to the Secretary of State January 17, 2003.

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

In the matter of the adoption ) NOTICE OF ADOPTION OF  
of the temporary emergency ) TEMPORARY EMERGENCY RULE  
amendment of ARM 37.85.406 )  
pertaining to medicaid )  
reimbursement )

TO: All Interested Persons

1. The Department of Public Health and Human Services is adopting the following temporary emergency rule amendment of ARM 37.85.406 pertaining to medicaid reimbursement.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; Email dphhslegal@state.mt.us.

2. The text of the emergency rule is as follows. Matter to be added is underlined. Matter to be deleted is interlined.

37.85.406 BILLING, REIMBURSEMENT, CLAIMS PROCESSING, AND PAYMENT (1) through (20) remain the same.

(21) There is an emergency reimbursement reduction in effect for the following provider types for services provided January ~~10, 2002~~ 2003 through June 30, ~~2002~~ 2003:

- (a) inpatient hospital;
- (b) outpatient hospital;
- (c) early periodic screening;
- (d) diagnostic and treatment;
- (e) nutritional services;
- (f) chiropractic;
- (g) podiatry;
- (h) physical therapy;
- (i) speech-language pathology;
- (j) occupational therapy;
- (k) audiology;
- (l) optometry;
- (m) public health clinic;
- (n) dental;
- ~~(o) outpatient drugs;~~
- ~~(p)~~(o) prosthetic devices;
- ~~(q)~~(p) durable medical equipment and supplies;
- ~~(r)~~(q) non-emergency transportation;
- ~~(s)~~(r) ambulance;
- ~~(t)~~(s) physician;
- ~~(u)~~(t) ambulatory surgical center;
- ~~(v)~~(u) non-hospital lab and x-ray;

- (w)(v) denturist;
- (x)(w) mid-level practitioner;
- (y)(x) qualified medicare beneficiary (QMB) services;
- (z)(y) QMB chiropractic; and
- (aa)(z) freestanding dialysis clinics.

(22) The net pay reimbursement for the provider types listed in ~~ARM 37.85.406~~(21) is 2.6% 7% less than the amount provided in the following rules: ARM 37.83.811, 37.83.812, 37.83.825, 37.85.212, 37.86.105, 37.86.205, 37.86.506, 37.86.610, 37.86.705, 37.86.1004, 37.86.1005, ~~37.86.1105~~, 37.86.1406, 37.86.1806, 37.86.1807, 37.86.2005, 37.86.2207, 37.86.2209, 37.86.2211, ~~37.86.2217~~, 37.86.2405, 37.86.2505, 37.86.2605, 37.86.2801, 37.86.2905, 37.86.3005, 37.86.3007, 37.86.3009, 37.86.3011, 37.86.3014, 37.86.3016, 37.86.3018, 37.86.3020, 37.86.3022, 37.86.3205 and 37.86.4205.

(a) For purposes of this rule, "net pay reimbursement" means the allowed amount minus third party liability payments, copayments, coinsurance, incurments, and other deductions.

~~(b) Providers affected by this rule may be eligible for a rebate if there are sufficient funds available in the medicaid appropriation at the end of state fiscal year 2002.~~

~~(c) The department will define a process for calculating and issuing any rebate.~~

(23) remains the same.

AUTH: Sec. 53-2-201 and ~~53-6-113~~, MCA

IMP: Sec. 53-2-201, ~~53-6-101~~, 53-6-111, ~~53-6-113~~, 53-6-131 and 53-6-141, MCA

3. The Department of Public Health and Human Services is adopting this emergency amendment to prevent imminent peril to the public health, safety and the welfare of Medicaid recipients. Based on paid claims data through October, 2002, the Department projects imminent and substantial budget deficits in the Montana Medicaid program for State Fiscal Year (SFY) 2003. These projected deficits require the Department to make immediate adjustments to reimbursement policies for the Montana Medicaid program. Under current rules, expenditures will exceed appropriations before June 30, 2003, the end of SFY 2003. 17-8-104, MCA subjects public officials to civil penalties if they fail to keep expenditures, obligations and liabilities within the amount of the legislative appropriation as required by 17-8-103, MCA. If the Department failed to take immediate action to slow the rate of Medicaid expenditures and funding was subsequently exhausted, the Department would be forced to eliminate entire categories of medical services and eliminate eligibility for groups for whom coverage is not mandated by the federal Medicaid law. The elimination of medical services and eligibility would immediately imperil the public health, safety and welfare.

Therefore, in addition to other cost-saving measures, the Department adopts this temporary emergency amendment to prevent the imminent peril to the public health, safety and welfare that

would result from the elimination of medical services or eligible groups. The expected effect of this emergency amendment is to reduce total state and federal expenditures for Medicaid services in Montana by approximately \$5,220,000 SFY 2003. Of the total, state expenditures are reduced a total of approximately \$1,413,000. The Department believes the savings from this emergency rule amendment and other cost-saving measures will allow it to stay within legislative appropriations and thus avoid elimination of medical services or the elimination of eligibility for some groups.

The emergency rule provides for a 7% cut in Medicaid reimbursement rates for the specified provider types identified in ARM 37.85.406(21).

The Department has considered and will adopt all feasible measures to eliminate the budget deficit for SFY 2003. Making up more of the deficit through Medicaid service reductions was considered but rejected because after a certain point, cost-shifting occurs where elimination of non-federally mandated services causes additional use of more expensive mandatory services. In addition, the elimination of groups of currently eligible individuals was rejected due to the potential for adverse financial and health effects on individuals currently receiving Medicaid services. The Department, however, will be proposing other rule changes to re-examine the treatment and evaluation of recipient resources for purposes of determining medical eligibility.

42 U.S.C. 1396a(a)(30)(A) requires that a state plan for medical assistance must provide such methods and procedures related to payment for care and services that are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. The Department believes the rate cuts adopted in this emergency amendment will not have a substantial detrimental effect on Medicaid recipients' access to services.

The Department published notice of its intent to adopt this emergency amendment in the newspapers of all cities in Montana with a population of 50,000 or more. The notice and the text of the changes were available in every Montana County Office of Public Assistance and the Department mailed notice of the changes to provider associations. The notice invited providers, beneficiaries and their representatives and other concerned Montana residents to submit written data, views or arguments concerning the emergency rate reductions. The Department considered the comments it received and will make full, detailed written responses during the standard rulemaking procedure.

The persons affected by this emergency rule amendment are 11,600 providers enrolled in Montana Medicaid. Most of these providers



will be affected by the proposed amendment. The Department does not anticipate adverse effects upon the recipients of Medicaid services.

4. The temporary emergency amendment is effective January 10, 2003.

5. A standard rulemaking procedure will be undertaken by the Department prior to the expiration of the emergency rule changes.

6. Interested persons may submit their data, views or arguments during the standard rulemaking process. The Department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, submit by facsimile (406)444-1970 or by electronic mail via the Internet to dphhslegal@state.mt.us.

Dawn Sliva  
Rule Reviewer

/s/ Gail Gray  
Director, Public Health and  
Human Services

Certified to the Secretary of State January 10, 2003.

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

In the matter of the adoption	)	NOTICE OF ADOPTION OF
of temporary emergency Rule I	)	TEMPORARY EMERGENCY
and the temporary emergency	)	RULES
amendment of ARM 37.86.2207,	)	
37.86.2221, 37.86.3506,	)	
37.86.3507, 37.86.3515,	)	
37.86.3705, 37.86.3706,	)	
37.86.3707, 37.86.3715,	)	
37.88.101, 37.88.1106 and	)	
37.88.1110 pertaining to	)	
medicaid mental health	)	
services and the mental	)	
health services plan	)	

TO: All Interested Persons

1. The Department of Public Health and Human Services is adopting Rule I and temporary emergency amendment of ARM 37.86.2207, 37.86.2221, 37.86.3506, 37.86.3507, 37.86.3515, 37.86.3705, 37.86.3706, 37.86.3707, 37.86.3715, 37.88.101, 37.88.1106 and 37.88.1110 pertaining to medicaid mental health services and the mental health services plan. The Department of Public Health and Human Services is adopting this temporary emergency rule and emergency amendments to prevent imminent peril to the public health, safety, and welfare of citizens of Montana. The Department continues to face imminent and substantial budget shortfalls in the Medicaid Mental Health program and the Mental Health Services Plan (MHSP). Previously adopted cost saving measures have not been sufficient to meet worsening state budget projections. 17-8-104, MCA subjects public officials to civil penalties if they fail to keep expenditures, obligations and liabilities within the amount of the legislative appropriation as required by 17-8-103, MCA. 53-7-703(4), MCA requires that any rules adopted by the Department must take into account the availability of the appropriated funds, among other things. Without this emergency rule and emergency amendments, the Department would be required to eliminate or substantially curtail other services that are vital to the mental health of Medicaid recipients and MHSP beneficiaries.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; Email dphhslegal@state.mt.us.

2. The rule as adopted provides as follows:

RULE I EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT SERVICE (EPSDT), COMPREHENSIVE SCHOOL AND COMMUNITY TREATMENT

(1) Comprehensive school and community treatment means a comprehensive, planned course of outpatient treatment provided primarily in the school to a child or adolescent with a serious emotional disturbance, as defined in ARM 37.89.103(14), through a program operated by a public school district that is a licensed mental health center or a school district that has a contract with a licensed mental health center. To be approved a program must provide the department with a satisfactory written description of the program prior to beginning the service. The department must approve or deny a program within 30 days of receiving a complete application. The program description, at a minimum, must document:

- (a) how the program will meet each child's needs for treatment during and outside school hours, including:
  - (i) individual, family, and group therapy;
  - (ii) crisis intervention services;
  - (iii) case management;
  - (iv) continuing observation, support and behavioral intervention in the classroom and on the playground; and
  - (v) other services effective in the treatment of the child's emotional disturbance;
- (b) how the program will meet each child's needs for treatment during school vacations in a manner integrated in the individual's treatment plan;
- (c) limited circumstances which would require a child in the program to access mental health services outside the program and how the program would minimize reliance on other service providers;
- (d) admission and discharge criteria for the program; and
- (e) how the program will accomplish and ensure:
  - (i) treatment, crisis and discharge planning and regular updates of such plans;
  - (ii) family involvement in treatment and discharge planning and in the course of treatment;
  - (iii) continuing contact and information exchange with persons and agencies significantly involved in the child's treatment;
  - (iv) coordination of all mental health services and treatments the child receives;
  - (v) continuing quality improvement including the regular measurement and reporting of program performance and individual outcomes to include comparison with baseline measurements and established benchmarks;
  - (vi) that a sliding fee schedule and all available financial resources for support of services including third party insurance and parent payment are utilized;
  - (vii) there is an appropriate level of direct contributions by the school district; and
  - (viii) that services delivered are adequately documented to support the reimbursement received.

(2) Comprehensive school and community treatment must be provided through a program of services staffed by at least two mental health workers who work exclusively in the school with a maximum case load of 12 school children. At least one of the two mental health workers must be a licensed psychologist, licensed clinical social worker, or licensed professional counselor.

(a) Comprehensive school and community treatment must be provided according to an individualized treatment plan designed by a licensed professional who is a staff member of the comprehensive school and community treatment program.

(b) In addition to any clinical records required by mental health center license rules and by ARM 37.85.414, the program must maintain:

(i) documentation of the client's attendance in school and in program services;

(ii) progress notes for each individual therapy session and other direct service; and

(iii) weekly overall progress notes.

(3) Comprehensive school and community treatment is not medically necessary when, in the determination of the department, the individual is receiving substantial mental health treatment outside the comprehensive school and community treatment program.

AUTH: Sec. 53-2-201 and 53-6-113, MCA

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

3. The rules as amended provide as follows. Matter to be added is underlined. Matter to be deleted is interlined.

37.86.2207 EARLY AND PERIODIC SCREENING, DIAGNOSTIC AND TREATMENT SERVICES (EPSDT), REIMBURSEMENT (1) through (2) remain the same.

(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 hereby adopts and incorporates herein by reference the department's medicaid mental health fee schedule dated ~~January 28, 2002~~ January 1, 2003. A copy of the fee schedule may be obtained from the Department of Public Health and Human Services, Addictive and Mental Disorders Division, 555 Fuller, P.O. Box 202905, Helena, MT 59620-2905; or

(b) through (5) remain the same.

(6) Reimbursement for comprehensive school and community treatment is the lesser of:

(a) the amount specified in the department's medicaid mental health fee schedule; or

(b) the provider's usual and customary charges (billed charges).

(6) through (8) remain the same but are renumbered (7) through (9).

~~(9)~~ (10) The department will not reimburse providers for two services that duplicate one another on the same day. The department hereby adopts and incorporates by reference the matrix of services excluded from simultaneous reimbursement dated ~~January 11, 2002~~ January 1, 2003. A copy of the matrix is posted on the internet at the department's home page at [www.dphhs.state.mt.us/divisions/hcs/provider\\_fee\\_schedule.htm](http://www.dphhs.state.mt.us/divisions/hcs/provider_fee_schedule.htm) or may be obtained by writing the Department of Public Health and Human Services, Addictive and Mental Disorders Division, 555 Fuller, P.O. Box 202905, Helena, MT 59620-2905.

(10) remains the same but is renumbered (11).

AUTH: Sec. 53-2-201 and 53-6-113, MCA

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

37.86.2221 EARLY AND PERIODIC SCREENING, DIAGNOSTIC AND TREATMENT SERVICES (EPSDT), THERAPEUTIC FAMILY CARE TREATMENT SERVICES

(1) The therapeutic portion of medically necessary therapeutic family care treatment is covered for recipients with a primary diagnosis of severe emotional disturbance (SED) as defined in ARM 37.86.3702, or with both an emotional disturbance and a developmental disability, if the treatment is ordered by a licensed physician, licensed psychologist, masters level licensed clinical social worker (MSW) or a licensed professional counselor (LPC), and prior-authorized by the department or its designee according to the provisions of ARM 37.88.101.

~~(a) The therapeutic portion of intensive level therapeutic family care treatment, as defined in ARM Title 37, chapters 37 and 97, is covered if provided by a therapeutic family care agency licensed by and contracted with the department to provide intensive level therapeutic family care service.~~

~~(b) (a) The therapeutic portion of moderate level therapeutic family care treatment, as defined in ARM Title 37, chapters 37 and 97, is covered if provided by a therapeutic family care agency licensed by and contracted with the department to provide moderate level therapeutic family care service.~~

~~(c) (b) The therapeutic portion of permanency therapeutic family care treatment, as defined in (2)(c)(i), is covered if provided by a therapeutic family care agency licensed by and contracted with the department to provide intensive therapeutic family care services.~~

(i) Permanency therapeutic family care treatment is intensive level therapeutic family care treatment for which the foster family placement is permanent and which includes:

~~(A) care coordination case management;~~

~~(B) (A) individual, family and group therapies;~~

~~(C) (B) clinical supervision provided by a licensed psychologist on a 1:20 ratio;~~

~~(D) (C) a treatment manager who is a masters or bachelors level social worker with three years experience, on a 1:6 ratio;~~

~~(E) (D) therapeutic aide services averaging at least 10 hours per week;~~

~~(F) (E) respite care at least one weekend per month; and~~

~~(G)~~ (F) additional specialized training for families.

~~(d)~~ (c) Medicaid will not reimburse for room, board, maintenance or any other non-therapeutic component of therapeutic family care treatment.

(2) Medicaid reimbursement is not available for therapeutic youth family care services unless the provider submits to the department or its designee in accordance with these rules a complete and accurate certificate of need that certifies the necessary level of care. A child or adolescent must meet at least four of the following criteria for moderate therapeutic family care treatment services and ~~five of the following criteria for intensive therapeutic family care treatment services:~~

(a) through (6) remain the same.

AUTH: Sec. 53-2-201 and 53-6-113, MCA

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

37.86.3506 CASE MANAGEMENT SERVICES FOR ADULTS WITH SEVERE DISABLING MENTAL ILLNESS, SERVICE REQUIREMENTS (1) remains the same.

(2) ~~Intensive case~~ Case management services for adults with severe disabling mental illness must be provided according to a case management plan which must:

(a) through (f) remain the same.

(3) Objectives in an ~~intensive a~~ case management plan must have an identified date of review no more than 90 days after the plan date. Plans will be revised to reflect changes in client goals and needs, and the services provided to the client.

~~(4) Intensive case management services for adults with severe disabling mental illness must be provided by a provider whose individual case managers' case loads average no more than 22 adults per FTE (full-time equivalent) per calendar month, calculated including all of the provider's adult intensive case managers and adult case management clients for each calendar month.~~

~~(a) Individual intensive case manager case loads may include care coordination case management clients. For purposes of calculating the provider's average case load under (4), the first 1 through 4 care coordination clients served by each intensive case manager shall be counted as 1 intensive case management client, and each additional 1 through 4 care coordination clients shall be counted as 1 additional intensive case management client.~~

~~(b) The Montana medicaid program will cover and reimburse intensive case management services provided to adults with severe disabling mental illness only if provided by an intensive case manager whose services are limited to intensive case management and/or care coordination services, and who does not provide additional services such as therapy.~~

~~(5) (4)~~ (4) Intensive case Case management services for adults with severe disabling mental illness must be delivered in accordance with the individual recipient's needs, ~~but in all cases where the client is in service for the entire month must~~

~~include at least 2 hours of intensive case management services including 1 face-to-face contact with the client per calendar month.~~

~~(6) Care coordination case management services for adults with severe disabling mental illness must include at least 1 face-to-face contact with the client per month. The contact may be for purposes other than providing care coordination services, such as to provide another covered service.~~

AUTH: Sec. 53-2-201 and 53-6-113, MCA

IMP: Sec. 53-6-101, MCA

37.86.3507 CASE MANAGEMENT SERVICES FOR ADULTS WITH SEVERE DISABLING MENTAL ILLNESS, PROVIDER REQUIREMENTS (1) remains the same.

~~(2) Intensive case Case management services for adults with severe disabling mental illness must be provided by a licensed mental health center:~~

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

~~(3) Care coordination case management services for adults with severe disabling mental illness must be provided by a licensed mental health center enrolled in the Montana medicaid program as a case management services provider.~~

AUTH: Sec. 53-2-201 and 53-6-113, MCA

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

37.86.3515 CASE MANAGEMENT SERVICES FOR ADULTS WITH SEVERE DISABLING MENTAL ILLNESS, REIMBURSEMENT (1) ~~Intensive case management services for adults with severe disabling mental illness will be reimbursed on a case rate per month basis as provided in this rule. For purposes of this rule, a month is a calendar month, regardless of the variation in the number of days in each calendar month.~~

~~(2) For intensive case management services for adults with severe disabling mental illness, the provider may bill:~~

~~(a) the full monthly rate for:~~

~~(i) recipients in service on or before the 15th day of the calendar month and throughout the remainder of the calendar month; or~~

~~(ii) recipients in service at the beginning of the month and discharged on or after the 16th of the month; or~~

~~(b) one-half the monthly rate for:~~

~~(i) recipients in service on or after the 16th day of the calendar month and throughout the remainder of the calendar month; or~~

~~(ii) recipients in service and discharged on or before the 15th day of the month.~~

~~(3) (1) Care coordination case Case management services for adults with severe disabling mental illness will be reimbursed on a fee per unit of service basis. For purposes of this rule, a unit of service is a period of 15 minutes.~~

~~(a) Medicaid reimbursement for care coordination case management services for adults with severe disabling mental~~

~~illness is limited to a total of four hours (16 units of service) per calendar month.~~

~~(b) (2) Group care coordination services may not exceed a maximum of eight participants per group.~~

~~(c) A provider may not bill medicaid for care coordination services for any period for which the provider bills for intensive case management services for the same recipient.~~

~~(d) The Montana medicaid program will not pay more than one provider for intensive case management services for the same period of time for the same resident.~~

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

AUTH: Sec. 53-2-201 and 53-6-113, MCA

IMP: Sec. 53-2-201, 53-6-101 and 53-6-113, MCA

37.86.3705 CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, SERVICE COVERAGE (1) through (1)(e) remain the same.

~~(2) Intensive case Case management services for youth with serious emotional disturbance are case management services provided by a licensed mental health center in accordance with these rules and the provisions of Title 50, chapter 5, part 2, MCA, and implementing rules.~~

~~(3) Care coordination case management services for youth with serious emotional disturbance are case management services, as specified in (1), provided in accordance with these rules by a licensed mental health center. Care coordination case management services may include telephone services.~~

AUTH: Sec. 53-2-201 and 53-6-113, MCA

IMP: Sec. 53-2-201, 53-6-101 and 53-6-113, MCA

37.86.3706 CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, SERVICE REQUIREMENTS (1) remains the same.

~~(2) Intensive case Case management services for youth with serious emotional disturbance must be provided according to a case management plan which must:~~

~~(a) through (3) remain the same.~~

~~(4) Intensive case management services for youth with serious emotional disturbance must be provided by a provider whose individual case managers' case loads average no more than 20 youth per FTE (full-time equivalent) per calendar month, calculated including all of the provider's youth intensive case managers and youth case management clients for each calendar month.~~

~~(a) Individual intensive case manager case loads may include care coordination case management clients. For purposes of calculating the provider's average case load under (4), the first 1 through 4 care coordination clients served by each intensive case manager shall be counted as 1 intensive case management client, and each additional 1 through 4 care coordination clients shall be counted as 1 additional intensive~~



~~case management client.~~

~~(b) The Montana medicaid program will cover and reimburse intensive case management services provided to youth with serious emotional disturbance only if provided by an intensive case manager whose services are limited to intensive case management and/or care coordination services, and who does not provide additional services such as therapy.~~

~~(5) (4) Intensive case Case management services for youth with serious emotional disturbance must be delivered in accordance with the individual recipient's needs, but in all cases where the client is in service for the entire month must include at least 2 hours of intensive case management services including face-to-face contact with the client per calendar month.~~

~~(6) Care coordination case management services for youth with serious emotional disturbance must include at least 1 face-to-face contact with the client per month. The contact may be for purposes other than providing care coordination services, such as to provide another covered service.~~

AUTH: Sec. 53-6-113, MCA

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

37.86.3707 CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, PROVIDER REQUIREMENTS (1) remains the same.

(2) ~~Intensive case Case management services for youth with serious emotional disturbance must be provided by a licensed mental health center:~~

~~(a) with a license endorsement permitting the mental health center to provide intensive case management services to the population being served; and~~

~~(b) enrolled in the Montana medicaid program as a case management services provider; and~~

~~(c) contracted with the department to provide case management services for youth with serious emotional disturbance.~~

~~(3) Care coordination case management services for youth with serious emotional disturbance must be provided by a licensed mental health center enrolled in the Montana medicaid program as a case management services provider.~~

AUTH: Sec. 53-2-201 and 53-6-113, MCA

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

37.86.3715 CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, REIMBURSEMENT (1) ~~Intensive case management services for youth with serious emotional disturbance will be reimbursed on a case rate per month basis as provided in this rule. For purposes of this rule, a month is a calendar month, regardless of the variation in the number of days in each calendar month.~~

~~(2) For intensive case management services for youth with serious emotional disturbance, the provider may bill:~~

- ~~(a) the full monthly rate for:~~
  - ~~(i) recipients in service on or before the 15th day of the calendar month and throughout the remainder of the calendar month; or~~
  - ~~(ii) recipients in service at the beginning of the month and discharged on or after the 16th of the month; or~~
- ~~(b) one-half the monthly rate for:~~
  - ~~(i) recipients in service on or after the 16th day of the calendar month and throughout the remainder of the calendar month; or~~
  - ~~(ii) recipients in service and discharged on or before the 15th day of the month.~~
- ~~(3) (1) Care coordination case Case management services for youth with serious emotional disturbance will be reimbursed on a fee per unit of service basis. For purposes of this rule, a unit of service is a period of 15 minutes.~~
  - ~~(a) Medicaid reimbursement for care coordination case management services for youth with serious emotional disturbance is limited to a total of four hours (16 units of service) per calendar month.~~
  - ~~(b) (2) Group care coordination services may not exceed a maximum of eight participants per group.~~
  - ~~(c) A provider may not bill medicaid for care coordination services for any period for which the provider bills for intensive case management services for the same recipient.~~
  - ~~(d) The Montana medicaid program will not pay more than one provider for intensive case management services for the same period of time for the same resident.~~
- ~~(4) (3) The department may, in its discretion, designate a single provider to provide intensive case management services in a designated geographical region. Any provider designated as the sole intensive case management provider for a designated geographical region must, as a condition of such designation, agree to serve the entire designated geographical region.~~
- ~~(5) The department will reimburse for up to three months of medically necessary intensive case management services while a youth is authorized to receive either therapeutic youth group home services or therapeutic family care treatment services.~~
- ~~(6) through (6)(b) remain the same but are renumbered (4) through (4)(b).~~

AUTH: Sec. 53-2-201 and 53-6-113, MCA  
IMP: Sec. 53-6-101 and 53-6-113, MCA

37.88.101 MEDICAID MENTAL HEALTH SERVICES, AUTHORIZATION REQUIREMENTS (1) through (1)(b) remain the same.

(2) For all mental health services provided to a medicaid recipient under the age of 18 under the Montana medicaid program for which prior authorization is required, ~~the following exceptions apply:~~

- ~~(a) the first 24 visits in the 12 month period beginning July 1, 2002 and each 12 month period thereafter for outpatient mental health counseling services billed under Current Procedure Terminology, 4th edition (CPT4) codes 90804, 90806, 90808,~~

90810, 90812, 90814, 90846 and 90847 only. For purposes of this rule, the term "visit" does not include a session with a physician for the purpose of medication management. Practitioners who believe that more than 24 sessions are medically necessary for youth under the age of 18 years may request prior authorization for additional sessions;

~~(b) the first 12 visits in the period from January 11, 2002 through June 30, 2002 for outpatient mental health counseling services billed under CPT4 codes 90804, 90806, 90808, 90810, 90812, 90814, 90846 and 90847 only. Practitioners who believe that more than 12 sessions are medically necessary may request prior authorization for additional sessions;~~

~~(c) the department may waive a requirement for prior authorization when the provider can document that:~~

~~(i) there was a clinical reason why the request for prior authorization could not be made at the required time; or~~

~~(ii) a timely request for prior authorization was not possible because of a failure or malfunction of equipment that prevented the transmittal of the request at the required time.~~

~~(d) the prior authorization requirement shall not be waived except as provided in this rule; and~~

~~(e) under no circumstances may a waiver under (2)(c) be granted more than 30 days after the initial date of service.~~

(3) For all mental health services provided to an adult medicaid recipient under the Montana medicaid program for which prior authorization is required, the following exceptions apply:

(a) 16 visits in the 12-month period beginning July 1, 2003 and each 12-month period thereafter for outpatient mental health counseling services billed under Current Procedure Terminology 4th Edition (CPT4) codes 90804, 90806, 90810, 90812, 90846 and 90847 only. For purposes of this rule, the term "visit" does not include a session with a physician for the purpose of medication management.

(b) eight visits in the period from January 1, 2003 through June 30, 2003 for outpatient mental health counseling services billed under CPT4 codes 90804, 90806, 90810, 90812, 90846 and 90847 only.

(4) The department may waive a requirement for prior authorization when the provider can document that:

(a) there was a clinical reason why the request for prior authorization could not be made at the required time; or

(b) a timely request for prior authorization was not possible because of a failure or malfunction of equipment that prevented the transmittal of the request at the required time.

(5) The prior authorization requirement shall not be waived except as provided in this rule.

(6) Under no circumstances may a waiver under (4) be granted more than 30 days after the initial date of service.

(3) through (6) remain the same but are renumbered (7) through (10).

AUTH: Sec. 53-6-113, MCA

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

37.88.1106 INPATIENT PSYCHIATRIC SERVICES, REIMBURSEMENT

(1) through (9) remain the same.

(10) Reimbursement will be made to a residential treatment facility provider for intensive day treatment in the amount specified in the department's medicaid mental health fee schedule. The per diem rates specified in the department's medicaid mental health fee schedule are bundled prospective per diem rates for full-day programs and half-day programs as defined in ARM 37.88.1101. The department hereby adopts and incorporates herein by reference the department's medicaid mental health fee schedule dated ~~March 2001~~ January 1, 2003. A copy of the fee schedule may be obtained from the Department of Public Health and Human Services, Addictive and Mental Disorders Division, 555 Fuller, P.O. Box 202905, Helena, MT 59620-2905.

(11) through (13) remain the same.

AUTH: Sec. 53-2-201 and 53-6-113, MCA

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

37.88.1110 FRONTIER SERVICE ACCESS RATE ADJUSTMENT PAYMENT, ELIGIBILITY AND COMPUTATION

(1) Subject to the availability of sufficient county and federal funding, the department will pay, in addition to the established medicaid rates provided in ARM 37.88.907, a frontier service access rate adjustment payment to an eligible community mental health center in Montana as defined at 53-21-201, MCA when:

(a) through (d) remain the same.

(e) the community mental health center has executed and entered into a written agreement with the department concerning rural access to services and the provision of telephone crisis services and has agreed to abide by the terms of the written agreement.

(i) The written agreement between the department and the community mental health center must be executed prior to the issuance of the frontier service access rate adjustment payment.

(ii) A community mental health center that does not enter into a written agreement with the department or does not abide by the terms of the agreement will not be eligible for the frontier service access rate adjustment payment process.

(2) The department will calculate the amount of the frontier service access rate adjustment payment for each eligible community mental health center using paid claims data from ~~frontier counties~~ in the community mental health center region established pursuant to 53-21-204, MCA, for the quarter ending one quarter before the quarter in which the frontier service access rate adjustment payment will be paid. The frontier service access rate adjustment payment for each eligible community mental health center shall be the least of:

(a) remains the same.

(b) the amount of county funds transferred to the department and any state funds the department chooses to use for this purpose plus federal financial participation; or

(c) a premium over the established rates ~~consisting of the sum of:~~ determined by the department but not to exceed 25%.

~~(i) 20% over the established rate for outpatient services provided by psychiatrists, other physicians, physician assistants, advance practice registered nurses, licensed psychologists, licensed clinical social workers, licensed clinical professional counselors and in-training practitioners as defined in ARM 37.88.901 to eligible beneficiaries residing in frontier counties; and~~

~~(ii) 25% over the established rate for case management, community-based psychiatric rehabilitation and support services provided to eligible beneficiaries residing in frontier counties.~~

(3) No aggregate rate of medicaid reimbursement, including established medicaid rate and frontier service access rate adjustment payments, for all community mental health centers shall exceed the corresponding medicare rate, if any.

(4) For the community mental health centers eligible for the frontier service access rate adjustment payment, the department will pay the frontier service access rate adjustment payment quarterly beginning July 1, 2001.

(5) The department shall include all frontier service access rate adjustment payments in the department's quarterly reports as required by federal law and regulations.

(6) The frontier service access rate adjustment payment is subject to the restrictions imposed by federal law.

AUTH: Sec. 53-6-113 and 53-21-201, MCA

IMP: Sec. 53-6-101, 53-6-113 and 53-21-201, MCA

4. The Department is adopting these temporary emergency rule amendments to implement program changes and a revised fee schedule for mental health services provided to Medicaid recipients and Mental Health Services Plan (MHSP) beneficiaries. Pursuant to ARM 37.86.3715 the Department will designate providers of case management services for youth with serious emotional disturbances. The reimbursement unit for case management for youth with serious emotional disturbances and adults with severe disabling mental illness is changed to 15 minutes. Provider rates for mental health services are reduced from 5% to 10% as reflected in the Department's fee schedule that is available on the Department's website as reflected in the rule. This fee schedule applies to MHSP services as well as to Medicaid mental health services.

The Department also adopted new Rule I, reinstating Comprehensive School and Community Treatment for youth with serious emotional disturbance. This service was eliminated in August 2002 and is being reinstated using funding provided by the Office of Public Instruction as the non-federal match for the Medicaid-funded service.

The Department amended the rules for frontier rate payments and extended the concept to establish 'service access' rates. These enhanced rates will be paid to community mental health centers that agree to provide access to service in rural parts of the

state and agree to provide telephone crisis services to the public.

New Rule I

The Department reinstated reimbursement for Comprehensive School and Community Treatment (CSCT) under EPSDT. CSCT services were eliminated August 16, 2002 in an attempt to reduce costs. The Department believed the cost savings from eliminating CSCT services would prevent the elimination of other services or the limitation of eligibility for public health programs and ensure expenditures would not exceed the legislative appropriation.

With the elimination of CSCT services, many school-based programs closed, limiting mental health access in rural communities. The Department has been working with the Office of Public Instruction and the Centers for Medicare and Medicaid Services to implement a "certification of match" process for certain school-based health services, including CSCT. This process allows OPI to certify that some of its funding of school services constitutes non-federal match for Medicaid-funded services such as CSCT services without the use of Department general fund appropriations.

Reinstating CSCT will significantly improve the quality of services provided for eligible youth in rural areas. With CSCT, providers are better able to consult and collaborate with teachers, work with community agencies and support eligible students in the classrooms. With the reinstatement of CSCT, the Department expects to see a significant decrease in other children's mental health care costs. The Department projects general fund savings of \$135,350 in FY 2003 due to reductions in other services.

37.86.2207 and 37.88.1106

The amendments to these administrative rules update references to the most current fee schedule for Medicaid Mental Health Services. Since the Mental Health Services Plan's reimbursement rule, ARM 37.89.125, refers to this fee schedule, MHSP rates would be reduced accordingly. The new fee schedule includes a rate reduction from 5% to 10%. The revised fee schedule can be viewed at the Department's website. A copy of the fee schedule can be obtained by writing the Department at the address listed in the rules.

37.86.2221

The Department has eliminated intensive level therapeutic family care as a service for youth with serious emotional disturbances. The rule formerly combined moderate therapeutic family care with a requirement that a youth be provided 10 hours of therapeutic aide services per week. The absolute requirement for 10 hours aide services per week restricts families and providers who

found it difficult to address the specific needs of each child. The Department will still allow the use of therapeutic aide services for youth in therapeutic family care to the extent that the service is medically necessary and appropriate to the needs of each individual child. The alternative is to retain the service with families being required to accept either no support services (moderate level) or more than are needed (intensive level). If the service is not eliminated, other service reductions will be necessary to address the Department's projected budget deficit.

37.86.3506, 37.86.3507, and 37.86.3515

The amendments to these sections change the requirements and reimbursement methodology for case management services for adults with severe disabling mental illness. Under the amended rules, this service will be provided in 15-minute units. Care coordination case management has been eliminated as a less intensive form of case management. Requirements for caseload size and minimum contact have also been eliminated. The changes to this service are part of the Department's budget reduction plan. If this change is not made, the projected savings would have to be realized elsewhere in the mental health budget.

37.88.101

The amendment to this rule implements a fixed limit of 16 outpatient therapy sessions that will be reimbursed for adult Medicaid recipients without prior authorization. The department is taking this opportunity to delete the transitional provisions contained in (2)(b). The amendment also eliminates procedure codes 90808 (individual psychotherapy 75 to 80 minutes) and 90814 (individual psychotherapy interactive 75 to 80 minutes) as reimbursable procedures for both youth and adult recipients of Medicaid mental health services. These codes define therapy services that are approximately 75 to 80 minutes in duration. These procedure codes were intended for exceptional circumstances rather than routine services. The changes to this service are part of the Department's budget reduction proposal. If this change is not made, the projected savings will have to be realized elsewhere in the mental health budget.

37.88.1110

The Department has offered a Medicaid mental health services 'frontier rate' for Medicaid mental health services provided in the most rural counties by community mental health centers since 2001. The Department extended the concept of frontier rate by amending ARM 37.88.1110 to establish 'service access' rates. These enhanced rates are paid to community mental health centers that agree to provide access to services in rural parts of the state and agree to provide telephone crisis services to the public. The enhanced rates are in recognition of the increased cost of providing the required access to services in those

areas. Funding for the enhanced rates comes in part from county funds transferred to the Department for this purpose. The Department intends to use a portion of the transferred county funds to fund the premium service access rates and a portion to fund other Medicaid mental health services.

5. The estimated financial impact of these proposed changes is a reduction in expenditures of \$5,915,826 total funds and \$2,180,442 general fund for the remainder of SFY03. The changes will impact every individual and agency providing services through the Medicaid Mental Health Program and the Mental Health Services Plan.

6. A standard rulemaking procedure will be undertaken by the Department prior to the expiration of the temporary emergency rule changes.

7. Interested persons may submit their data, views or arguments during the standard rulemaking process. The Department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, submit by facsimile (406)444-9744 or by electronic mail via the Internet to dphhslegal@state.mt.us.

Russ Cater  
Rule Reviewer

/s/ Gail Gray  
Director, Public Health and  
Human Services

Certified to the Secretary of State January 15, 2003.



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;
- ▶ Department of Public Service Regulation; and
- ▶ Office of the State Auditor and Insurance Commissioner.

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.

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) 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<br>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<br>Number and<br>Department | 2. Go to cross reference table at end of each title which lists MCA section numbers and 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 September 30, 2002. This table includes those rules adopted during the period October 1, 2002 through December 31, 2002 and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within 6 months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through September 30, 2002, 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 2001 and 2002 Montana Administrative Registers.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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## 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 December 2002, appear. Vacancies scheduled to appear from February 1, 2003, through April 30, 2003, 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 January 7, 2003.

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 DECEMBER 2002

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Air Pollution Control Advisory Council (Environmental Quality) Mr. Richard Southwick Townsend Qualifications (if required): conservationist	Governor	Alexander	12/18/2002 0/0/0
Board of Nursing (Labor and Industry) Ms. Connie K. Schultz Glasgow Qualifications (if required): registered nurse	Governor	Burke	12/12/2002 7/1/2003
Board of Public Accountants (Labor and Industry) Mr. Michael Johns Deer Lodge Qualifications (if required): certified public accountant	Governor	Fillner	12/9/2002 7/1/2005
Board of Veterans' Affairs (Military Affairs) Mr. Donald Kettner Glendive Qualifications (if required): veteran	Governor	Buck	12/20/2002 8/1/2004
Building Codes Council (Labor and Industry) Mr. Dave Broquist Great Falls Qualifications (if required): professional engineer	Governor	Prill	12/18/2002 10/1/2005
Mr. Joe Hansen Bozeman Qualifications (if required): representative of the building contractor industry	Governor	reappointed	12/18/2002 10/1/2005
Mr. Jeffrey Jenkins Great Falls Qualifications (if required): municipal building inspector	Governor	reappointed	12/18/2002 10/1/2005

BOARD AND COUNCIL APPOINTEES FROM DECEMBER 2002

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Building Codes Council (Labor and Industry) cont. Mr. Robert J. Karhu Helena Qualifications (if required): architect	Governor	reappointed	12/18/2002 10/1/2005
Mr. Mike McCourt Missoula Qualifications (if required): representative of the public	Governor	Flanders	12/18/2002 10/1/2005
Mr. Stephen R. Nelson Great Falls Qualifications (if required): representative of the Board of Plumbers	Governor	not listed	12/18/2002 10/1/2005
Mr. Terry Phillips Helena Qualifications (if required): state fire marshal	Governor	reappointed	12/18/2002 10/1/2005
Mr. Howard Reid Helena Qualifications (if required): representative of the Department of Public Health and Human Services	Governor	reappointed	12/18/2002 10/1/2005
Mr. Mike Skinner Helena Qualifications (if required): representative of the manufactured housing industry	Governor	reappointed	12/18/2002 10/1/2005
Mr. Stephen Tartaglino Kalispell Qualifications (if required): representative of the home building industry	Governor	Brown	12/18/2002 10/1/2005
Mr. Joe Wolfe Helena Qualifications (if required): member of the State Electrical Board	Governor	reappointed	12/18/2002 10/1/2005

BOARD AND COUNCIL APPOINTEES FROM DECEMBER 2002

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Burial Preservation Board (Administration)			
Ms. Sherri Deaver Billings	Governor	reappointed	12/9/2002 8/22/2004
Qualifications (if required):	representative of the Archeological Society		
Mr. Mickey Nelson Helena	Governor	reappointed	12/9/2002 8/22/2004
Qualifications (if required):	representative of the Montana Coroners Association		
Mr. George Reed, Sr. Crow Agency	Governor	reappointed	12/9/2002 8/22/2004
Qualifications (if required):	representative of the Crow Tribe		
Mr. Ryan Rusche Poplar	Governor	not listed	12/9/2002 8/22/2004
Qualifications (if required):	attorney		
Mr. Ben Speak Thunder Harlem	Governor	reappointed	12/9/2002 8/22/2004
Qualifications (if required):	representative of the Fort Belknap Tribe		
Mr. Duncan Standing Rock, Sr. Box Elder	Governor	reappointed	12/9/2002 8/22/2004
Qualifications (if required):	representative of the Chippewa-Cree Tribe		
Family Support Services Advisory Council (Public Health and Human Services)			
Ms. Krista Bodvig Glendive	Governor	not listed	12/9/2002 10/1/2004
Qualifications (if required):	representative of parents in Region 1		

BOARD AND COUNCIL APPOINTEES FROM DECEMBER 2002

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Family Support Services Advisory Council (Public Health and Human Services) cont. Ms. Susie Morrison Missoula Qualifications (if required): representative of personnel preparation for higher education	Governor	Forrest	12/9/2002 10/1/2004
Ms. Corliss Scott Helena Qualifications (if required): agency representative and special health services	Governor	Wagner	12/9/2002 10/1/2004
Independent Living Council (Public Health and Human Services) Ms. June Hermanson Billings Qualifications (if required): none specified	Director	reappointed	12/2/2002 12/2/2005
Montana Alfalfa Seed Committee (Agriculture) Mr. Rod Leafdale Billings Qualifications (if required): representative of the alfalfa seed processing industry	Governor	Sagmiller	12/21/2002 12/21/2005
Mr. John Mehling Hardin Qualifications (if required): representative of the alfalfa seed growers industry	Governor	reappointed	12/21/2002 12/21/2005
Mr. James Whitmer Glendive Qualifications (if required): representative of the alfalfa seed growers industry and alfalfa leaf-cutting bee industry	Governor	reappointed	12/21/2002 12/21/2005
Noxious Weed Seed Free Forage Advisory Council (Agriculture) Mr. Dennis Cash Bozeman Qualifications (if required): ex officio	Director	not listed	12/18/2002 12/18/2004

BOARD AND COUNCIL APPOINTEES FROM DECEMBER 2002

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Noxious Weed Seed Free Forage Advisory Council (Agriculture) cont. Mr. Ray Ditterline Bozeman	Director	not listed	12/18/2002 12/18/2004
Qualifications (if required):	representative of	agricultural experiment station	
Mr. Kelly Flynn Townsend	Director	not listed	12/18/2002 12/18/2004
Qualifications (if required):	representative of	outfitters and guides	
Mr. Keith Kirscher Townsend	Director	not listed	12/18/2002 12/18/2004
Qualifications (if required):	forage producer		
Mr. David Leininger Lewistown	Director	not listed	12/18/2002 12/18/2004
Qualifications (if required):	forage producer		
Mr. Wayne Maughn Fort Benton	Director	not listed	12/18/2002 12/18/2004
Qualifications (if required):	representative of	livestock/agriculture	
Mr. W. Ralph Peck Helena	Director	not listed	12/18/2002 12/18/2004
Qualifications (if required):	director of	Department of Agriculture	
Mr. Jim Pfau Stevensville	Director	not listed	12/18/2002 12/18/2004
Qualifications (if required):	representative of	feed pellets/cubes products	
Mr. Tim Schaff Fishtail	Director	not listed	12/18/2002 12/18/2004
Qualifications (if required):	forage producer		

BOARD AND COUNCIL APPOINTEES FROM DECEMBER 2002

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Noxious Weed Seed Free Forage Mr. Robert Wagner Plains	Advisory Council (Agriculture) cont. Director	not listed	12/18/2002 12/18/2004
Qualifications (if required):	representative of weed districts		
Mr. Ross Wagner Kalispell	Director	not listed	12/18/2002 12/18/2004
Qualifications (if required):	forage producer		
Mr. Clay Williams Livingston	Director	not listed	12/18/2002 12/18/2004
Qualifications (if required):	representative of weed districts		
Western Interstate Commission Rep. Cindy Younkin Bozeman	for Higher Education (Commissioner of Higher Education) Governor	Stonington	12/1/2002 6/19/2006
Qualifications (if required):	legislator		

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2003 through APRIL 30, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Architects (Commerce) Mr. John W. Peterson, Kalispell Qualifications (if required): registered architect	Governor	3/27/2003
Board of Athletics (Commerce) Ms. Anita Vandolah, Conrad Qualifications (if required): public member	Governor	4/24/2003
Board of Clinical Laboratory Science Practitioners (Commerce) Ms. Susan Pullman, Butte Qualifications (if required): clinical laboratory science practitioner	Governor	4/16/2003
Ms. Doris Knox, Winifred Qualifications (if required): public member	Governor	4/16/2003
Ms. Karen McNutt, Sidney Qualifications (if required): clinical laboratory science practitioner	Governor	4/16/2003
Board of County Printing (Commerce) Mr. Verle L. Rademacher, White Sulphur Springs Qualifications (if required): representative of the printing industry	Governor	4/1/2003
Ms. Nancy Clark, Ryegate Qualifications (if required): public member	Governor	4/1/2003
Mr. Curtis Starr, Malta Qualifications (if required): representative of the printing industry	Governor	4/1/2003
Ms. Marianne Roose, Eureka Qualifications (if required): county commissioner	Governor	4/1/2003
Ms. Julie Jordan, Miles City Qualifications (if required): county commissioner	Governor	4/1/2003



VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2003 through APRIL 30, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Dentistry (Commerce) Dr. George Olsen, Missoula Qualifications (if required): dentist	Governor	3/29/2003
Board of Hail Insurance (Agriculture) Mr. Larry Barbie, Inverness Qualifications (if required): public member	Governor	4/18/2003
Board of Livestock (Livestock) Ms. Meg Smith, Glen Qualifications (if required): cattle producer	Governor	3/1/2003
Mr. George Hammond, Hardin Qualifications (if required): cattle producer	Governor	3/1/2003
Board of Optometry (Commerce) Ms. Charliene Staffanson, Deer Lodge Qualifications (if required): public member	Governor	4/3/2003
Dr. Larry Obie, Havre Qualifications (if required): registered optometrist	Governor	4/3/2003
Board of Public Education (Education) Mr. Storrs M. Bishop, Ennis Qualifications (if required): Republican residing in District 2	Governor	2/1/2003
Board of Regents of Higher Education (Education) Ms. Margie Thompson, Butte Qualifications (if required): Republican from District 2	Governor	2/1/2003
Governor's Council on Families (Public Health and Human Services) Mr. Peyton Terry, Glasgow Qualifications (if required): public member	Governor	4/24/2003

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2003 through APRIL 30, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's Council on Families (Public Health and Human Services) cont. Sen. Dale Mahlum, Missoula Qualifications (if required): legislator	Governor	4/24/2003
Ms. Kathleen Jensen, Westby Qualifications (if required): public member	Governor	4/24/2003
Mr. John Vincent, Gallatin Gateway Qualifications (if required): public member	Governor	4/24/2003
Rev. Peter Bruno, Terry Qualifications (if required): public member	Governor	4/24/2003
Mr. Stanley Rathman, Choteau Qualifications (if required): public member	Governor	4/24/2003
Mr. Bill Pena, Seeley Lake Qualifications (if required): public member	Governor	4/24/2003
Ms. Kim Visser, Missoula Qualifications (if required): public member	Governor	4/24/2003
Ms. Kathleen Heiser, Billings Qualifications (if required): public member	Governor	4/24/2003
Mr. Tom Burnett, Bozeman Qualifications (if required): public member	Governor	4/24/2003
Ms. Crystal LaPlant, Browning Qualifications (if required): public member	Governor	4/24/2003
Ms. Floral Goodman, Laurel Qualifications (if required): public member	Governor	4/24/2003

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2003 through APRIL 30, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's Council on Families (Public Health and Human Services) cont. Ms. Melissa Sundberg, Victor Qualifications (if required): public member	Governor	4/24/2003
Ms. Julie Lovell, Big Timber Qualifications (if required): public member	Governor	4/24/2003
Ms. Arlene Nicholuson Diehl, East Helena Qualifications (if required): public member	Governor	4/24/2003
Ms. Lilly Motl, Helena Qualifications (if required): youth representative	Governor	4/24/2003
Ms. Kristen Blystone, Great Falls Qualifications (if required): youth representative	Governor	4/24/2003
Helena College of Technology of the U of M Executive Board (University System) Mr. Rick Hays, Helena Qualifications (if required): public member	Governor	4/15/2003
Missouri River Basin Advisory Council (Natural Resources and Conservation) Ms. Diane Brandt, Glasgow Qualifications (if required): public member	Governor	3/20/2003
Mr. Don Pfau, Lewistown Qualifications (if required): public member	Governor	3/20/2003
Mr. Bud Clinch, Helena Qualifications (if required): director of the Department of Natural Resources and Conservation	Governor	3/20/2003
Mr. Jim Rector, Glasgow Qualifications (if required): public member	Governor	3/20/2003

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2003 through APRIL 30, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Missouri River Basin Advisory Council (Natural Resources and Conservation) cont. Mr. Ron Miller, Glasgow Qualifications (if required): public member	Governor	3/20/2003
Mr. Steve Page, Glasgow Qualifications (if required): public member	Governor	3/20/2003
Mr. Tom Huntley, Sidney Qualifications (if required): public member	Governor	3/20/2003
Mr. John Foster, Lewistown Qualifications (if required): public member	Governor	3/20/2003
Mr. Boone A. Whitmer, Wolf Point Qualifications (if required): public member	Governor	3/20/2003
Mr. Buzz Mattelin, Brockton Qualifications (if required): public member	Governor	3/20/2003
Montana-Alberta Bilateral Advisory Council (Commerce) Sen. Glenn A. Roush, Cut Bank Qualifications (if required): representing the legislative branch	Governor	4/27/2003
Mr. David A. Galt, Helena Qualifications (if required): representing the executive branch	Governor	4/27/2003
Mr. Mark A. Simonich, Helena Qualifications (if required): representing the executive branch	Governor	4/27/2003
Mr. W. Ralph Peck, Helena Qualifications (if required): representing the executive branch	Governor	4/27/2003

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2003 through APRIL 30, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana-Alberta Bilateral Advisory Council (Commerce) cont. Lt. Governor Karl Ohs, Harrison Qualifications (if required): representing the executive branch	Governor	4/27/2003
Mr. Mark Cole, Shelby Qualifications (if required): representing private citizens	Governor	4/27/2003
Sen. E.P. (Pete) Ekegren, Choteau Qualifications (if required): representing the legislative branch	Governor	4/27/2003
Rep. Edith J. Clark, Sweet Grass Qualifications (if required): representing the legislative branch	Governor	4/27/2003
Rep. Carol C. Juneau, Browning Qualifications (if required): representing the legislative branch	Governor	4/27/2003
Mr. Bob Davis, Townsend Qualifications (if required): representing private citizens	Governor	4/27/2003
Montana Arts Council (Education) Ms. Ann Cogswell, Great Falls Qualifications (if required): public member	Governor	2/1/2003
Mr. Richard Halmes, Billings Qualifications (if required): public member	Governor	2/1/2003
Ms. Sody Jones, Billings Qualifications (if required): public member	Governor	2/1/2003
Ms. Jackie Parsons, Browning Qualifications (if required): public member	Governor	2/1/2003

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2003 through APRIL 30, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Arts Council (Education) cont. Ms. Diane Klein, Kalispell Qualifications (if required): public member	Governor	2/1/2003
Montana State University Billings Executive Board (University System) Ms. Carolyn Ennis, Billings Qualifications (if required): public member	Governor	4/15/2003
Montana State University Executive Board (University System) Ms. Sue Leigland, Bozeman Qualifications (if required): public member	Governor	4/15/2003
Montana State University Great Falls College of Technology Executive Board (University System) Dr. Clay Gehring, Great Falls Qualifications (if required): public member	Governor	4/15/2003
Montana State University Northern Executive Board (University System) Ms. Judy Greenwood, Havre Qualifications (if required): public member	Governor	4/15/2003
Montana Tech of the University of Montana Executive Board (University System) Ms. Carol Vega, Butte Qualifications (if required): public member	Governor	4/15/2003
Property Tax Reappraisal Advisory Council (Revenue) Sen. Emily Stonington, Bozeman Qualifications (if required): legislator	Governor	4/30/2003
Rep. Robert R. Story, Jr., Park City Qualifications (if required): legislator	Governor	4/30/2003

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2003 through APRIL 30, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Property Tax Reappraisal Advisory Council (Revenue) cont. Rep. Roger Somerville, Kalispell Qualifications (if required): legislator	Governor	4/30/2003
Rep. Gary Branae, Billings Qualifications (if required): legislator	Governor	4/30/2003
Mr. Kurt Alme, Helena Qualifications (if required): director of the Department of Revenue	Governor	4/30/2003
Ms. Susan Humble, Great Falls Qualifications (if required): representative of the business community	Governor	4/30/2003
Mr. Ward Ernst, Stanford Qualifications (if required): representative of the agriculture community	Governor	4/30/2003
Mr. Nick Hogan, Missoula Qualifications (if required): residential appraiser	Governor	4/30/2003
Public Employees' Retirement Board (Administration) Mr. Troy W. McGee, Helena Qualifications (if required): retired public employee	Governor	4/1/2003
Col. Robert Griffith, Helena Qualifications (if required): public member	Governor	4/1/2003
Risk Management Advisory Council (Administration) Mr. John Huth, Helena Qualifications (if required): representative of the State Auditor's Office	Governor	2/21/2003
Ms. Julia Dilly, Helena Qualifications (if required): representative of the Office of Public Instruction	Governor	2/21/2003

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2003 through APRIL 30, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Risk Management Advisory Council (Administration) cont.		
Mr. Devin Garrity, Helena	Governor	2/21/2003
Qualifications (if required):	representative of the Department of Administration	
Mr. Larry Delaney, Helena	Governor	2/21/2003
Qualifications (if required):	representative of the office of Higher Education	
Ms. Beth McLaughlin, Helena	Governor	2/21/2003
Qualifications (if required):	representative of the Judiciary	
Ms. Donna Wrubel, Helena	Governor	2/21/2003
Qualifications (if required):	representative of the Department of Military Affairs	
Mr. Joe DeFilippis, Helena	Governor	2/21/2003
Qualifications (if required):	representative of the Secretary of State's Office	
Ms. Christina Synness, Helena	Governor	2/21/2003
Qualifications (if required):	representative of the Office of Political Practices	
Risk Management Executive Council (Administration)		
Mr. Danny Corti, Missoula	Governor	2/21/2003
Qualifications (if required):	representing University of Montana	
Ms. Laura Calkin, Helena	Governor	2/21/2003
Qualifications (if required):	representing Department of Public Service Regulation	
Mr. George Harris, Helena	Governor	2/21/2003
Qualifications (if required):	representing Department of Livestock	
Ms. Kathy Battrick, Helena	Governor	2/21/2003
Qualifications (if required):	representing Department of Public Health and Human Services	



VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2003 through APRIL 30, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Risk Management Executive Council (Administration) cont. Mr. Brett Dahl, Helena Qualifications (if required): representing the Governor's Office	Governor	2/21/2003
Mr. Todd Saarinen, Helena Qualifications (if required): representing the Historical Society	Governor	2/21/2003
Ms. Patti Forsness, Helena Qualifications (if required): representing Department of Justice	Governor	2/21/2003
Mr. Dave Brown, Helena Qualifications (if required): representing the Legislative Branch	Governor	2/21/2003
Ms. Linda McKinney, Helena Qualifications (if required): representing Department of Agriculture	Governor	2/21/2003
Mr. William "Skip" Lopuch, Helena Qualifications (if required): representing Department of Corrections	Governor	2/21/2003
Mr. Doug Denler, Helena Qualifications (if required): representing Department of Fish, Wildlife, and Parks	Governor	2/21/2003
Ms. Diane West, Helena Qualifications (if required): representing Department of Labor and Industry	Governor	2/21/2003
Mr. Bill Miller, Helena Qualifications (if required): representing Department of Natural Resources and Conservation	Governor	2/21/2003
Mr. Ray Eby, Helena Qualifications (if required): representing Department of Transportation	Governor	2/21/2003

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2003 through APRIL 30, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Risk Management Executive Council (Administration) cont. Ms. Barbara Hagel, Billings Qualifications (if required): representing MSU Billings	Governor	2/21/2003
Ms. Susan Thomas, Great Falls Qualifications (if required): representing MSU College of Technology	Governor	2/21/2003
Ms. Marilyn Cameron, Butte Qualifications (if required): representing the Montana Tech of UM	Governor	2/21/2003
Mr. Jeff Shada, Bozeman Qualifications (if required): representing MSU Bozeman	Governor	2/21/2003
Mr. Bob Hoover, Havre Qualifications (if required): representing MSU Northern	Governor	2/21/2003
Mr. Ken Willett, Missoula Qualifications (if required): representing University of Montana	Governor	2/21/2003
Mr. Bob Campbell, Dillon Qualifications (if required): representing Western Montana College of UM	Governor	2/21/2003
Ms. Barbara Sawitzke, Helena Qualifications (if required): representing the Office of Public Instruction	Governor	2/21/2003
Ms. Erica Hess, Helena Qualifications (if required): representative of the Secretary of State's Office	Governor	2/21/2003
Mr. Steve Halferty, Helena Qualifications (if required): representing State Fund	Governor	2/21/2003

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2003 through APRIL 30, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Risk Management Executive Council (Administration) cont. Mr. D.J. Whitaker, Helena Qualifications (if required): representing the Helena College of Technology of the University of Montana	Governor	2/21/2003
Ms. Teri Juneau, Helena Qualifications (if required): representing the Department of Commerce	Governor	2/21/2003
Ms. Sandy Lang, Helena Qualifications (if required): representing the Department of Revenue	Governor	2/21/2003
Mr. Peter Donovan, Helena Qualifications (if required): representative of the Board of Public Education	Governor	2/21/2003
State Compensation Insurance Fund Board of Directors (Administration) Mr. Tom Horn, Cohagen Qualifications (if required): representing private enterprise and a policy holder	Governor	4/28/2003
Ms. Lorretta Lynde, Helena Qualifications (if required): public member	Governor	4/28/2003
Ms. Wendy Susott, Missoula Qualifications (if required): representing private enterprise	Governor	4/28/2003
State Park Futures Committee II (Fish, Wildlife, and Parks) Sen. Jim Elliott, Trout Creek Qualifications (if required): public member	Governor	4/3/2003
Rep. Dave Kasten, Brockway Qualifications (if required): public member	Governor	4/3/2003
Sen. Bob Keenan, Bigfork Qualifications (if required): public member	Governor	4/3/2003

VACANCIES ON BOARDS AND COUNCILS -- FEBRUARY 1, 2003 through APRIL 30, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Park Futures Committee II (Fish, Wildlife, and Parks) cont. Mr. Ed Heinrich, Fairmont Qualifications (if required): public member	Governor	4/3/2003
Ms. Michele Reese, Whitefish Qualifications (if required): public member	Governor	4/3/2003
Rep. Christine Kaufmann, Helena Qualifications (if required): public member	Governor	4/3/2003
Rep. John Brueggeman, Polson Qualifications (if required): public member	Governor	4/3/2003
Mr. Mike Penfold, Billings Qualifications (if required): public member	Governor	4/3/2003
Ms. Margaret Moddison, Great Falls Qualifications (if required): public member	Governor	4/3/2003
University of Montana Executive Board (University System) Mr. Leonard Landa, Missoula Qualifications (if required): public member	Governor	4/15/2003
Western Montana College of the University of Montana (University System) Ms. Evelyn Ann Lohman, Dillon Qualifications (if required): public member	Governor	4/15/2003