

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 20

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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

Page Number

TABLE OF CONTENTS

NOTICE SECTION

AGRICULTURE, Department of, Title 4

4-14-129 Notice of Proposed Amendment - Produce Assessment Fees. No Public Hearing Contemplated. 2956-2958

4-14-134 Notice of Public Hearing on Proposed Adoption - Adulteration of Fertilizers and Soil Amendments by Heavy Metals. 2959-2966

ENVIRONMENTAL QUALITY, Department of, Title 17

17-180 (Hazardous Waste) Notice of Public Hearing on Proposed Amendment - Registration of Hazardous Waste Generators and Transporters and Registration Fees. 2967-2972

LABOR AND INDUSTRY, Department of, Title 24

24-117-29 (Board of Athletics) Notice of Public Hearing on Proposed Amendment - Board of Athletics. 2973-2977

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37-256 Corrected Notice of Public Hearing on Proposed Amendment - Medicaid Reimbursement for Subsequent Surgical Procedures. 2978-2979

PUBLIC SERVICE REGULATION, Department of, Title 38

38-2-169 Notice of Public Hearing on Proposed  
Amendment - Pipeline Safety. 2980-2982

REVENUE, Department of, Title 42

42-2-701 Notice of Public Hearing on Proposed  
Amendment and Repeal - Charitable Endowment Credits  
Made by Taxpayers. 2983-2987

42-2-702 Notice of Public Hearing on Proposed  
Adoption, Amendment, Transfer and Amendment, and  
Repeal - Pass-through Entities. 2988-3018

42-2-703 Notice of Public Hearing on Proposed  
Amendment and Repeal - Personal Property and  
Centrally Assessed Property Tax Trend Tables. 3019-3040

SECRETARY OF STATE, Title 44

44-2-118 Notice of Public Hearing on Proposed  
Adoption and Amendment - Official Version of the  
Administrative Rules of Montana - Scheduled Dates  
for the Montana Administrative Register. 3041-3043

RULE SECTION

ENVIRONMENTAL QUALITY, Department of, Title 17

AMD (Hazardous Waste) Incorporation by  
Reference of Current Federal Regulations  
into Hazardous Waste Rules. 3044

JUSTICE, Department of, Title 23

(Board of Crime Control) Corrected Notice  
of Amendment - POST Training Hours Awarded  
for College Credits. 3045

LABOR AND INDUSTRY, Department of, Title 24

AMD (Board of Architects) Architecture. 3046-3047

REVENUE, Department of, Title 42

AMD Taxpayer Appeals. 3048-3059  
NEW

AMD Rates for New Employers. 3060-3061

REVENUE, Continued

NEW Changing Land Use for Agricultural (Class Three) and Forest Land (Class Ten) to Class Four. 3062-3064

SPECIAL NOTICE AND TABLE SECTION

Function of Administrative Rule Review Committee. 3065-3066

How to Use ARM and MAR. 3067

Accumulative Table. 3068-3079

Boards and Councils Appointees. 3080-3083

Vacancies on Boards and Councils. 3084-3103

Elected Official Vacancies. 3104-3121

BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

In the matter of the proposed )	NOTICE OF PROPOSED
amendment of ARM 4.12.1428 )	AMENDMENT
relating to produce )	
assessment fees )	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Concerned Persons

1. On November 30, 2002, the Montana Department of Agriculture proposes to amend the above stated rule relating to produce assessment fees. The proposed effective date is January 1, 2003.

2. The Department of Agriculture 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 Agriculture no later than 5:00 p.m. on November 14, 2002 to advise us of the nature of the accommodation that you need. Please contact Gregory H. Ames at the Montana Department of Agriculture, 303 N. Roberts, P.O. Box 200201, Helena, MT 59620-0201; Phone: (406) 444-2944; TTY: (406) 444-4687; Fax: (406) 444-5409; or E-mail: agr@state.mt.us.

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

4.12.1428 ASSESSMENT FEES ON ALL PRODUCE (1) The assessment fee on all produce except produce grown in Montana and inspected at shipping point shall be ~~5¢~~ 6¢ per each produce unit.

AUTH: 80-3-314, MCA  
IMP: 80-3-314, MCA

REASON: The assessment fee was increased in 1998 from 3.5 cents to 5.0 cents because of an inadequate balance in the fund to service the program. This proposal raises the assessment to the 6 cent level. As costs have increased over the past four years, the department has found it necessary to increase the fee in order to maintain and deliver necessary services.

There are approximately 55 firms that this increase will directly affect. These are the firms that are required to be licensed as produce dealers because they sell over \$15,000 in produce annually and are required to pay the assessment on all produce sold over the \$15,000 exemption. The revenue generated by this increase will raise approximately \$50,000

per year that will provide for the services that this program supports.

4. Concerned persons may submit their data, views or arguments concerning this proposed amendment in writing to Gregory H. Ames at the Montana Department of Agriculture, 303 N. Roberts, P.O. Box 200201, Helena, MT 59620-0201; Fax: (406) 444-5409; or E-mail: agr@state.mt.us. Any comments must be received no later than November 28, 2002.

5. If persons who are directly affected by the proposed amendment 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 Gregory H. Ames at the Montana Department of Agriculture, P.O. Box 200201, Helena, MT 59620-0201; Phone: (406) 444-2944; TTY: (406) 444-4687; Fax: (406) 444-5409; or E-mail: agr@state.mt.us. A written request for hearing must be received no later than November 28, 2002.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 6 persons based on 55 licenses issued to produce dealers requiring the payment of the assessment.

7. The Department of Agriculture 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 noxious weed seed forage, feed and fertilizer, nursery, apiaries, noxious weeds, alfalfa seed, agriculture in Montana schools program, agriculture development, pesticides, warehouseman, produce, mint, seed, alternative crops, wheat research and marketing, rural development and/or hail. Such written request may be mailed or delivered to Montana Department of Agriculture, 303 N. Roberts, P.O. Box 200201, Helena, MT 59620-0201; Fax: (406) 444-5409 or E-mail: agr@state.mt.us or may be made by completing a request form at any rules hearing held by the Department of Agriculture. All department rule making notices and adoptions may be reviewed at the Department of Agriculture's website at [www.agr.state.mt.us](http://www.agr.state.mt.us).

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

DEPARTMENT OF AGRICULTURE

/s/ Ralph Peck  
Ralph Peck  
Director

/s/ Tim Meloy  
Tim Meloy, Attorney  
Rules Reviewer

Certified to the Secretary of State October 21, 2002.

BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC  
adoption of New Rules I and ) HEARING ON  
and II relating to the ) PROPOSED ADOPTION  
adulteration of fertilizers )  
and soil amendments by )  
heavy metals )

TO: All Concerned Persons

1. On November 26, 2002 at 9:00 am, a public hearing will be held in room 225 of the Scott Hart Building (Ag/Livestock), 303 N. Roberts at Helena, Montana, to consider the adoption of new Rules I and II relating to the adulteration of fertilizers and soil amendments by heavy metals.

2. The Department of Agriculture 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 Agriculture no later than 5:00 p.m. on November 18, 2002, to advise us of the nature of the accommodation that you need. Please contact Gregory H. Ames at the Montana Department of Agriculture, 303 N. Roberts, P.O. Box 200201, Helena, MT 59620-0201; Phone: (406) 444-2944; TTY: (406) 444-4687; Fax: (406) 444-7336; or E-mail: agr@state.mt.us.

3. The rules as proposed to be adopted provide as follows:

NEW RULE I ADULTERATION OF FERTILIZERS AND SOIL AMENDMENTS BY HEAVY METALS (1) No person shall distribute an adulterated fertilizer or soil amendment. Fertilizers and soil amendments distributed in the state and required to be registered by the department are adulterated when they contain metals in amounts that exceed the levels provided within this rule.

(2) This rule establishes metal standards for fertilizers and soil amendments that do and do not contain waste or sewage sludge. Fertilizers and soil amendments that contain waste are termed "waste-derived." "Waste-derived" is defined as any fertilizer or soil amendment produced from or containing recyclable materials classified as a waste under Code of Federal Regulations, Title 40, Parts 261.2 and 261.3 (40 CFR 261.2 and 261.3).

(3) Fertilizers and soil amendments, whether waste-derived or not, that contain guaranteed amounts of phosphates or micronutrients, are adulterated when they exceed the levels of metals established by the following table:

Metals	ppm per 1% of P <sub>2</sub> O <sub>5</sub>	ppm per 1% of Micronutrients
Arsenic (As)	13	112
Cadmium (Cd)	10	83
Lead (Pb)	61	463

(a) Micronutrients can include iron, manganese, zinc, copper, molybdenum, boron, cobalt and selenium.

(b) To use the table:

(i) multiply the percent guaranteed P<sub>2</sub>O<sub>5</sub> or sum of the guaranteed percentages of all micronutrients in each product by the value in the appropriate column in the table to obtain the maximum allowable concentration (ppm) of these metals.

(ii) the minimum value for P<sub>2</sub>O<sub>5</sub> utilized as a multiplier shall be 6.0.

(iii) the minimum value for micronutrients utilized as a multiplier shall be one.

(iv) if a product contains both P<sub>2</sub>O<sub>5</sub> and micronutrients, multiply the guaranteed percent P<sub>2</sub>O<sub>5</sub> by the value in the appropriate column and multiply the sum of the guaranteed percentages of the micronutrients by the value in the appropriate column. Utilize the higher of the two resulting values as the maximum allowable concentrations.

(4) Fertilizers and soil amendments are adulterated when the end product contains:

(a) Sewage sludge and the levels of arsenic, cadmium or lead exceed the levels permitted in 40 CFR 503;

(b) Solid waste and the level of cadmium exceeds the level permitted in 40 CFR 257; or

(c) Hazardous waste and the levels of arsenic, cadmium, or lead in the waste component exceed the levels permitted in 40 CFR 261, 266 and 268.

(5) When a fertilizer or soil amendment is subject to standards referenced in both (3) and (4) of this rule, the department will apply the more restrictive standards.

(6) The Montana department of agriculture hereby adopts and incorporates by reference 40 CFR 257, 261, 266, 268 and 503, regarding solid waste, hazardous waste and sewage sludge management, as published on [the effective date of this rule]. A copy of these regulations can be obtained by contacting the department at 303 N. Roberts, Helena, Montana, 59620-0201.

(7) Testing methodology used by the department in analyzing metal content for the end product will be for the intent of discovering the total metal content of a fertilizer or soil amendment product. Such methodology includes laboratory test results from either sample preparation method 3050B or 3051A as described in US EPA Publication SW-846 (Revision 3, December 1996) or other comparable methods approved by the department.

(8) The department will coordinate with the Montana department of environmental quality (DEQ) on compliance actions involving violations of standards in 40 CFR 257, 261,



266, 268 and 503. The department may enter into a written agreement with DEQ to further clarify agency responsibilities and procedures for coordinating separate or joint actions.

(9) Nothing in this rule may be construed as relieving a person from obligations to comply with all state and federal laws regulating the disposal, use, and recycling of solid waste, hazardous waste or sewage sludge.

(10) The department will implement this rule starting July 1, 2003.

AUTH: 80-10-301, MCA

IMP: 80-10-205, MCA

REASON: The Montana Department of Agriculture is charged with regulating the safe and effective use of fertilizers and soil amendments sold and distributed within Montana. Although the distribution of an adulterated fertilizer or soil amendment is prohibited within the statutes of the Montana Commercial Fertilizers Act, adulteration is not defined. The inclusion of this rule defines adulteration of a fertilizer or soil amendment by heavy metals.

Most fertilizers that are commonly used in Montana contain the basic plant nutrients: nitrogen, phosphorus, potassium and sulfur. Some fertilizers also contain "micronutrients" or "minor elements" such as iron, manganese, zinc, copper, molybdenum and boron. All of these nutrients may be applied to the land as plant nutrients and are typically defined as "fertilizer." Other materials that may be applied to the land are to enhance soil characteristics and are commonly referred to as "soil amendments."

Fertilizers and soil amendments can be derived from virgin raw material, compost or other organic material. Most fertilizers sold in Montana are mined and go through a manufacturing process before being applied to Montana's agricultural, range and urban lands. Fertilizers and soil amendments can also be derived from waste such as sewage sludge and certain industrial waste. Regardless of their origin, some fertilizers and soil amendments may contain measurable levels of non-nutritive metals such as arsenic, cadmium and lead. Inorganic fertilizers that contain phosphorus inherently contain some amount of measurable metals as a constituent of the raw ore, most notably from raw ore that is mined in the Pacific Northwest. Micronutrients may also inherently contain non-nutritive metals. Under most all circumstances, nitrogen and potassium based fertilizers contain very negligible amounts of non-nutritive metals.

Fertilizers and soil amendments that contain waste or recycled material are termed "waste-derived". Current information indicates industrial waste is used as ingredients in only a relatively small percentage of fertilizers and soil amendments

within the United States. Of these, even a smaller percentage are derived from hazardous waste.

A study completed in 1998 by Montana State University showed that Montana soils fertilized and cropped over the last 20 years generally have lower levels of available and total metals than non-fertilized soils. This indicates that long-term fertilization has not increased metal concentration in Montana soils.

Be this as it may, non-nutritive metals (commonly referred to as heavy metals) do exist within some fertilizers and soil amendments and have the potential to pose a threat to human health through handling or if allowed to accumulate within soils or plant material. Additionally, the concern exists that with increased regulations regarding levels of metals within fertilizers throughout the Pacific Northwest, Montana may become a 'dumping ground' for fertilizers containing excessive heavy metals.

In continuing to promote the safe and effective use of fertilizers sold within Montana, the department is proposing the above stated rule to regulate the amounts of heavy metals allowed in fertilizers and soil amendments. The above stated limits are 'safe levels' for a particular metal within the type of fertilizer or soil amendment product. These numerical values are recommended and published by the Association of American Plant Food Control Officials (AAPFCO). The origin of these limits are from a collaboration of three separate risk assessments conducted by The Fertilizer Institute (TFI), United States Environmental Protection Agency (US EPA), and the California Department of Food and Agriculture (CDFA). All three assessments conclude that, in all but extremely rare cases, the metals found in fertilizers do not pose a risk to the applicators, to farm families or to the general public. These risk-based assessments are available by contacting the Montana Department of Agriculture, 303 N. Roberts, PO Box 200201, Helena, MT 59620-0201.

The numerical values within the table can be used for all inorganic fertilizer products that contain  $P_2O_5$  and/or micronutrients as outlined within the table instructions. Fertilizer and soil amendment products that contain solid waste or sewage sludge in any combination with compost or manipulated manures are considered adulterated when they exceed the metal levels permitted in 40 CFR 257 and 503. Additionally, hazardous waste-derived fertilizers and soil amendments are considered adulterated when the waste source exceeds the levels of metals permitted in 40 CFR 261, 266 and 268, or, when the level of metals within the end product exceed the metal levels permitted referenced in (3). For these products where dual authority exists, the department will work cooperatively with agencies such as the DEQ to

determine compliance and assure the safety of products distributed within Montana.

Uniform sample preparation and analytical methods are essential for the implementation of these rules. Sample preparation methods used by the department and referenced within these regulations are used to digest and collect the total amount of metals within a fertilizer or soil amendment product sample as opposed to the soluble amount of metals within a fertilizer or soil amendment product. Thus, the quantitative results will show all metals that may be and may become available to the plant in the future.

The Montana Department of Agriculture has worked closely with the Montana Department of Environmental Quality, Montana State University, AAPFCO, agricultural groups and the fertilizer industry in proposing these regulations. The department and the industry is committed to assuring that Montana's consumer, general public and environment remains safe from any adulteration of fertilizer while supporting the use of fertilizer for food production and proper management of Montana lands.

The reason for the delayed implementation date is to provide time for the industry and the department to develop procedures, forms and a reporting format for the registration of products containing waste-derived material and sewage sludge. Time will also be required by the department to develop and validate methods to test for heavy metals within fertilizer and soil amendment products. Additionally, funding for the implementation of these rules is contingent on the passage of legislation and the adoption of new administrative rules.

NEW RULE II REGISTRATION (1) Any fertilizer or soil amendment that contains a waste or sewage sludge distributed as a single ingredient product or blended with other ingredients must be identified as such by the registrant in the application for registration.

(2) The registrant of a fertilizer or soil amendment as defined in [new rule I](4)(a) and (b) shall state in the application for registration the source of the waste and the level of metals in the end product including, but not limited to, arsenic, cadmium, and lead for sewage sludge and cadmium for solid waste. Upon request by the department, the registrant shall provide a laboratory report or other documentation necessary to verify the levels of metals requested.

(3) The registrant of a hazardous waste-derived fertilizer or soil amendment as defined in [new rule I](4)(c) shall state in the application for registration the source of the waste and the level of metals within the source, including, but not limited to, arsenic, cadmium, and lead. Upon request by the department, the registrant shall provide a

laboratory report or other documentation necessary to verify the level of metals requested.

(4) The levels of metals reported within and the methods used to determine these levels shall be consistent with and comply with the standards as stated below:

(a) Recyclable materials used in the manufacture of hazardous waste-derived fertilizers and soil amendments shall comply with the treatment standards specified in 40 CFR 268.40 and 268.48, using the Toxicity Characteristic Leaching Procedure, Test Method 1311, EPA Publication SW-846; and

(b) Recyclable materials that are not hazardous waste, but used in the manufacture of fertilizers and soil amendments shall comply with the treatment standards specified in 40 CFR 257 and 503, using testing methods for total metal content found in EPA Publication SW-846.

(5) Failure to provide the information required by this rule or a determination that a fertilizer or soil amendment is adulterated is cause for denying registration.

(6) The Montana department of agriculture hereby adopts and incorporates by reference 40 CFR 257, 261, 266, 268 and 503, regarding solid waste, hazardous waste and sewage sludge management, as published on [the effective date of this rule]. The department hereby adopts and incorporates by reference EPA's "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," (SW-846), third edition, September 1986. A copy of these regulations can be obtained by contacting the department at 303 N. Roberts, Helena, Montana, 59620-0201.

(7) The department will implement this rule starting July 1, 2003.

AUTH: 80-10-301, MCA

IMP: 80-10-201 and 80-10-205, MCA

REASON: As part of the process of tracking, monitoring and regulating the use of fertilizers and soil amendments that contain waste or sewage sludge, the department feels it is necessary to require applicants to inform the department when a product contains a waste or recycled product and to inform the department of the level of metals included.

In doing so, the department will forward the registration application for all fertilizers and soil amendments that are waste-derived or contain sewage sludge to the Montana Department of Environmental Quality (DEQ). DEQ will then determine their compliance with standards set within CFR Title 40. After a product is determined to comply with standards, the Montana Department of Agriculture will continue its registration process before a product registration is approved. This will help to assure that all fertilizer and soil amendment products distributed within Montana do not exceed compliant levels of heavy metals. The Montana Department of Agriculture has worked closely with the Montana Department of Environmental Quality to assure a single goal of

protecting the Montana environment and the Montana consumer. Additionally, the department has worked with DEQ and many other organizations to establish a single and uniform set of standards for regulating heavy metals within fertilizer and soil amendment products.

The reason for the delayed implementation date is to provide time for the industry and the department to develop procedures, forms and a reporting format for the registration of products containing waste-derived material and sewage sludge. Time will also be required by the department to develop and validate methods to test for heavy metals within fertilizer and soil amendment products. Additionally, funding for the implementation of these rules is contingent on the passage of legislation and the adoption of new administrative rules.

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 Gregory H. Ames at the Montana Department of Agriculture, P.O. Box 200201, Helena, MT 59620-0201, and must be received no later than November 28, 2002.

5. Timothy J. Meloy, Attorney, Montana Department of Agriculture, P.O. Box 200201, Helena, Montana 59620-0201 has been designated to preside over and conduct the hearing.

6. The Department of Agriculture 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 noxious weed seed forage, noxious weeds, alfalfa seed, agriculture in Montana schools program, agriculture development, pesticides, warehouseman, produce, mint, seed, alternative crops, wheat research and marketing, rural development and/or hail. Such written requests may be mailed or delivered to Montana Department of Agriculture, 303 N. Roberts, P.O. Box 200201, Helena, MT 59620-0201; Fax: (406) 444-5409; or E-mail: agr@state.mt.us or may be made by completing a request form at any rules hearing held by the Department of Agriculture. All department rule making notices and adoptions may be reviewed at the Department of Agriculture's website at [www.agr.state.mt.us](http://www.agr.state.mt.us).

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

DEPARTMENT OF AGRICULTURE

/s/ Ralph Peck  
Ralph Peck  
Director

/s/ Tim Meloy  
Tim Meloy, Attorney  
Rules Reviewer

Certified to the Secretary of State October 21, 2002.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PUBLIC HEARING ON  
of ARM 17.53.111, 17.53.113, ) PROPOSED AMENDMENT  
17.53.301 and 17.53.602 )  
pertaining to registration of ) (HAZARDOUS WASTE)  
hazardous waste generators and )  
transporters and registration )  
fees )

TO: All Concerned Persons

1. On November 20, 2002, at 10:30 a.m., a public hearing will be held in Room 35 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Department no later than 5:00 p.m., November 11, 2002, to advise us of the nature of the accommodation that you need. Please contact the Department at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2544; fax (406) 444-4386; or email rmartin@state.mt.us.

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

17.53.111 REGISTRATION AND EPA IDENTIFICATION NUMBERS FOR OF GENERATORS AND TRANSPORTERS (1) ~~Small and large generators~~ Generators who accumulate, treat, store, dispose, transport, or offer for transportation hazardous waste ~~must have current registration with the department and a current EPA identification number shall register with the department, except as provided otherwise in (2).~~

~~(a) The phrase "large generator" means the same as "generator" as used in 40 CFR 260 through 279. A "large generator" is a generator of hazardous waste who is not either a "small generator" or "conditionally exempt small quantity generator" as defined below, or who generates at any time in a calendar month, or accumulates at any time:~~

~~(i) greater than 1 kilogram (2.2 pounds) of acute hazardous waste; or~~

~~(ii) greater than 100 kilograms (220 pounds) of any residue, contaminated soil, waste, or other debris resulting from a discharge, into or on any land or water, of acute hazardous waste.~~

~~(b) A "small generator" is a generator of hazardous waste who generates in a calendar month between 100 kilograms (220 pounds) and 1000 kilograms (2200 pounds) of hazardous waste.~~

~~(i) The phrase "small generator" means the same as "small quantity generator" as used in 40 CFR 260 through 279.~~

~~(c) A "conditionally exempt small quantity generator" or "conditionally exempt generator" is a generator of hazardous waste who generates in a calendar month no more than 100 kilograms (220 pounds) of hazardous waste.~~

~~(i) If a conditionally exempt small quantity generator accumulates at any time more than 1000 kilograms (2200 pounds) of hazardous waste, all of those wastes shall be subject to regulation as if they were generated and accumulated by a small generator.~~

~~(2) A generator shall register with the department by submitting an application on a form (EPA form 8700-12, Notification of Regulated Waste Activity) provided by the department or EPA.~~

~~(a) The department's receipt of EPA form 8700-12 initiates the registration process. Registration is complete when the department receives the registration fee required by ARM 17.53.113.~~

~~(b) The department shall assign an EPA identification number, if appropriate, upon receipt of a completed EPA form 8700-12.~~

~~(3) A small or large generator may not offer hazardous waste to a transporter who has not received an EPA identification number.~~

~~(4) A small or large generator may not offer hazardous waste to a treatment, storage and disposal facility that is not a "designated facility" as defined in 40 CFR 260.10.~~

~~(5) A transporter may not transport hazardous wastes without having received an EPA identification number from the department or EPA.~~

~~(6) A transporter who has not received an EPA identification number may obtain one by applying to the department. Upon receiving a request from a transporter for an EPA identification number, the department shall assign an EPA identification number to the transporter.~~

(2) The following persons are not required to register as generators or to pay the fee required by ARM 17.53.113:

(a) conditionally exempt small quantity generators who are subject to the exclusionary provisions of 40 CFR 261.5, other than generators of greater than 1 kilogram (2.2 pounds) of acute hazardous waste;

(b) persons whose only hazardous wastes are recyclable materials as defined in 40 CFR 261.6;

(c) persons whose wastes are excluded from regulation as hazardous wastes under 40 CFR 261.4; and

(d) farmers who generate hazardous wastes and who dispose of all such wastes on their own farm property in accordance with 40 CFR 262.70.

(3) A generator shall complete and submit the registration form provided by the department or the EPA to register with the department.

(a) Registration is complete when the department receives the properly completed form and the generator fee required by ARM 17.53.113;

(b) A generator must inform the department of any changes



to the information contained on the original registration form.

AUTH: 75-10-204, 75-10-404, 75-10-405, MCA  
IMP: 75-10-204, 75-10-212, 75-10-214, 75-10-221, 75-10-405, MCA

~~17.53.113 REGISTRATION FEES: FEE EXEMPTION, GENERATOR FEES: FEE ASSESSMENT, AND MAINTAINENCE OF REGISTRATION (1) An annual registration fee must be submitted to the department by each generator registered pursuant to ARM 17.53.111.~~

~~(2) The following persons are not required to maintain registration as generators or to pay the annual registration fee:~~

~~(a) conditionally exempt small quantity generators who are subject to the special provisions of 40 CFR 261.5;~~

~~(b) persons whose only hazardous wastes are recyclable materials defined in 40 CFR 261.6;~~

~~(c) persons whose wastes are excluded from regulation as hazardous wastes under 40 CFR 261.4;~~

~~(d) farmers who generate hazardous wastes and who dispose of all such wastes on their own farm property in accordance with 40 CFR 262.70.~~

~~(3) To be exempted from the payment of a fee under this rule, a generator must qualify for the exclusions of (2) for the entire registration year.~~

~~(4) The registration fee is based on the actual amount of hazardous waste generated during the previous calendar year and is an administrative fee of \$95 plus \$1 per ton of regulated hazardous waste generated. The \$1 per ton fee is not assessed if the amount of regulated hazardous waste generated is less than 13.0 tons.~~

~~(a) For generators who generate regulated hazardous waste in a calendar year but are not registered in the next calendar year (one-time generators), the registration fee is based on the actual amount of hazardous waste generated during that registration year.~~

(1) Concurrent with the submittal of a registration form, a generator shall submit to the department a generator fee of \$95.

(2) An annual generator fee must be submitted to the department by each generator not exempted under ARM 17.53.111 for the entire previous calendar year.

(a) The annual generator fee is \$95 plus \$1 per ton for all regulated hazardous waste generated during the previous calendar year;

(b) The \$1 per ton fee is assessed only if the amount of regulated hazardous waste generated is equal to or greater than 13.0 tons;

(5) (c) Annually, the department shall provide each hazardous waste generator required to pay an annual registration generator fee with written notice of the amount of the fee, and the basis for the fee assessment, and the date the fee is due.

~~(a) Fees will be assessed to:~~

~~(i) generators registered as of January 1 of the calendar~~

~~year in which fees are billed;~~

~~(ii) generators the department received a completed EPA form 8700-12 from as of January 1 of the calendar year in which fees are billed, but who did not complete the registration process by January 1 of the calendar year in which fees are billed.~~

(6) (d) If a generator assessed a registration an annual generator fee fails to pay the required fee within 60 days after the billing date, the department may impose a late payment charge of 10% of the fee, plus interest on the fee computed at the interest rate established under 75-2-220(5)(a)(i), MCA.

AUTH: 75-10-404, 75-10-405, MCA

IMP: 75-10-405, MCA

17.53.301 DEFINITIONS (1) through (2)(c) remain the same.

(d) "Conditionally exempt small quantity generator" or "conditionally exempt generator" means a generator of hazardous waste who generates, in a calendar month, no more than 100 kilograms (220 pounds) of hazardous waste, or no more than one kilogram (2.2 pounds) of acute hazardous waste.

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

(e) through (k)(iii) remain the same, but are renumbered (f) through (l)(iii).

~~(l) "Registration fee" means the annual fee assessed to generators by the department pursuant to the Act and ARM 17.53.113.~~

(m) remains the same.

AUTH: 75-10-405, MCA

IMP: 75-10-405, MCA

17.53.602 EXCEPTIONS AND ADDITIONS TO ADOPTION OF FEDERAL STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

~~(1) 40 CFR 262.12, pertaining to EPA identification numbers, is not adopted and incorporated by reference. ARM 17.53.111 contains Montana requirements regarding registration and EPA identification numbers for generators and transporters.~~

(2) through (9) remain the same, but are renumbered (1) through (8).

AUTH: 75-10-204, 75-10-404, 75-10-405, MCA

IMP: 75-10-204, 75-10-225, 75-10-405, MCA

REASON: The proposed amendments to the generator and transporter registration rule and to the registration fee rule clarify the rules, but do not affect the amount of fees assessed or change the parties that are assessed fees.

The proposed amendments to ARM 17.53.111 are necessary to clarify the registration process.

The proposed amendments to ARM 17.53.113 change the name of the "registration fee" to "generator fee." The fee assessment is based on the tons of regulated hazardous waste generated. Therefore, "generator fee" is a more appropriate name for the

fee. The proposed amendments are also necessary to clarify the time period of regulated hazardous waste generation upon which the fee assessment is based, and to clarify the generators that are assessed a fee.

The proposed amendments to ARM 17.53.301 change the phrase that is defined from "registration fee" to "generator fee." The amendment is necessary to conform the definition of "registration fee" to the name change proposed in ARM 17.53.113 and adds a definition for a class of generators (conditionally exempt small quantity generators) that is referenced in new language added to ARM 17.53.111. The amendment is necessary to clarify the generators that are not required to register or pay the fee assessed under ARM 17.53.113.

The proposed amendment to ARM 17.53.602(1) removes an exclusion from incorporation by reference of the EPA identification number regulation (40 CFR 262.12) from the Montana hazardous waste program rules. This action would, in effect, incorporate by reference 40 CFR 262.12. In the existing program rules, provisions equivalent to the EPA identification number rule are provided in ARM 17.53.111(2) through (6). The department is proposing to remove the state's EPA identification number provisions and adopt the federal version. This action simplifies the program rules by removing a comparable state rule and incorporating the federal version by reference.

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 Keith Christie, Legal Unit, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; by fax (406) 444-4386; or by email to kchristie@state.mt.us, no later than November 29, 2002. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. Keith Christie, attorney, has been designated to preside over and conduct the hearing.

6. The Department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list must make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to Elois Johnson, Paralegal, Legal Unit,

1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, emailed to [ejohnson@state.mt.us](mailto:ejohnson@state.mt.us) or may be made by completing a request form at any rules hearing held by the Department.

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

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL  
QUALITY

David Rusoff  
DAVID RUSOFF  
Rule Reviewer

BY: Jan P. Sensibaugh  
JAN P. SENSIBAUGH, Director

Certified to the Secretary of State, October 21, 2002.

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

In the matter of the proposed ) NOTICE OF PUBLIC HEARING  
amendment of ARM 24.117.402, ) ON PROPOSED AMENDMENT  
24.117.406, 24.117.502, )  
24.117.905 and 24.117.906, )  
relating to the board of )  
athletics )

TO: All Concerned Persons

1. On November 22, 2002, at 10:00 a.m., a public hearing will be held in room B-07, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

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 Athletics no later than 5:00 p.m., November 15, 2002, to advise us of the nature of the accommodation that you need. Please contact Chris Hahn, Board of Athletics, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2350, Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305, e-mail dlibsdate@state.mt.us.

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

24.117.402 FEES

- (1) through (3) remain the same.
- (4) Referees 50 35
- (5) Managers/trainers 50 35
- (6) remains the same.
- (7) Judges 50 35
- (8) and (9) remain the same.
- (10) Club boxing fees:
- (a) and (b) remain the same.
- ~~(c) referee 20~~
- ~~(d) judge 20~~
- (e) and (f) remain the same but are renumbered (c) and (d).
- ~~(g) inspector 30~~
- ~~(fee to be included with sanction application if an inspector is required to be present at the event)~~
- (h) remains the same but is renumbered (e).
- ~~(i) sanction application (per event) 25~~

AUTH: 23-3-405, 37-1-134, MCA  
IMP: 23-3-405, 23-3-501, 37-1-134, MCA

Statement of Reasonable Necessity: The Board of Athletics has determined that it is reasonable and necessary to propose to amend the fees charged for the referees, managers and judges that are licensed to perform at all regulated professional and semi-professional events. A separate fee had been created for those licenses under club boxing. The Board made the determination that if an official is qualified to act at club boxing events, they would be able to act as an official at other events without paying for an additional license. The Board is proposing the same fee for referees, managers/trainers and judges and that a license will authorize them to act in that capacity during the time that the license is active and current. Club boxing officials will pay an additional \$15 and the officials for other events will pay \$15 less. There were 30 licenses issued under this category in fiscal year 2002 for club boxing officials and six for other events. The net effect with the increase for club boxing officials and decrease for other officials is an increase of \$360 in revenues.

The Board is proposing to eliminate the inspector fee that was required to be paid by the promoter of club boxing. The Board has determined that since the inspector represents the Board at each club boxing event, there could be the appearance of a conflict of interest when the club boxing promoter pays for this fee. The 5% gross receipts tax required by 23-3-601, MCA and the licensing fees paid support the costs associated with an inspector at each event. A total of \$2,040 was received in fiscal year 2002 for the inspector fee.

The Board is proposing to eliminate the sanction application fee that was assessed to club boxing events. The Board has determined that this fee is not necessary since a sanctioning fee is not charged for other events. Also, the sanctioning fee creates an undue burden upon the promoter who is already paying the 5% gross receipts tax required by 23-3-601, MCA. The Board collected \$1,070 in sanctioning fees in fiscal year 2002.

The change in the fee schedule as outlined above and the changing of the expiration date contemplated by the amendments proposed in ARM 24.117.406 will result in an overall reduction in fees collected of \$8,260 based upon the fees collected in fiscal year 2002. The Board has determined that the fees are commensurate with costs of administering the program.

24.117.406 GENERAL LICENSING REQUIREMENTS (1) remains the same.

(2) All licenses shall expire on ~~December 31st~~ June 30 of each year.

(3) through (15) remain the same.

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-501, 23-3-502, MCA

Statement of Reasonable Necessity: The Board has determined that it is reasonable and necessary to propose to change the date that the licenses will expire to June 30 of each year. The majority of the professional and semi-professional events conducted in the State of Montana are held on a seasonable basis from September to June. The expiration date of December 31 has created a situation where club boxers receive a license for the first half of the season and have to apply for another license for the second half. If this proposed amendment is adopted, the Board will automatically extend the licenses which expire on December 31, 2002 to June 30, 2003 without the licensees having to pay an additional fee. In fiscal year 2002, the Board collected \$4,880 in revenues as a result of licensees having to renew.

24.117.502 PROMOTER-MATCHMAKER (1) through (7) remain the same.

~~(8) Promoters shall provide notice to an ambulance service or hospital that an event is taking place and that an ambulance may be needed in case of injury~~ make arrangements to have an ambulance or medical personnel with appropriate resuscitation equipment be continuously present on site for each event.

(9) and (10) remain the same.

~~(a) An application for the sanctioning of an event, together with the appropriate fee,~~ must be submitted to the board at least 14 days prior to the date of the event on forms provided by the board.

(b) and (c) remain the same.

~~(d) If an inspector is to be appointed for a club boxing event, the promoter is required to pay an additional fee, as set by the board.~~

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-501, 23-3-601, MCA

Statement of Reasonable Necessity: The Board has determined that it is reasonable and necessary to propose to require that promoters will be responsible for arranging that an ambulance or medical personnel with appropriate resuscitation equipment be continuously present on site for each event for the safety of the contestants. Section 23-3-405, MCA requires that the rules adopted by the Board meet or exceed the safety codes required by recognized professional boxing organizations and provide reasonable measures for the health and safety of the contestants. The new language is consistent with the language of the Association of Boxing Commissioners (ABC) and could save the life of a contestant in the event of serious injury. This requirement will impose an additional expense to the promoter as it was suggested that the cost may be about \$200 per night per event. The Board has proposed other changes in this notice which will reduce the fees that a promoter is required to pay and will help off-set this additional requirement. It should be noted that recently in Idaho, a

boxer at a toughman bout died as a result of blunt-force trauma to the head.

24.117.905 SECONDS (1) through (3) remain the same.

(4) For club boxing, only the chief second in each corner must be licensed and is the person responsible for assisting at ringside.

(4) through (8) remain the same but are renumbered (5) through (9).

AUTH: 23-3-405, MCA

IMP: 23-3-404, 23-3-405, 23-3-501, MCA

Statement of Reasonable Necessity: The Board has determined that there is a reasonable necessity to propose to amend this rule to only require the licensing of one second in each corner at the club boxing events.

24.117.906 INSPECTORS (1) through (3) remain the same.

~~(4) If an inspector is to be appointed for a club boxing event, the promoter will be required to pay an additional fee, as set by the board.~~

AUTH: 23-3-405, MCA

IMP: 23-3-402, MCA

Statement of Reasonable Necessity: The Board is proposing to eliminate the inspector fee that was required to be paid by the promoter of club boxing. The Board has determined that since the inspector represents the Board at each club boxing event, there could be an appearance of a conflict of interest when the club boxing promoter pays for this fee.

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 by mail to:

Chris Hahn  
Board of Athletics  
Department of Labor and Industry  
P.O. Box 200513  
Helena, Montana 59620-0513

by facsimile to (406) 841-2305, or by e-mail to [dlibsdate@state.mt.us](mailto:dlibsdate@state.mt.us) and must be received no later than 5:00 p.m., November 29, 2002.

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/ath>, 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 Athletics 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 Athletics administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Athletics, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibsdeath@state.mt.us](mailto:dlibsdeath@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 bill sponsor notice requirements of 2-4-302, MCA, do not apply.

9. The Board of Athletics will meet telephonically at 9:00 a.m. on December 5, 2002, to consider the comments made by the public, the proposed responses to those comments, and take final action on the proposed amendments. Members of the public are welcome to attend the meeting at the Board's office, room 430, 301 South Park Avenue, Helena, Montana, and listen to the Board's deliberations, but the Board cannot accept any comments concerning the proposed amendments beyond the November 29, 2002, deadline.

BOARD OF ATHLETICS  
GARY LANGLEY, CHAIRMAN

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

By: /s/ KEVIN BRAUN  
Kevin Braun  
Rule Reviewer

Certified to the Secretary of State, October 21, 2002.

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

In the matter of the )  
amendment of ARM 37.85.212 )  
pertaining to medicaid )  
reimbursement for subsequent )  
surgical procedures )

CORRECTED NOTICE OF  
PUBLIC HEARING ON  
PROPOSED AMENDMENT

TO: All Interested Persons

1. On October 17, 2002, the Department of Public Health and Human Services published notice of the proposed amendment of the above-stated rule at page 2884 of the 2002 Montana Administrative Register, issue number 19, as MAR Notice No. 37-254.

2. This corrected notice is being filed to correct an error in the hearing date and time and to extend the comment period.

3. On November 21, 2002, at 10:00 a.m., a public hearing will be held in Room 207 of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana to consider the proposed amendment of the above-stated rule.

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 or provide reasonable accommodations at the public hearing site. If you need to request an accommodation, contact the department no later than 5:00 p.m. on November 12, 2002, to advise us of the nature of the accommodation that you need. 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.

4. Interested 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 Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than 5:00 p.m. on November 26, 2002. Data, views or arguments may also be submitted by facsimile (406)444-1970 or by electronic mail via the Internet to dphhslegal@state.mt.us. 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 the person at the address above.

5. Due to a clerical error, the notice published on October 17, 2002, stated the hearing date would be on November 16, 2002, when it was intended to be November 6, 2002. The

hearing has been reset to November 21, 2002 as a result, in order to give the public adequate notice of the hearing. Consequently the comment period has also been extended to November 26, 2002 to allow the public time to provide additional comments after the hearing is held.

6. All other rule changes proposed in MAR Notice No. 37-254 remain the same.

Dawn Sliva  
Rule Reviewer

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

Certified to the Secretary of State October 21, 2002.

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

In the Matter of the Proposed ) NOTICE OF PUBLIC HEARING  
Amendment of ARM 38.5.2202 and ) ON PROPOSED AMENDMENT  
38.5.2302 Pertaining to )  
Pipeline Safety )

TO: All Concerned Persons

1. On December 2, 2002, at 1:30 p.m., a public hearing will be held in the Bollinger Room, Public Service Commission (PSC) offices, 1701 Prospect Avenue, Helena, Montana, to consider the amendment of ARM 38.5.2202 and 38.5.2302.

2. The PSC 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 PSC no later than 5:00 p.m. on November 25, 2002, to advise us of the nature of the accommodation that you need. Please contact Rhonda Simmons, PSC Secretary, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, telephone number (406) 444-6170, TTD number (406) 444-6199, fax number (406) 444-7618, e-mail rsimmons@state.mt.us.

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

38.5.2202 INCORPORATION BY REFERENCE OF FEDERAL PIPELINE SAFETY REGULATIONS (1) The commission hereby adopts and incorporates by reference the U.S. Department of Transportation (DOT) Pipeline Safety Regulations, Code of Federal Regulations (CFR), Title 49, chapter 1, subchapter D, parts 191, 192, and 193, including all revisions and amendments enacted by DOT on or before ~~October 26, 2001~~ October 31, 2002. A copy of the referenced regulations may be obtained from DOT, Research and Special Programs Administration, Western Region, Pipeline Safety, 12600 W. Colfax Ave., Suite A-250, Lakewood, Colorado 80215-3736, or may be reviewed at the Public Service Commission Offices, 1701 Prospect Avenue, Helena, Montana 59620-2601.

AUTH: 69-3-207, MCA  
IMP: 69-3-207, MCA

38.5.2302 INCORPORATION BY REFERENCE OF FEDERAL PIPELINE SAFETY REGULATIONS -- DRUG AND ALCOHOL TESTING AND PREVENTION PROGRAMS (1) Except as otherwise provided in this subchapter, the commission hereby adopts and incorporates by reference the DOT Pipeline Safety Regulations, Drug and Alcohol Testing, 49 CFR 199, including all revisions and amendments enacted by DOT on or before ~~October 26, 2001~~ October 31, 2002. A copy of the referenced CFR's is available from the DOT, Research and Special

Programs Administration, Western Region, Pipeline Safety, 12600 W. Colfax Ave., Suite A-250, Lakewood, Colorado 80215-3736, or may be reviewed at the Public Service Commission Offices, 1701 Prospect Avenue, Helena, Montana 59620-2601.

AUTH: 69-3-207, MCA

IMP: 69-3-207, MCA

4. The amendments (annual updates) of the rules are necessary to allow the PSC to properly administer the most current version of federal rules applicable in the PSC's administration of all federal aspects of Montana's pipeline safety programs.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments (original and 10 copies) may also be submitted to Legal Division, Public Service Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, and must be received no later than December 2, 2002, or may be submitted to the PSC through the PSC's web-based comment form at <http://psc.state.mt.us/PublicComment/PublicComment.htm> no later than December 2, 2002. (PLEASE NOTE: When filing comments pursuant to this notice please reference "Docket No. L-02.10.4-RUL.")

6. The PSC, a commissioner, or a duly appointed presiding officer may preside over and conduct the hearing.

7. The Montana Consumer Counsel, 616 Helena Avenue, P.O. Box 201703, Helena, Montana 59620-1703, phone (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.

8. The PSC maintains a list of persons who wish to receive notices of rulemaking actions proposed by the PSC. 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: electric utilities, providers, and suppliers; natural gas utilities, providers and suppliers; telecommunications utilities and carriers; water and sewer utilities; common carrier pipelines, motor carriers, rail carriers, and administrative procedures. Such written request may be mailed or delivered to Rhonda Simmons, Public Service Commission, Legal Division, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, faxed to Rhonda Simmons at (406) 444-7618, e-mailed to [rsimmons@state.mt.us](mailto:rsimmons@state.mt.us), or may be made by completing a request form at any rules hearing held by the PSC.

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

/s/ Gary Feland  
Gary Feland, Chairman

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

CERTIFIED TO THE SECRETARY OF STATE OCTOBER 21, 2002.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC HEARING  
amendment of ARM 42.15.514; ) ON PROPOSED AMENDMENT AND  
and repeal of ARM 42.15.517 ) REPEAL  
relating to charitable )  
endowment credits made by )  
taxpayers )

TO: All Concerned Persons

1. On November 26, 2002, at 1:00 p.m., a public hearing will be held in the Director's Conference Room on the Fourth Floor of the Sam W. Mitchell Building, at Helena, Montana, to consider the amendment of ARM 42.15.514; and repeal of ARM 42.15.517 relating to charitable endowment.

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., November 18, 2002, 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 rule as proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

42.15.514 TAX CREDIT AND DEDUCTION LIMITATIONS (1) The credit allowed against the corporate, estate, trust, or individual tax liability for a contribution of a planned gift is the percentage, as shown in the following table, equal to 50% of the present value of the allowable contribution as defined in ARM 42.15.507. ~~The maximum credit that may be claimed in one year is \$10,000 per donor.~~ A contribution made in a previous tax year cannot be used for a credit in any subsequent tax year.

Planned Gifts by Individuals or Entities

<u>Planned Gift Date</u>	<u>Percent of Present Value</u>	<u>Present Value Used to Calculate Maximum Credit</u>	<u>Maximum Credit Per Year</u>
1/1/97 - 12/31/01	50%	\$20,000	\$10,000
1/1/02 - 8/27/02	40%	\$25,000	\$10,000
8/28/02 - 6/30/03	30%	\$22,000	\$ 6,600
7/1/03 - 4/30/04	50%	\$26,800	\$13,400
5/1/04 - 12/31/07	40%	\$25,000	\$10,000

(2) The credit allowed against the corporate, estate, trust, or individual tax liability for a charitable gift made by a corporation, small business corporation, estate, trust, partnership, or limited liability company directly to a qualified endowment is the percentage, as shown in the following table, of the allowable contribution as defined in ARM 42.15.507.

Non-Planned Gifts by Eligible Entities

<u>Qualified Charitable Gift Date</u>	<u>Percent of Allowable Contribution</u>	<u>Allowable Contribution Used to Calculate Maximum Credit</u>	<u>Maximum Credit Per Year</u>
1/1/97 - 12/31/01	50%	\$20,000	\$10,000
1/1/02 - 8/27/02	20%	\$50,000	\$10,000
8/28/02 - 6/30/03	13.3%	\$49,624	\$ 6,600
7/1/03 - 4/30/04	26.7%	\$50,187	\$13,400
5/1/04 - 12/31/07	20%	\$50,000	\$10,000

(2)(3) The balance of the allowable contributions, if not used in the credit calculation, may be used as a deduction subject to the limitations and carryover provisions found in 15-30-121, MCA, or for corporations the limitations and carryover provisions found in 15-31-114, MCA.

Example 1:

<u>Credit Allowed</u>	
Present value of the allowable contributions	\$50,000
Credit calculation (50,000 x 50%)	25,000
Maximum credit allowed	\$10,000
<u>Excess Contribution Deduction Allowed</u>	
Present value of the allowable contributions	\$50,000
Less maximum contribution used in credit computation (\$10,000 x 2)	-20,000
Balance allowed as an itemized deduction	\$30,000

Example 2:

<u>Credit Allowed</u>	
Present value of the allowable contributions	\$15,000
Credit calculation (15,000 x 50%)	7,500
Maximum credit allowed	\$ 7,500
<u>Excess Contribution Deduction Allowed</u>	
Present value of the allowable contributions	\$15,000
Less contribution used in credit computation (\$7,500 x 2)	-15,000
Balance allowed as an itemized deduction	\$0

Examples of Allowable Deductions When a Planned Gift is Used for the Qualified Endowment Credit:



<u>Time Period</u>	<u>Present Value</u>	<u>Maximum Credit</u>	<u>Credit Percentage</u>	<u>Allowable Deduction</u>
1/1/97 - 12/31/01	\$50,000	-\$10,000	.50	\$30,000
1/1/02 - 8/27/02	\$50,000	-\$10,000	.40	\$25,000
8/28/02 - 6/30/03	\$50,000	-\$6,600	.30	\$28,000
7/1/03 - 4/30/04	\$50,000	-\$13,400	.50	\$23,200
5/1/04 - 12/31/07	\$50,000	-\$10,000	.40	\$25,000

Examples of Allowable Deductions When an Outright Gift is Used for the Qualified Endowment Credit:

<u>Time Period</u>	<u>Market Value</u>	<u>Maximum Credit</u>	<u>Credit Percentage</u>	<u>Allowable Deduction</u>
1/1/97 - 12/31/01	\$50,000	-\$10,000	.50	\$30,000
1/1/02 - 8/27/02	\$50,000	-\$10,000	.20	\$ -0-
8/28/02 - 6/30/03	\$50,000	-\$6,600	.133	\$ 376
7/1/03 - 4/30/04	\$50,000	-\$13,400	.267	\$ -0-
5/1/04 - 12/31/07	\$50,000	-\$10,000	.20	\$ -0-

(4) A contribution to a qualified endowment by a small business corporation, partnership, or limited liability company qualifies for the credit only if the entity is carrying on a trade or business or rental activity.

~~(3)~~(5) The contribution to a qualified endowment from a small business corporation, partnership, or limited liability company is passed through to the shareholders, partners, or members or managers in the same proportion as their distributive share of the entity's income or loss for Montana income tax purposes. The proportionate share of the contribution passed through to each shareholder, partner, or member or manager becomes an allowable contribution for that donor for that year, and the credit allowed and the excess contribution deduction allowed are calculated as set forth in (1) and (2). The credit maximums apply at the corporation and individual levels, and not at the pass-through entity's level for partnerships, small business corporations, and limited liability companies.

~~(4)~~(6) Deductions and credit limitations for an estate or trust are as follows:

(a) if an estate or trust claims a credit based on the computation of the full amount of the contribution, there is no credit available to beneficiaries;

(b) any portion of a contribution not used in the calculation of credit for the estate may be passed through to the beneficiaries, in the same proportion as their distributive share of the estate's or trust's income or loss for Montana income tax purposes; however, beneficiaries may deduct only that portion of allowable contributions not used toward the credit or deduction claimed by the estate or trust; or

(c) if the estate or trust has deducted the full amount of the contribution, the credit may not be claimed by either the estate, trust, or the individual beneficiaries.

~~(5)~~(7) At no time can a corporation, small business

corporation, partnership, limited liability company, estate, trust, or individual be allowed to receive the benefit of both a contribution deduction and a credit from the same portion of a contribution.

~~(6)~~(8) The maximum credit that may be claimed in a tax year by any donor for allowable contributions from all sources is ~~\$10,000~~ limited to the maximum credit stated in (1) and (2). In the case of a married couple that makes a joint contribution, the contribution is assumed split equally. If each spouse makes a separate contribution, each may be allowed ~~a credit up to the maximum of \$10,000~~ the maximum credit as stated in (1) and (2).

Example 1:

Assume a married couple makes a joint planned gift to a qualified endowment on September 1, 2002. The allowable contribution made by the couple is ~~\$40,000~~ \$30,000. That couple is eligible to take a credit of up to ~~\$20,000~~ \$9,000, with each claiming a credit of ~~\$10,000~~ \$4,500.

Example 2:

Assume a married couple makes separate planned gifts to qualified endowments on September 1, 2002, which result in an allowable contribution of \$20,000 for each person. They each would be eligible to take a credit of up to ~~\$10,000~~ \$6,000.

~~(7)~~(9) A donor may, at a later date, name or substitute the Montana qualified endowment, as defined in 15-30-165, MCA, to receive the planned gift provided that the original trust or gift document reserves in the donor the right to do so.

AUTH: Sec. 15-30-305 and 15-31-501, MCA

IMP: Sec. 15-30-165, 15-30-166, 15-30-167, 15-31-161, and 15-31-162, MCA

REASONABLE NECESSITY: The 2001 Legislative Special Session enacted amendments to 15-30-166, 15-30-167, 15-31-161, and 15-31-162, MCA, which address the tax credits afforded to taxpayers for charitable endowments. The proposed amendments reflect the different percentage and allowable credit amounts for various time periods as set forth in the laws.

4. The Department proposes to repeal the following rule:

42.15.517 APPLICABILITY DATES which can be found on page 42-1590.1 of the Administrative Rules of Montana.

AUTH: Sec. Sec. 15-30-305 and 15-31-501, MCA

IMP: Sec. 15-30-165, 15-30-166, 15-30-167, 15-31-161, and 15-31-162, MCA

REASONABLE NECESSITY: It is necessary to repeal ARM 42.15.517 because that rule implements the original sunset provisions, which have now changed. The laws are clear as to the applicability periods and the rule is not necessary.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to:

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

and must be received no later than November 29, 2002.

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

7. An electronic copy of this Notice of Public Hearing is available through the Department's site on the World Wide Web at [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.

8. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding particular subject matter or matters. Such written request may be mailed or delivered to the person in 5 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

/s/ Cleo Anderson  
CLEO ANDERSON  
Rule Reviewer

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

Certified to Secretary of State October 21, 2002

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the proposed )  
adoption of New Rules I through )  
X; amendment of ARM 42.2.304, )  
42.15.301, 42.15.321, 42.15.322, )  
42.16.1201, 42.26.202, 42.26.209, )  
42.26.211, 42.26.228, and )  
42.26.229; transfer and amendment )  
of ARM 42.15.307, 42.15.311, )  
42.15.701, 42.15.702, 42.15.704, )  
and 42.15.705; and repeal of )  
ARM 42.15.101, 42.15.202, )  
42.15.203, 42.15.212, 42.15.304, )  
42.15.306, 42.15.703, 42.16.1202, )  
42.16.1203, 42.16.1204, 42.16.1205,) )  
42.16.1206, 42.16.1207, 42.16.1208,) )  
42.16.1209, 42.16.1210, 42.16.1211,) )  
42.16.1212, 42.16.1213, 42.16.1214,) )  
42.16.1215, 42.16.1216, 42.16.1217,) )  
42.16.1218, 42.16.1219, 42.16.1220,) )  
42.16.1221, 42.16.1222, 42.16.1223,) )  
42.16.1224, 42.16.1225, 42.16.1226,) )  
42.16.1227, 42.16.1228, 42.16.1229,) )  
42.23.201, 42.24.102, 42.24.121 and) )  
42.24.123 relating to pass-through )  
entities )

TO: All Concerned Persons

1. On November 26, 2002, at 9:00 a.m., a public hearing will be held in the Director's Office Conference Room of the Sam W. Mitchell Building, at Helena, Montana, to consider the adoption of New Rules I through X; amendment of ARM 42.2.304, 42.15.301, 42.15.321, 42.15.322, 42.16.1201, 42.26.202, 42.26.209, 42.26.211, 42.26.228, and 42.26.229; transfer and amendment of ARM 42.15.307, 42.15.311, 42.15.701, 42.15.702, 42.15.704, and 42.15.705; and repeal of ARM 42.15.101, 42.15.202, 42.15.203, 42.15.212, 42.15.304, 42.15.306, 42.15.703, 42.16.1202, 42.16.1203, 42.16.1204, 42.16.1205, 42.16.1206, 42.16.1207, 42.16.1208, 42.16.1209, 42.15.1210, 42.16.1211, 42.16.1212, 42.16.1213, 42.16.1214, 42.16.1215, 42.16.1216, 42.16.1217, 42.16.1218, 42.16.1219, 42.16.1220, 42.16.1221, 42.16.1222, 42.16.1223, 42.16.1224, 42.16.1225, 42.16.1226, 42.16.1227, 42.16.1228, 42.16.1229, 42.23.201, 42.24.102, 42.24.121 and 42.24.123 relating to pass-through entities.

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., November 18, 2002, 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 Rules I, II, V, VI, VII, VIII, IX, and X do not replace or modify sections currently found in the Administrative Rules of Montana. New Rule III replaces ARM 42.15.304 and New Rule IV replaces ARM 42.24.121. Both of these rules are being repealed because they no longer apply. The proposed new rules will be placed in new Chapter 9. The proposed new rules provide as follows:

NEW RULE I PASS-THROUGH ENTITY INFORMATION RETURNS

(1) Every pass-through entity with Montana source income is subject to the requirement in 15-30-1102, MCA, to file pass-through entity information returns. Most pass-through entities are subject to an annual filing requirement. In general, the status of a pass-through entity is the same as its status for federal income tax purposes. Disregarded entities with Montana source income, whose separate existence is disregarded for federal income tax purposes, are subject to the information return filing requirements in this rule, even though no filing requirement may be imposed in the IRC. Some disregarded entities are required to file information returns only on the happening of an event. A pass-through entity falls into one of three categories:

- (a) partnership;
- (b) S corporation; or
- (c) disregarded entity.

(2) Pass-through entity information returns are to be filed with the Montana Department of Revenue, P.O. Box 5805, Helena, Montana 59604-5805.

(3) On written application, and for good cause shown, the department may grant extensions for the filing requirements provided in this sub-chapter.

AUTH: Sec. 15-1-201, 15-30-305, 15-30-1102, and 15-31-501, MCA

IMP: Sec. 15-30-142, 15-30-143, 15-30-301, 15-30-1102, 15-30-1111, 15-30-1112, 15-31-101, and 15-31-111, MCA

REASONABLE NECESSITY: The department is proposing to adopt New Rule I to clarify the types of pass-through entities that must file information returns in Montana and the frequency of those filings.

NEW RULE II LATE-FILE PENALTY FOR PASS-THROUGH ENTITIES

(1) A pass-through entity required to file a Montana information return as provided in ARM Title 42, chapter 9, is

subject to a late-filing penalty if the return is not filed by the due date (including extensions).

(2) The late-filing penalty is calculated by multiplying \$10 times the number of the pass-through entity's partners, shareholders, members, or other owners at the close of the tax year for each month or fraction of each month the information return is not filed, not to exceed five months. For example, if a pass-through entity had 20 members at the close of its tax year and filed its information return six months after it was due, the late-filing penalty would be \$1,000 (\$10 x 20 x 5). For disregarded entities that do not have a tax year, the number of partners, shareholders, members, or other owners will be determined as of the preceding December 31.

(3) The late-filing penalty described in (2) is not imposed on certain small pass-through entities. If the pass-through entity has 10 or fewer partners, shareholders, members, or other owners, the penalty will not be imposed if the pass-through entity demonstrates that:

(a) each of the partners, shareholders, members, or other owners is an individual, an estate of a deceased individual, or a C corporation;

(b) each partner, shareholder, member, or other owner has filed any required tax return or report with the department by the due date (including extensions) for the return or report; and

(c) each partner, shareholder, member, or other owner paid all taxes when due.

(4) ARM 42.3.101 through 42.3.114 and 42.3.120 apply to requests for waiving penalties.

AUTH: Sec. 15-1-201, 15-30-305, 15-30-1102, and 15-31-501, MCA

IMP: Sec. 15-30-142, 15-30-143, 15-30-1102, 15-30-1111, 15-30-1112, 15-31-101, and 15-31-111, MCA

REASONABLE NECESSITY: The 2001 Legislature imposed new and expanded information return filing requirements on pass-through entities and enacted penalties and an exception for non-filing. This rule is necessary to implement that legislation.

NEW RULE III PASS-THROUGH ENTITY INFORMATION RETURNS FOR PARTNERSHIPS

(1) Every partnership that has Montana source income must file an Annual Montana Partnership Information Return, Form PR-1, on or before the 15th day of the fourth month following the close of its annual accounting period.

(2) See ARM 42.15.201 and 42.15.202 to determine the time for filing a short-period return.

(3) For tax years beginning before January 1, 2003, the partnership must file a Pass-through Entity Extension Form PT-EXT to extend the filing date. For tax years beginning after December 31, 2002, approval of an extension to file the partnership's federal Return of Partnership Income or federal Return of Income for Electing Large Partnerships automatically extends the time for filing the Montana return to the date approved for filing the federal return. A partnership required

to file a Montana partnership information return is subject to a late-filing penalty if:

(a) the Montana partnership information return is not filed by the due date (including extensions);

(b) a copy of the partnership's federal partnership return is not filed with the Montana partnership information return; or

(c) a return is filed that does not include all of the following information:

(i) name, address, and social security or federal identification number of each partner;

(ii) the partnership's Montana source income;

(iii) each partner's distributive share of Montana source income, gain, loss, deduction, or credit or items of income, gain, loss, deduction, or credit; and

(iv) each partner's distributive share of income, gain, loss, deduction, or credit, or item of income, gain, loss, deduction, or credit from all sources.

AUTH: Sec. 15-1-201, 15-30-305, 15-30-1102, and 15-31-501, MCA

IMP: Sec. 15-30-142, 15-30-143, 15-30-1102, 15-30-1111, 15-30-1112, 15-31-101, and 15-31-111, MCA

REASONABLE NECESSITY: The 2001 Legislature imposed new and expanded information return filing requirements on pass-through entities. This rule is necessary to implement the legislation as it relates to partnerships.

NEW RULE IV PASS-THROUGH ENTITY INFORMATION RETURNS FOR S CORPORATIONS (1) Every S corporation that has Montana source income must file an Annual Montana S Corporation Information Return, Form CLT4-S, on or before the 15th day of the third month following the close of its annual accounting period.

(2) See ARM 42.15.201 and 42.15.202 to determine the time for filing a short-period return.

(3) For tax years beginning before January 1, 2003, the S corporation must file a Pass-through Entity Extension Form PT-EXT to extend the filing date. For tax years beginning after December 31, 2002, approval of an extension to file the S corporation's federal income tax return for an S corporation automatically extends the time for filing the Montana return to the date approved for filing the federal return. An S corporation required to file a Montana S corporation information return is subject to a late filing penalty if:

(a) the Montana S corporation information return is not filed by the due date (including extensions);

(b) a copy of the S corporation's federal return is not filed with the Montana S corporation information return; or

(c) a return is filed that does not include the following information:

(i) name, address, and social security or federal identification number of each shareholder;

(ii) the S corporation's Montana source income;

(iii) each shareholder's pro-rata share of separately and non-separately stated Montana source income, gain, loss,

deduction, or credit, or item of income, gain, loss, deduction, or credit; and

(iv) each shareholder's pro-rata share of separately and non-separately stated Montana income, gain, loss, deduction, or credit, or item of income, gain, loss, deduction, or credit from all sources.

AUTH: Sec. 15-1-201, 15-30-305, 15-30-1102, and 15-31-501, MCA

IMP: Sec. 15-30-142, 15-30-143, 15-30-1102, 15-30-1111, 15-30-1112, 15-31-101, and 15-31-111, MCA

REASONABLE NECESSITY: The 2001 Legislature imposed new and expanded information return filing requirements on pass-through entities. This rule is necessary to implement the legislation as it relates to S corporations.

NEW RULE V PASS-THROUGH ENTITY INFORMATION RETURNS FOR SINGLE-MEMBER LLC TREATED AS DISREGARDED ENTITY (1) Any single-member limited liability company (LLC) treated as a disregarded entity that has Montana source income, whether formed in Montana or in another state or country, must file a Montana Disregarded Entity Information Return, Form DER-1, as provided in this rule.

(2) If the single member of the LLC is a C corporation, the LLC must file the return on or before the 15th day of the third month following the close of the C corporation's annual accounting period.

(3) If the single member of the LLC is an S corporation, the LLC must file the return on or before the 15th day of the third month following the close of the S corporation's annual accounting period.

(4) If the single member of the LLC is a qualified subchapter S subsidiary, the LLC must file the return on or before the due date of the parent S corporation's information return.

(5) If the single member of the LLC is a real estate investment trust (REIT), the LLC must file the return on or before the 15th day of the third month after the close of the REIT's annual accounting period.

(6) If the single member of the LLC is a qualified REIT subsidiary, the LLC must file the return on or before the due date of the parent REIT's information return.

(7) If the single member of the LLC is an individual, estate, or non-grantor trust, the LLC must file the return on or before the 15th day of the fourth month following the close of the annual accounting period of the individual, estate, or trust.

(8) If the single member of the LLC is a partnership, the LLC must file the return on or before the 15th day of the fourth month following the close of the partnership's annual accounting period.

(9) If the single member of the LLC is a real estate mortgage investment conduit (REMIC), the LLC must file the return on or before the 15th day of the fourth month after the



close of the REMIC's annual accounting period.

(10) If the single member of the LLC is a partnership that elected under IRC 761 to be excluded from some or all of the partnership tax rules, the LLC must file the return on or before April 15.

(11) If the single member of the LLC is not described in (1) through (10), the LLC must file the return on or before August 31.

(12) See ARM 42.15.201 and 42.15.202 to determine the time for filing a short-period return.

(13) An LLC required to file an information return provided in (1) through (11) is subject to a late-filing penalty if:

(a) the Montana disregarded entity information return is not filed by the due date (including extensions); or

(b) a return is filed that does not include all of the following information:

(i) name, address, and social security or federal identification number of each member or other owner during the tax period;

(ii) the LLC's employer identification number, if any;

(iii) any assumed business name(s) the LLC has registered with the Montana secretary of state, under which it conducts any trade, business, or occupation in the state, or under which it holds title to any real or tangible personal property in the state;

(iv) the state, country, and date of formation of the LLC and, if the LLC was formed in another state or country, the date the LLC registered with the secretary of state; and

(v) the LLC's Montana source income, gain, loss, deduction, or credit.

AUTH: Sec. 15-1-201, 15-30-305, 15-30-1102, and 15-31-501, MCA

IMP: Sec. 15-30-142, 15-30-143, 15-30-1102, 15-30-1111, 15-30-1112, 15-31-101, and 15-31-111, MCA

REASONABLE NECESSITY: The 2001 Legislature imposed new and expanded information return filing requirements on pass-through entities and, for disregarded entities, such as single-member LLCs, instructed the department to determine the information required and the due date of the returns. This rule is necessary to implement the legislation as it relates to single-member limited liability companies that do not file federal income tax returns.

NEW RULE VI PASS-THROUGH ENTITY INFORMATION RETURNS FOR PARTNERSHIPS ELECTING IRC 761 (1) Any entity that elected under IRC 761, on or before December 31, 2002, to be excluded from application of some or all of the partnership tax rules and that, on or after January 1, 2003, is either engaged in a trade, business, or occupation in the state, or owns real or tangible personal property located in the state, must file a Montana Disregarded Entity Information Return, Form DER-1, on or before August 31, 2003.

(2) Any entity that has Montana source income, that elects under IRC 761 to be excluded from application of some or all of the partnership tax rules on or after January 1, 2003, must file a Montana Form DER-1 on or before 90 days after the date it makes the election.

(3) A disregarded entity required to file the information returns provided in (1) and (2) is subject to a late-filing penalty if:

(a) the Montana disregarded entity information return is not filed by the due date (including extensions); or

(b) a return is filed that does not include all of the following information:

(i) name, address, and social security or federal identification number of each partner, member, or other owner;

(ii) the date of the election and the internal revenue district (or service center serving the district) where the election was filed;

(iii) any assumed business name(s) the disregarded entity has registered with the Montana secretary of state, under which it conducts any trade, business, or occupation in the state, or under which it holds title to any real or tangible personal property in the state; and

(iv) if the disregarded entity is a limited liability company, limited liability partnership, limited partnership, or any other unincorporated entity formed under the laws of Montana or any other state or country, the state, county, and date of formation.

(4) Any entity required in (1) or (2) to file an information return must file a Montana Form DER-1, within 90 days of the date:

(a) its 761 election is changed or revoked for federal tax purposes;

(b) any capital or profit interest of any partner, member, or other owner is transferred, liquidated, or redeemed;

(c) it is dissolved, liquidated, merged, or consolidated with another entity;

(d) it sells substantially all its assets; and

(e) it files an application for a certificate of withdrawal with the Montana secretary of state.

AUTH: Sec. 15-1-201, 15-30-305, 15-30-1102, and 15-31-501, MCA

IMP: Sec. 15-30-142, 15-30-143, 15-30-1102, 15-30-1111, 15-30-1112, 15-31-101, and 15-31-111, MCA

REASONABLE NECESSITY: The 2001 Legislature imposed new and expanded information return filing requirements on pass-through entities and, for disregarded entities, instructed the department to determine the information required and the due date of the returns. This rule is necessary to implement the legislation as it relates to partnerships that do not file federal partnership returns.

NEW RULE VII PASS-THROUGH ENTITY INFORMATION RETURNS FOR QUALIFIED SUBCHAPTER S SUBSIDIARIES (1) Any corporation

described in IRC 1361(b)(3), for which an election to treat the corporation as a qualified subchapter S subsidiary was made on or before December 31, 2002, and that on or after January 1, 2003, is either engaged in a trade, business, or occupation in the state, or owns real or tangible personal property located in the state, must file a Montana Disregarded Entity Information Return, Form DER-1, on or before August 31, 2003.

(2) Any corporation described in IRC 1361(b)(3) whose parent elects to treat as a qualified subchapter S subsidiary on or after January 1, 2003, and that has Montana source income, must file a Montana Form DER-1, on or before 90 days after the election is made.

(3) A corporation required to file the information returns provided in (1) and (2) is subject to a late-filing penalty if:

(a) the Montana disregarded entity information return is not filed by the due date (including extensions); or

(b) a return is filed that does not include all of the following information:

(i) name, address, and federal identification number of its S corporation parent;

(ii) the date of the election and the internal revenue district (or service center serving the district) where the election was filed;

(iii) any assumed business name(s) the qualified subchapter S subsidiary has registered with the Montana secretary of state, under which it conducts any trade, business, or occupation in the state, or under which it holds title to any real or tangible personal property in the state; and

(iv) the state, country, and date of its incorporation.

(4) Any corporation required in (1) or (2) to file an information return must file a Montana Form DER-1, within 90 days of the date:

(a) its qualified subchapter S subsidiary status is changed or revoked for federal tax purposes;

(b) its stock is transferred or redeemed;

(c) it is dissolved, liquidated, merged, or consolidated with another entity;

(d) it sells substantially all its assets; and

(e) it files an application for a certificate of withdrawal with the Montana secretary of state.

AUTH: Sec. 15-1-201, 15-30-305, 15-30-1102, and 15-31-501, MCA

IMP: Sec. 15-30-142, 15-30-143, 15-30-1102, 15-30-1111, 15-30-1112, 15-31-101, and 15-31-111, MCA

REASONABLE NECESSITY: The 2001 Legislature imposed new and expanded information return filing requirements on pass-through entities and, for disregarded entities, instructed the department to determine the information required and the due date of the returns. This rule is necessary to implement the legislation as it relates to C corporations that do not file federal returns.

NEW RULE VIII PASS-THROUGH ENTITY INFORMATION RETURNS FOR QUALIFIED REIT SUBSIDIARIES

(1) Any corporation defined as a qualified REIT subsidiary in IRC 856(i)(2) that has Montana source income and the assets, liabilities, and items of income, deduction, and credit of which are included in the federal income tax return of its parent REIT, must file a Montana Form DER-1, on or before the due date of its parent REIT's information return.

(2) A qualified REIT subsidiary is subject to a late-filing penalty if:

(a) the Montana disregarded entity information return is not filed by the due date (including extensions); or

(b) a return is filed that does not include all of the following information:

(i) name, address, and federal identification number of its REIT parent;

(ii) any assumed business name(s) the qualified REIT subsidiary has registered with the Montana secretary of state, under which it conducts any trade, business, or occupation in the state, or under which it holds title to any real or tangible personal property in the state;

(iii) the state, country, and date of its incorporation; and

(iv) its Montana source income, deductions, and credits.

AUTH: Sec. 15-1-201, 15-30-305, 15-30-1102, and 15-31-501, MCA

IMP: Sec. 15-30-142, 15-30-143, 15-30-1102, 15-30-1111, 15-30-1112, 15-31-101, and 15-31-111, MCA

REASONABLE NECESSITY: The 2001 Legislature imposed new and expanded information return filing requirements on pass-through entities and, for disregarded entities, instructed the department to determine the information required and the due date of the returns. This rule is necessary to implement the legislation as it relates to C corporations that do not file federal returns.

NEW RULE IX PASS-THROUGH ENTITY RETURNS FOR REMIC

(1) Every unincorporated real estate mortgage investment conduit (REMIC) described in IRC 860D, that has Montana source income, must file a copy of its federal Real Estate Mortgage Investment Conduit Income Tax Return, Form 1066, on or before the due date (including extensions) for filing its federal return. See ARM 42.15.201 and 42.15.202 to determine the time for filing a short-period return.

AUTH: Sec. 15-1-201, 15-30-305, 15-30-1102, and 15-31-501, MCA

IMP: Sec. 15-30-142, 15-30-143, 15-30-1102, 15-30-1111, 15-30-1112, 15-31-101, and 15-31-111, MCA

REASONABLE NECESSITY: The 2001 Legislature imposed new and expanded information return filing requirements on pass-through entities and, for disregarded entities, instructed the department to determine the information required and the due

date of the returns. This rule is necessary to implement the legislation for entities that are quasi-pass-through entities.

NEW RULE X CONSENT, COMPOSITE RETURN, OR WITHHOLDING FOR NONRESIDENT INDIVIDUAL PARTNERS, SHAREHOLDERS, AND SINGLE-MEMBER LLC MEMBERS

(1) Partnerships that have one or more nonresident individual partners, S corporations that have one or more nonresident individual shareholders, and single-member LLCs with nonresident individual members, during any part of the tax year for which an information return is required by this chapter must, for each nonresident individual:

(a) file a composite return as provided in [New Rule X] and include the nonresident individual in the filing;

(b) obtain from the nonresident individual and file with its information return the individual's agreement to timely file a Montana individual income tax return, to timely pay tax due, and to be subject to the state's tax collection jurisdiction on the Montana Nonresident Income Tax Agreement, Form PT-CON; or

(c) remit an amount on the individual's account, determined as provided in (2), with:

(i) Statement of Montana Income Tax Withheld for Nonresident Individual, Form PT-WH; and

(ii) Nonresident Individual Income Tax Estimated Payments Transmittal Document, Form PT-HWHREM.

(2) The amount that must be remitted by the due date described in (3) is the highest marginal rate in effect under 15-30-103, MCA, multiplied by the share of Montana source income of the nonresident individual reflected on the pass-through entity's information return.

(3) The due date for the remittance and transmittal documents described in (1)(c) is different for tax years beginning before January 1, 2003, than it is for later tax years.

(a) For an entity's tax year beginning before January 1, 2003, the due date is the later of 180 days after the due date (including extensions) for filing its information return or the date the department sends it notice of the requirement to withhold and liability for penalties for not remitting the withholding amount.

(b) For tax years beginning after December 31, 2002, the due date is the due date of the entity's information return.

AUTH: 15-30-305 and 15-30-1112, MCA

IMP: 15-30-1113, MCA

REASONABLE NECESSITY: The 2001 Legislature enacted 15-30-1113, MCA, which imposes a withholding requirement on certain entities with nonresident individual owners. The new rule specifies consent and remittance requirements.

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

42.2.304 DEFINITIONS The terms used by the department are, in great part, defined in Titles 15, 16, 39, and 72, MCA. In

addition to these statutory definitions, the following definitions apply to ARM Title 42, unless context of a particular chapter or rule provides otherwise:

(1) "Amended return" is a return that amends the original return defined in (34).

(2) "Annual accounting period" means the calendar year unless the taxpayer elects to report on the basis of a fiscal year ending the last day of any month other than December. The accounting period for purposes of the Montana corporation license tax will be the same as that used for federal income tax purposes.

(1) through (8) remain the same but are renumbered (3) through (10).

(11) "Corporation" or "C corporation" means a corporation, limited liability company, or other entity treated as an association for federal income tax purposes. The term does not include an S corporation or a disregarded entity. The term includes a regulated investment company (RIC) as defined in IRC 851, a real estate investment trust (REIT) as defined in IRC 856, and a corporation that has elected to be treated as a real estate mortgage investment conduit (REMIC) as provided in IRC 860D.

(9) through (11) remain the same but are renumbered (12) through (14).

(15) "Disregarded entity" means a business entity that is disregarded as an entity separate from its owner(s) for federal tax purposes. The term includes a limited liability company with one owner, a qualified subchapter S subsidiary not treated as a separate corporation, and a partnership, syndicate, group, pool, joint venture, or other unincorporated organization electing under IRC 761 to be excluded from application of partnership tax rules. A corporation is not a disregarded entity by virtue of being included in a federal consolidated return.

(12) and (13) remain the same but are renumbered (16) and (17).

~~(14) "Eligible nonresident partner or shareholder" means an individual who does not reside in Montana and whose only Montana source income is derived from the business entity.~~

(15) and (16) remain the same but are renumbered (18) and (19).

~~(17) "Entity" shall mean any such business organization as defined in (27) below.~~

(18) through (21) remain the same but are renumbered (20) through (23).

(24) "Information return" means a pass-through entity information return described in [NEW RULES III through IX.]

~~(22)(25) "Internal revenue code" (IRC) is the federal code relating to the internal revenue service means the Internal Revenue Code of 1986, as amended.~~

(23) remains the same but is renumbered (26).

(27) "Limited liability company" has the same meaning given it in the Montana Limited Liability Company Act, Title 35, chapter 8, MCA, and includes limited liability companies formed

under the laws of Montana and the laws of other states and foreign countries.

(24) remains the same but is renumbered (28).

(29) "Montana source income" is defined in 15-30-101, MCA, and the statute should be consulted to determine whether particular income is "Montana source income" obligating a nonresident to file a Montana individual income tax return, and a pass-through entity to file a Montana information return. In general, all income from work performed in the state, real or personal property located in the state, and business conducted in the state is Montana source income.

~~(25) "Multi-jurisdictional entity" means any business organization that is classified as a partnership, S corporation, limited liability partnership or a limited liability company for tax purposes by Montana and has nonresident partners, members or shareholders.~~

(26) remains the same but is renumbered (30).

~~(27)~~(31) "Noncontiguous parcels of land" means land acreage in the same ownership that meets one of the two following standards:

(a) Acreage that do not touch, but that are each an integral part of the operation of a bona fide agricultural operation; or

(b) Acreage that would meet the definition of contiguous contained in (10) above were the acreage not separated by one or more of the following features only:

(i) roads and highways;

(ii) navigable rivers and streams;

(iii) local taxing authority boundaries;

(iv) railroad lines; or

(v) federal or state land that is leased from the federal or state government by a taxpayer whose land ownership is contiguous to the federal or state land.

(28) and (29) remain the same but are renumbered (32) and (33).

(34) "Original return" means a return that is due on the 15th day of the fourth month after the close of the taxpayer's tax year for an individual, or on the 15th day of the third month for a corporation.

(30) and (31) remain the same but are renumbered (35) and (36).

(37) "Partnership" means any partnership, including a general partnership, a limited partnership, a limited liability partnership, a professional partnership, or any other entity, treated as a partnership for federal income tax purposes. The term includes an unincorporated entity that has elected to be treated as a real estate mortgage investment conduit (REMIC) as provided in IRC 860D.

(38) "Pass-through entity" means a partnership, an S corporation, and a disregarded entity.

(39) "Pass-through entity information return" means the same as (24).

(32) through (36) remain the same but are renumbered (40) through (44).

~~(37)~~(45) "Residence" means the same as ~~(13)~~ above (14).

(38) and (39) remain the same but are renumbered (46) and (47).

(48) "S corporation" means an incorporated entity for which a valid federal S corporation election is in effect. "S corporation" and "subchapter S corporation" are synonymous. The term "small business corporation" is also synonymous with "S corporation," except that certain S corporations are allowed to continue to file Montana corporation license tax returns as provided in 15-30-1101, MCA.

(40) through (44) remain the same but are renumbered (49) through (53).

AUTH: Sec. 15-1-201, 15-30-305, 15-31-501, 16-1-303, 16-10-104, and 16-11-103, MCA

IMP: Sec. 15-1-102, 15-1-601, 15-30-101, 15-30-105, 15-30-131, 15-30-1101, 15-30-1102, 15-30-1111, 15-30-1112, 15-30-1113, 15-30-1121, and 15-31-101, and Title 15, chapter 31, part 3, MCA

REASONABLE NECESSITY: The amendments to ARM 42.2.304 are necessary to further define terms used in Title 42 that apply to pass-through entities. The amendments update and expand commonly defined terms and the definition of the somewhat technical terms in plainer, more easily understood language.

#### 42.15.301 WHO MUST FILE INDIVIDUAL INCOME TAX RETURNS

(1) The following individuals must file an individual income tax return:

(a) Every resident who is a single person, and every resident who is a married person who does not elect or, as provided in ARM 42.15.321, is not allowed to elect, to file ~~not~~ filing a joint return with a spouse, must file a return if the person's gross income from all sources for the taxable year is more than \$1,500, adjusted as provided in (3), plus the value of the exemptions the person is entitled to for age 65 ~~and~~ or for blindness.

(b) Married persons, both of whom are residents, not electing to file filing separate returns must file a joint return if the their combined gross income of the spouses for the taxable year from all sources exceeds \$3,000, adjusted as provided in (3), plus the value of the exemptions they are entitled to for age 65 or blindness.

(c) Every nonresident who is a single person, and every nonresident who is a married person who does not elect or, as provided in ARM 42.15.321, is not allowed to elect, to file a joint return with a spouse, must file a return if the person's gross income from all sources is more than \$1,500, adjusted as provided in (3), plus the value of the exemptions the person is entitled to for age 65 or blindness, and they have any Montana source income. A nonresident whose only Montana source income for the tax year is from one or more partnerships or S corporations, each of which has elected to file a composite return and pay a composite tax on behalf of consenting participants, is not required to file an individual income tax return if the nonresident consents to being included in the



composite return of each of the partnerships and S corporations. A nonresident who has Montana source income from a partnership or S corporation who does not elect to file a composite return or who has any other Montana source income (for example, wages from employment in Montana or rental income from property located in Montana), is required to file a Montana individual income tax return if the gross income from all sources, adjusted as provided in this rule, exceeds the applicable limit.

(d) Married persons, both of whom are full-year nonresidents, not filing separate returns, must file a joint return if their combined gross income for the taxable year from all sources exceeds \$3,000, adjusted as provided in (3), plus the value of the exemptions they are entitled to for age 65 or blindness, and either or both of them have any Montana source income.

(2)(e) ~~An~~ The estate of a decedent who was a resident ~~or trust~~ must file a return if its gross income for the year from all sources exceeds its exemption allowance. ~~In the case of estates and trusts, the fiduciary is responsible for making the return.~~

(f) The estate of a decedent who was a nonresident must file a return if its income from all sources exceeds its exemption allowance, and the estate has any Montana source income.

(g) A non-business trust which is not a grantor trust and is subject to the Montana Trust Code, Title 72, chapter 33, MCA, must file a return if its gross income for the year from all sources exceeds its exemption allowance.

(h) A business trust, including an REIT, is treated as a C corporation taxable under Title 15, chapter 31, MCA. See chapters 23 and 24 of Title 42, Administrative Rules of Montana, for the corporation license tax rules.

(2) A nonresident's distributive share of a pass-through entity's Montana source income is included in determining a nonresident's obligation to file a Montana individual income tax return.

(3) remains the same.

AUTH: Sec. 15-1-201, 15-30-305, and 15-31-501, MCA

IMP: Sec. 15-30-142, and 15-30-143, 15-30-1102, 15-30-1111, and 15-30-1112, MCA

**REASONABLE NECESSITY:** The department is proposing to amend ARM 42.15.301 to address a change made by the 2001 Legislature when it enacted a definition of Montana source income and clarified the taxation of nonresidents and income tax return filing options of nonresidents who receive Montana source income directly or through a pass-through entity. The amendments reflect the requirements for nonresidents to file a Montana individual income tax return in certain circumstances.

**42.15.321 JOINT RETURNS** (1) A joint return may be filed even though one of the spouses has no income or deductions. However, a joint return is not permitted if the husband and wife have different taxable years or if ~~both spouses have different~~

states of domicile one is a resident and one is a nonresident or either is a part-year resident. A joint return must include all income and deductions of both spouses. If a joint return is filed, ~~B~~both the husband and the wife must sign the return, and both are jointly and severally liable for the tax.

(2)(a) If a joint return has been filed for a taxable year, the spouses may file separate returns for the same taxable year. If the time for filing for both spouses has not expired, department consent to the separate filing is not required. If the time for filing the return of either spouse has expired, and both agree to file separate returns after filing a joint return, department consent is required.

~~(b)~~(a) In order for consent to be given, the following conditions must be met:

- (i) ~~B~~both spouses must agree to file separate returns;
- (ii) All prior years tax liabilities must be paid; and
- (iii) ~~T~~he tax liability for the tax year for which a change is sought must be paid.

~~(c)~~(b) If the above conditions are met, consent is considered granted if the department does not notify the taxpayers in writing of disapproval of the amended return or returns.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-30-142, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.15.321 to clarify that married couples, both of whom are nonresidents, are not precluded from electing to file a joint return.

42.15.322 SEPARATE RETURNS FOR MARRIED TAXPAYERS (1) If husband and wife file separate returns, each must report their own adjusted gross income. Under no circumstances may income be arbitrarily assigned from one spouse to the other.

(2)(a) Income from salaries, wages, bonuses, and commissions and other income derived from personal services rendered either as an employee or as an independent contractor, must be reported by the spouse who earned it.

~~(b)~~(3) Income such as rents, royalties, dividends, and interest must be reported by the spouse who owns the property from which the income is derived. If such income is derived from property which is jointly owned by the spouses, the income must be split equally unless the taxpayers show a different proportional ownership.

~~(c)~~(4) Income from pass-through entities must be reported by the spouse who is the partner, shareholder, member, or other owner of the interest in the pass-through entity to which the income is attributable. If such income is derived from the joint ownership of stock in a corporation, the income must be split equally unless the taxpayers show a different proportional ownership.

(5) The net income from any business conducted as a sole proprietorship or conducted by a disregarded entity that is treated as a sole proprietorship, must be reported in full by

the spouse who is the individual proprietor. However, in the event the proprietor's spouse regularly and systematically renders substantive personal services in the operation of the business and with respect to which services he or she is not paid a salary or wages, the proprietor and the spouse may, at their option, agree that the spouse earned an amount equivalent to reasonable compensation for the services rendered, and such amount shall be deemed income taxable to that spouse as compensation for services rendered, and such amount shall reduce the proprietorship income taxable to the spouse who is the actual proprietor. Income deemed earned by the spouse for services rendered cannot be justified solely by a legal property-holding arrangement, but must be justified by showing a substantial contribution of personal services. The allocated amount cannot exceed the gross income derived from a sole proprietorship.

~~(3)(6) This regulation shall be applicable rule applies to income earned on or after January 1, 1973.~~

~~(4)(7) A married couple who have different taxable years or have different states of domicile are required to file on separate income tax forms. A joint return is not allowed and separate returns must be filed by each spouse if they have different taxable years, or one is a resident and one is a nonresident or either is a part-year resident.~~

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-30-142, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.15.322 to clarify the pass-through legislation that was enacted by the 2001 Legislature. The amendments to the rule address the allocation between spouses of income from pass-through entities.

42.16.1201 INTENT (1) ~~The following regulations are applicable to Articles II and IV of the Multistate Tax Compact, 15-1-601, MCA, and to 15-30-131(1), MCA. Statutory references in these regulations are to 15-30-131(1), MCA, but also apply to Articles II and IV of the Multistate Tax Compact, 15-1-601, MCA.~~

~~(2) These regulations are intended to set forth rules concerning the application of the apportionment and allocation provisions of Title 15, chapter 30, part 1, MCA, and Article IV of 15-1-601, MCA.~~

~~(3) The only exceptions to these allocation and apportionment rules contained in these regulations are set forth in ARM 42.16.1226 through 42.16.1229 pursuant to the authority of Article IV, Subsection (18), 15-1-601, MCA. For purposes of individual income taxes, the department adopts by reference the rules contained in ARM Title 42, chapter 26, sub-chapters 1, 2, 4, 6, 7, 8, and 9 as they exist on [date of adoption].~~

(2) When applying the rules referred to in (1) for individual income tax purposes, the terms "individual" or "entity" shall replace the term "corporation," and the provisions of Title 15, chapter 30, MCA, shall replace references to Title 15, chapter 31, MCA.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.16.1201 because rules that apply to apportionment and allocation are also located in ARM Title 42, Chapter 26. The department is adopting by reference those rules and amending this rule to reflect the same. The remaining rules in Chapter 16 that apply to this subject are being repealed.

42.26.202 DEFINITIONS (1) through (16) remain the same.

~~(17) "Partnership" is defined as a syndicate, group, pool, joint venture, or other unincorporated organization, through which any business, financial operation, or venture is carried on. This definition also includes unincorporated organizations that may have elected to be excluded from the partnership rules for federal purposes including, but not limited to, those used for the following purposes:~~

~~(a) investment motivations, rather than the active conduct of a trade or business;~~

~~(b) joint or undivided production, extraction, or use of property; and~~

~~(c) underwriting, selling, or distributing a specific security issue.~~

(18) and (19) remain the same but are renumbered (17) and (18).

~~(20)~~(19) "Taxpayer" means any corporation, partnership, firm, association, disregarded entity, governmental unit or agency, or person acting as a business entity.

(21) through (24) remain the same but are renumbered (20) through (23).

AUTH: Sec. 15-1-201, 15-31-313, and 15-31-501, MCA

IMP: Sec. 15-1-601, 15-31-301, 15-31-302, 15-31-303, 15-31-304, 15-31-305, 15-31-306, 15-31-307, 15-31-308, 15-31-309, 15-31-310, 15-31-311, 15-31-312, 15-31-321, 15-31-322, 15-31-323, 15-31-324, 15-31-325, and 15-31-326, MCA

REASONABLE NECESSITY: Federal "check-one box" regulations and other federal tax law changes providing for disregarding the separate existence of entities require amendments to the rule to take the new situations into account.

42.26.209 TAXABILITY (1) The concept of taxability in another state is based upon the premise that every state in which the taxpayer is engaged in business activity may impose an income tax even though every state does not do so. In states which do not, other types of taxes may be imposed as a substitute for an income tax. Therefore, only those taxes enumerated in 15-31-303, MCA, which may be considered as basically revenue-raising, rather than regulatory, measures shall be considered in determining whether the taxpayer is "subject to" one of the taxes specified in 15-31-303, MCA, in another state. Taxes not imposed on an entity but passed through to and included in the income of the entity's owners are

not considered in determining whether the taxpayer is "subject to" one of the taxes specified in 15-31-303, MCA.

AUTH: Sec. 15-1-201, 15-31-313, and 15-31-501, MCA

IMP: Sec. 15-1-601 and 15-31-303, MCA

REASONABLE NECESSITY: See the justification to ARM 42.26.202.

42.26.211 CONCEPT OF "SUBJECT TO" A TAX (1) A taxpayer is "subject to" one of the taxes specified in 15-31-303, MCA, if it carries on business activities in such state and that state imposes such a tax on the taxpayer. Any taxpayer which that asserts that it is subject to one of the taxes specified in 15-31-303, MCA, in another state shall furnish to the department, upon its request, evidence to support such assertion. The department may request that such evidence include proof that the taxpayer has filed the requisite tax return in the other state and has paid any taxes imposed under the law of the other state. The taxpayer's failure to produce such proof may be taken into account in determining whether the taxpayer in fact is subject to one of the taxes specified in 15-31-303, MCA, in the other state.

(2) If the taxpayer voluntarily files and pays one or more of such taxes when not required to do so by the laws of that state, or pays a minimal fee for qualification, for organization, or for the privilege of doing business in that state, but does not actually engage in business activity in that state or does actually engage in business activity, not sufficient for nexus, and the minimum tax bears no relation to the taxpayer's business activity within that state, the taxpayer is not "subject to" one of the taxes specified within the meaning of 15-31-303, MCA.

AUTH: Sec. 15-1-201, 15-31-313, and 15-31-501, MCA

IMP: Sec. 15-1-601 and 15-31-303, MCA

REASONABLE NECESSITY: See the justification to ARM 42.26.202.

42.26.228 TREATMENT OF PARTNERSHIPS AND DISREGARDED ENTITIES IN THE APPORTIONMENT FORMULA (1) If the operations of the a partnership or disregarded entity are unitary with the business operations of the a corporate partner or disregarded entity owner, the corporate partner's or owner's prorata share of the partnership's property, payroll, and sales of the partnership or disregarded entity will be included in the computation of the apportionment factors.

(2) The definition of unitary will be the same as the definition of a unitary business as outlined in 15-31-301, MCA. However, the corporate partner or disregarded entity owner need not own in excess of 50% of the partnership or disregarded entity for the partnership or disregarded entity to be unitary.

AUTH: Sec. 15-31-313 and 15-31-501, MCA

IMP: Sec. 15-31-305, MCA

REASONABLE NECESSITY: See the justification to ARM 42.26.202.

42.26.229 PARTNERSHIPS AND DISREGARDED ENTITIES - NON-

BUSINESS INCOME (1) A partnership or disregarded entity that is not part of a ~~corporate partner's~~ unitary business operation of a corporate partner or disregarded entity owner will be treated as follows:

(a) The corporate partner's or disregarded entity owner's share of partnership or disregarded entity income will not be included in business income to be apportioned, but allocated to the states where the partnership or disregarded entity operates based upon the apportionment formula outlined in 15-31-305, MCA.

(2) Gain or loss from the sale of a non-unitary partnership or disregarded entity owner interest is allocable to this state in the ratio of the original cost of partnership or disregarded entity tangible property in this state to the original cost of partnership or disregarded entity tangible property everywhere, determined at the time of sale. In the event that more than 50% of the value of a ~~partnership's~~ the assets of a partnership or disregarded entity consists of intangibles, gain, or loss from the sale of the partnership or disregarded entity owner interest shall be allocated to this state in accordance with the sales factor of the partnership or disregarded entity for its first full tax period immediately preceding its tax period during which the partnership or disregarded entity interest was sold. If a disregarded entity does not have a tax period, the allocation will be made in accordance with the sales factor of the partnership or disregarded entity for the 12 full calendar months preceding the month the interest was sold.

AUTH: Sec. 15-31-501, MCA

IMP: Sec. 15-31-304 and 15-31-305, MCA

REASONABLE NECESSITY: See the justification to ARM 42.26.202.

5. The department proposes to transfer and amend the following rules to new Chapter 9 relating to pass-through entity activities:

42.15.307 [42.9.110] SUBCHAPTER "S" CORPORATION ADDITION TO MONTANA ADJUSTED GROSS INCOME (1) An subchapter "S" corporation shareholder's income is that income included in federal adjusted gross income plus:

(1)(a) An amount equal to the federal tax on capital gains and the minimum tax paid by the corporation times the shareholder's percentage of ownership; and

(2)(b) An amount equal to the excess net passive federal income tax paid by the corporation times the shareholder's percentage of ownership; and

(3)(c) All other amounts equal to federal taxes paid by the corporation that reduce the shareholder's distribution of the net sub "S" corporation income.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-30-111, MCA

REASONABLE NECESSITY: The department is proposing to amend and

transfer ARM 42.15.307 to new Chapter 9 because it is applicable to the pass-through entity rules.

42.15.701 [42.9.101] DEFINITIONS (1) As used in this sub-chapter the following definitions apply The following definitions apply to this chapter:

~~(a) The term "entity" shall mean any such business organization as defined in (b).~~

~~(b) The term "multi-jurisdictional entity" means any business organization which is classified as a partnership, S corporation, limited liability partnership or a limited liability company for tax purposes by Montana and has nonresident partners, members or shareholders.~~

~~(c) An "eligible nonresident partner or shareholder" means an individual who does not reside in Montana and whose only Montana source income is derived from the entity.~~

(1) "Eligible participant" means a partner of a partnership or a shareholder of an S corporation who is a nonresident individual whose only Montana source income for the tax year is from partnerships or S corporations electing to file composite returns and pay composite taxes on the individual's behalf.

(2) A participant's "share of a partnership's or S corporation's income" is the aggregate of his or her share of the pass-through entity's income, gain, loss, or deduction or item of income, gain, loss, or deduction.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-30-1112, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.15.701 to further clarify terms used in this chapter.

42.15.702 [42.9.201] COMPOSITE RETURN - ELECTION (1) A multi-jurisdictional entity, partnership or S corporation may elect to file a composite tax return, and remit pay a composite tax payment on behalf of all eligible non-resident partners, shareholders, and members of a limited liability company participants who consent to be included in the filing. The tax is based on the aggregate amount of each eligible partner's, shareholder's and member's distributive share of the entity's taxable income earned in Montana for a taxable year.

(2) The composite tax payment shall be remitted by the entity to Montana for the eligible nonresident partners, members or shareholders covering the aggregate tax on the total of the net distributive Montana income from the entity of those individuals included in the composite return. The partnership or S corporation filing a composite return must maintain and make available to the department, on request, a written power of attorney of each consenting, eligible participant authorizing it to file the composite return and act on the individual's behalf.

(3) A nonresident partner's, member's or shareholder's share of entity's federal income is the aggregate of such partner's, member's or shareholder's share of each item of the entity's income, gain, deduction, loss and credit. Any

assessments of additional tax, penalties, and interest are the responsibility of the entity filing the composite return and will be based on the entity's total liability. Any additional assessment will be based on the total liability of the composite return.

(4) The entity, when filing a composite return, is acting on behalf of the individual partners, members or shareholders. The entity or its representative must represent the eligible participants in any appeals, claims for refunds, hearings, or court proceedings in any matter relating to the filing of the composite return.

AUTH: Sec. 15-30-305 15-30-1112, MCA

IMP: Sec. 15-30-105 15-30-1112, MCA

REASONABLE NECESSITY: The 2001 Legislature enacted provisions for composite returns in 15-30-1112, MCA. The amendments to this rule are necessary to clarify the filing requirements for composite tax returns.

42.15.704 [42.9.202] FILING REQUIREMENT (1) The due date for filing a composite tax return is the same due date as the Montana individual income tax return. The Montana Composite Income Tax Return, Form PT-CR1, is due on or before the due date (including extensions) of the entity's information return provided in [NEW RULE III] and [NEW RULE IV]. Extension of the date for filing the composite return does not extend the date for paying the composite tax, and interest accrues from the original due date of the return.

(2) The composite return must include The the name, of each eligible nonresident partner, member, or shareholder shall be stated on a supporting schedule included with the return, along with each eligible partner's, member's, or shareholder's address, social security or employer identification number, respective interest in the entity, and composite return liability of each consenting eligible participant included in the filing. distributive share of the entity's taxable income, income earned in Montana and such other information as the department may require.

(3) The minimum filing threshold for each eligible nonresident partner or shareholder of a composite return is the same as the filing requirement for a single nonresident individual.

(4) A composite return will be filed on forms prescribed by the department.

(5) An entity intending to file a composite return may request an extension of time to file under the same laws that are applicable to an individual.

AUTH: Sec. 15-30-305 and 15-30-1112, MCA

IMP: Sec. 15-30-105 and 15-30-1112, MCA

REASONABLE NECESSITY: See the justification to ARM 42.15.702.

42.15.705 [42.9.203] COMPUTATION OF COMPOSITE TAX (1) The entity's Montana income shall be computed taking into account all items of income, gain, deductions, losses and credits or other expenses of the entity which are deductible only by the entity and



which are attributable to Montana. The composite tax, required to be remitted to the department with the composite tax return, is the sum of each electing eligible participant's composite tax liability.

(2) An eligible nonresident partner's, member's, or shareholder's share of income earned in Montana is the aggregate of each item of the entity's income, gain, deduction, loss and credits in Montana. If this cannot be easily attained, the entity should use the formula set out in ARM 42.16.1117 to apportion income to Montana. The composite return liability of each eligible consenting participant is the product obtained by:

(a) determining the tax that would be imposed, using the rates specified in 15-30-103, MCA, on the sum obtained by subtracting the allowable standard deduction for a single individual, an amount adjusted annually, and one exemption allowance (\$800), from the participant's share of the entity's income from all sources as determined for federal income tax purposes; and

(b) multiplying that amount by the ratio of the entity's Montana source income to the entity's income from all sources for federal income tax purposes.

(3) The taxable income for each eligible nonresident partner, member, or shareholder is found by deducting the allowable standard deduction for a single individual and one exemption allowance from the participant's share of their federal income from the entity.

(4) The tax for each eligible nonresident partner, member, or shareholder is found by calculating the tax on the participant's taxable income using the rates specified in 15-30-103, MCA. The tax due and payable is then determined by taking the ratio of each nonresident partner's, member's, or shareholder's income earned in Montana from the entity to the partner's, member's, or shareholder's total federal income from the entity times the total tax on the partner's or shareholder's Montana taxable income.

(5) The entity is required to make quarterly estimated tax payments as prescribed by 15-30-241, MCA, computed separately for each participant included in the filing of a composite return.

(6) The entity is subject to the old fund liability tax. The old fund liability tax is equal to 0.2% of the Montana income of each eligible nonresident partner, member, or shareholder. The income subject to the old fund liability tax is the nonresident partner's or shareholder's share of the entity's ordinary income derived from Montana sources. However, income from a publicly traded limited liability partnership is not subject to the old fund liability tax.

(7) The old fund liability tax is subject to the estimated tax provisions and must be included with the four installments when filing estimated taxes.

(8) The total tax due of the composite return consists of the total of all the eligible nonresident partners' or shareholders' Montana income tax and old fund liability tax.

Example: Assume an S corporation's federal return shows income from all sources of \$60,000, \$20,000 of which is Montana source income, and that an eligible participant's share of the S corporation's income is one-fourth, or \$15,000. The eligible participant's composite return liability is \$189:

<u>Share of entity income from all sources</u>	<u>\$15,000</u>
<u>Standard deduction (2001)</u>	<u>(3,230)</u>
<u>Exemption allowance</u>	<u>( 800)</u>
	<u>\$10,970</u>

Tax rate on:

<u>first \$1,000 - 2%</u>	<u>\$ 20</u>
<u>next \$1,000 - 3%</u>	<u>\$ 30</u>
<u>next \$2,000 - 4%</u>	<u>\$ 80</u>
<u>next \$2,000 - 5%</u>	<u>\$100</u>
<u>next \$2,000 - 6%</u>	<u>\$120</u>
<u>next \$2,000 - 7%</u>	<u>\$140</u>
<u>    \$ 970 - 8%</u>	<u>\$ 78</u>

\$568 x 1/3 (20,000/60,000) = \$189

AUTH: Sec. 15-30-305 and 15-30-1112, MCA  
IMP: Sec. ~~15-30-105~~, 15-30-1112, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.15.705 to implement the changes made by the 2001 Legislature regarding composite returns. These amendments bring the rule into compliance with the current statute.

6. The department is proposing to transfer and amend the following rule to Chapter 17 - business tax:

42.15.311 [42.17.122] ~~INFORMATION RETURN RETURNS OF INFORMATION AGENTS~~ (1) ~~Agent Information~~ returns are required to be filed for certain dividends, interest in excess of \$10, royalties, payments to retirement plans, rents, salaries, wages, prizes, awards, annuities, pensions, and real estate transactions as specified in 15-30-301, MCA. These agent information returns may be filed on paper documents, electronically, or on magnetic media. They are due on or before the 15th day of April following the close of the calendar year with respect to which the payments made are being reported. The returns are to be filed with the Montana Department of Revenue, ~~Income and Miscellaneous Tax Division, Compliance Section, P.O. Box 202701 5805, Helena, Montana 59620-2701 59604-5805.~~

(2) Paper documents are to be prepared on the appropriate federal information return and a copy filed with the department. Returns filed on paper forms are to be accompanied by a copy of federal form 1096 summarizing the information being reported to the department.

(3) ~~Agent Information~~ returns filed electronically or on magnetic media are to conform to the specifications outlined in federal publication 1220 for the applicable year. A copy of

federal form 4804/4802 must be used to transmit the magnetic files.

~~(4) Distributions to recipients with a Montana address from pension, profit sharing, stock bonus, or annuity plans, deferred compensation plans, an IRA or commercial annuity program must be reported to the department on paper document or magnetic media.~~

~~(5) Only information returns reporting payments that are taxable under Title 15, chapter 30, MCA, are to be reported to the department on paper document, electronic or magnetic media.~~

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-30-301, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.15.311 to address the pass-through entity information returns that are also "information" returns. This rule applies only to returns required of information agents for which electronic filings are common and provided, and changing the title is necessary to prevent confusion. The department further amends the rule to correct the mailing address and deletes (4) and (5) because those subsections are no longer applicable. The department is proposing to transfer this rule to Chapter 17 because the subject fits in the business tax area.

7. The Department proposes to repeal the following rules:

42.15.101 DEFINITIONS which can be found on page 42-1505 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-30-101 and 15-30-105, MCA

REASONABLE NECESSITY: The department is proposing to repeal ARM 42.15.101 because these definitions were moved to ARM 42.2.304 which apply to rules for all of ARM Title 42.

42.15.202 TAXABLE YEAR DEFINED which can be found on page 42-1521 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-30-101, MCA

REASONABLE NECESSITY: See the justification for ARM 42.15.101.

42.15.203 YEARS DEFINED which can be found on page 42-1521 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-30-101, MCA

REASONABLE NECESSITY: See the justification for ARM 42.15.101.

42.15.212 PAID AND RECEIVED DEFINED which can be found on page 42-1525 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-30-101, MCA

REASONABLE NECESSITY: See the justification for ARM 42.15.101.

42.15.304 PARTNERSHIP RETURN which can be found on page 42-1532 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-30-133, MCA

REASONABLE NECESSITY: The department is proposing to repeal ARM 42.15.304 because New Rule III replaces this rule and it will be placed in new Chapter 9.

42.15.306 SUB "S" CORPORATION AND PARTNERSHIP LOSSES which can be found on page 42-1532 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-30-133 and 15-31-101, MCA

REASONABLE NECESSITY: The department is proposing to repeal ARM 42.15.306 because the rule is no longer applicable under the current law.

42.15.703 ELIGIBILITY which can be found on page 42-1595 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-30-105, MCA

REASONABLE NECESSITY: The department is proposing to repeal ARM 42.15.703 because information relative to eligibility requirements is now contained in 15-30-1112, MCA. Therefore, this rule is no longer necessary.

42.16.1202 DEFINITIONS which can be found on page 42-1671 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: The department is proposing to repeal the rules that are related to the Multi-state Tax Compact because they are redundant with rules located in Chapter 26. Those rules also implement the principles of allocation and apportionment of income for Montana.

42.16.1203 TWO OR MORE BUSINESSES OF A SINGLE TAXPAYER which can be found on page 42-1671 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1204 BUSINESS AND NONBUSINESS INCOME DEFINED which can be found on page 42-1672 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1205 DETERMINATION OF BUSINESS AND NONBUSINESS INCOME which can be found on page 42-1673 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1206 TAXABLE IN ANOTHER STATE which can be found on page 42-1674 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1207 APPORTIONMENT FORMULA which can be found on page 42-1674 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1208 PROPERTY FACTOR IN GENERAL which can be found on page 42-1674 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1209 PROPERTY USED FOR THE PRODUCTION OF BUSINESS INCOME which can be found on page 42-1675 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1210 CONSISTENCY IN REPORTING WITH RESPECT TO PROPERTY which can be found on page 42-1675 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1211 NUMERATOR OF PROPERTY which can be found on page 42-1675 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1212 VALUATION OF OWNED PROPERTY which can be found on page 42-1676 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1213 VALUATION OF RENTED PROPERTY which can be found on page 42-1676 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1214 AVERAGING PROPERTY VALUES which can be found on page 42-1677 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1215 PAYROLL FACTOR IN GENERAL which can be found on page 42-1678 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1216 CONSISTENCY IN REPORTING WITH RESPECT TO PAYROLL which can be found on page 42-1679 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1217 DENOMINATOR OF PAYROLL FACTOR which can be found on page 42-1679 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1218 NUMERATOR OF PAYROLL FACTOR which can be found on page 42-1679 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1219 SALES FACTOR IN GENERAL which can be found on page 42-1680 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA  
IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1220 CONSISTENCY IN REPORTING WITH RESPECT TO SALES which can be found on page 42-1682 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA  
IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1221 DENOMINATOR OF SALES FACTOR which can be found on page 42-1682 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA  
IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1222 NUMERATOR OF SALES FACTOR which can be found on page 42-1682 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA  
IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1223 SALES OF TANGIBLE PERSONAL PROPERTY which can be found on page 42-1682 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA  
IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1224 SALES OF TANGIBLE PERSONAL PROPERTY TO FEDERAL GOVERNMENT which can be found on page 42-1683 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA  
IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1225 SALES OTHER THAN SALES OF TANGIBLE PERSONAL PROPERTY which can be found on page 42-1683 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA  
IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1226 SPECIAL APPORTIONMENT AND ALLOCATION COMPUTATIONS which can be found on page 42-1685 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1227 SPECIAL COMPUTATIONS RELATED TO PROPERTY FACTOR which can be found on page 42-1686 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1228 SPECIAL COMPUTATIONS RELATED TO SALES FACTOR which can be found on page 42-1686 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.16.1229 SPECIAL COMPUTATIONS RELATED TO FREIGHT AND PASSENGER CARRIERS which can be found on page 42-1687 of the Administrative Rules of Montana.

AUTH: Sec. 15-30-305, MCA

IMP: Sec. 15-1-601 and 15-30-131, MCA

REASONABLE NECESSITY: See the justification for ARM 42.16.1202.

42.23.201 ACCOUNTING PERIODS which can be found on page 42-2313 of the Administrative Rules of Montana.

AUTH: Sec. 15-31-501, MCA

IMP: Sec. 15-31-112, MCA

REASONABLE NECESSITY: The department is proposing to repeal ARM 42.23.201 because the rule is no longer applicable.

42.24.102 ELECTION AS TO TAX TREATMENT which can be found on page 42-2405 of the Administrative Rules of Montana.

AUTH: Sec. 15-31-501, MCA

IMP: Sec. 15-31-202, MCA;

REASONABLE NECESSITY: The department is proposing to repeal ARM 42.24.102 because it is no longer applicable. Section 15-31-202, MCA was repealed by the 1997 legislature.

42.24.121 RETURN OF ELECTING CORPORATION which can be found on page 42-2411 of the Administrative Rules of Montana.

AUTH: Sec. 15-31-501, MCA

IMP: Sec. 15-31-202, MCA

REASONABLE NECESSITY: The department is proposing to repeal ARM 42.24.121 because the contents of this rule are now incorporated into New Rule IV. New Rule IV will be placed in new Chapter 9.



42.24.123 SHAREHOLDER RESPONSIBILITY AS TO CORPORATE INCOME which can be found on page 42-2411 of the Administrative Rules of Montana.

AUTH: Sec. 15-31-501, MCA

IMP: Sec. 15-31-202, MCA

REASONABLE NECESSITY: See justification for ARM 42.24.102.

8. 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 November 29, 2002.

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

10. 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.

11. 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 8 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.

12. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

/s/ Cleo Anderson  
CLEO ANDERSON  
Rule Reviewer

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

Certified to Secretary of State October 21, 2002

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC HEARING  
amendment of ARM 42.21.113, ) ON PROPOSED AMENDMENT  
42.21.123, 42.21.125, 42.21.131,) AND REPEAL  
42.21.137, 42.21.138, 42.21.139,)  
42.21.140, 42.21.151, 42.21.153,)  
42.21.155, 42.21.158, 42.22.160,)  
and 42.22.1311; and repeal of )  
42.21.122 relating to personal )  
property and centrally assessed )  
property tax trend tables )

TO: All Concerned Persons

1. On November 25, 2002, at 1:00 p.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 42.21.113, 42.21.123, 42.21.125, 42.21.131, 42.21.137, 42.21.138, 42.21.139, 42.21.140, 42.21.151, 42.21.153, 42.21.155, 42.21.158, 42.21.160, and 42.22.1311; and repeal of ARM 42.21.122 relating to personal property and centrally assessed property tax trend tables.

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., November 18, 2002, 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 proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

42.21.113 LEASED AND RENTAL EQUIPMENT (1) Leased or rental equipment ~~which meets the criteria of 15-6-136, MCA, that is leased or rented on an hourly, daily, or weekly basis, but is not exempt under 15-6-201(1)(cc), MCA,~~ will be valued in the following manner:

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

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
<del>2001</del> <u>2002</u>	70%
<del>2000</del> <u>2001</u>	43%
<del>1999</del> <u>2000</u>	18%
<del>1998</del> <u>1999</u> and older	8 <u>9%</u>

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

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
<del>2001</del> <u>2002</u>	85%
<del>2000</del> <u>2001</u>	69%
<del>1999</del> <u>2000</u>	52%
<del>1998</del> <u>1999</u>	34%
<del>1997</del> <u>1998</u> and older	20%

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

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
<del>2001</del> <u>2002</u>	92%
<del>2000</del> <u>2001</u>	85%
<del>1999</del> <u>2000</u>	78 <u>77%</u>
<del>1998</del> <u>1999</u>	69%
<del>1997</del> <u>1998</u>	60%
<del>1996</del> <u>1997</u>	52 <u>51%</u>
<del>1995</del> <u>1996</u>	43 <u>42%</u>
<del>1994</del> <u>1995</u>	34 <u>33%</u>
<del>1993</del> <u>1994</u>	27%
<del>1992</del> <u>1993</u> and older	23%

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

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
<del>2002</del> <u>2003</u>	80%
<del>2001</del> <u>2002</u>	65%
<del>2000</del> <u>2001</u>	53 <u>52%</u>
<del>1999</del> <u>2000</u>	51 <u>47%</u>
<del>1998</del> <u>1999</u>	47 <u>49%</u>
<del>1997</del> <u>1998</u>	40 <u>43%</u>
<del>1996</del> <u>1997</u>	39 <u>42%</u>
<del>1995</del> <u>1996</u>	39 <u>38%</u>
<del>1994</del> <u>1995</u>	32 <u>36%</u>
<del>1993</del> <u>1994</u>	32 <u>36%</u>
<del>1992</del> <u>1993</u>	30 <u>32%</u>
<del>1991</del> <u>1992</u>	29 <u>30%</u>
<del>1990</del> <u>1991</u>	27 <u>30%</u>

<del>1989</del> <u>1990</u>	28%
<del>1988</del> <u>1989</u>	<del>26</del> <u>27</u> %
<del>1987</del> <u>1988</u>	<del>22</del> <u>27</u> %
<del>1986</del> <u>1987</u>	<del>21</del> <u>25</u> %
<del>1985</del> <u>1986</u>	20%
<del>1984</del> <u>1985</u>	20%
<del>1983</del> <u>1984</u> and older	20%

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

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
<del>2001</del> <u>2002</u>	25%
<del>2000</del> <u>2001</u>	15%
<del>1999</del> <u>2000</u> and older	10%

(2) For all other leased property ~~not meeting the criteria of 15-6-136, MCA, that is not rented on an hourly, daily, or weekly basis,~~ the valuation procedures shall be the same as other like personal property.

(3) remains the same.

(4) All leased and rental property not exempt under 15-6-201(1)(cc), MCA, will be assessed and taxed as class eight property.

~~(4)~~(5) This rule is effective for tax years beginning after December 31, ~~2001~~ 2002.

AUTH: Sec. 15-1-201 and 15-23-108, MCA

IMP: Sec. 15-6-135, 15-6-136, 15-6-138, 15-6-207, 15-24-921, 15-24-922, and 15-24-925, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.21.113 because class six lease and rental property is exempt from property tax effective January 1, 2003. The department is retaining the valuation methodology in the rule for leased and rented property that is rented on an hourly, daily, or weekly basis, but that does not meet all the criteria of class six property that is exempt.

42.21.123 FARM MACHINERY AND EQUIPMENT (1) The market value for farm machinery and equipment shall be the "average wholesale" value as shown in the ~~Guides 2000~~ Iron Solutions, Northwest Region Official Guide, Fall Edition, for the year previous to the year of the assessment. This guide may be reviewed in the department or purchased from the publisher: North American Equipment Dealers Association, 10877 Watson Road, St. Louis, Missouri 63127-1081.

(2) through (4) remain the same.

(5) The trended depreciation schedule referred to in (2) through (4) is listed below and shall be used for tax year ~~2002~~ 2003. The schedule is derived by using the guidebook listed in (1) as the data base. The values derived through use of the trended depreciation schedule will approximate average wholesale value.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD AVERAGE WHOLESALE</u>
2002 2003	80%
2001 2002	65%
2000 2001	61 64%
1999 2000	55 58%
1998 1999	53 51%
1997 1998	47 48%
1996 1997	46 43%
1995 1996	45 41%
1994 1995	38 41%
1993 1994	34 36%
1992 1993	33%
1991 1992	34 31%
1990 1991	30 32%
1989 1990	30 28%
1988 1989	24 28%
1987 1988	21 23%
1986 1987 and older	20%

(6) remains the same.

(7) This rule is effective for tax years beginning after December 31, 2001 2002.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-6-135, 15-6-136, 15-6-138, 15-6-207, 15-24-921, 15-24-922, and 15-24-925, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.21.123 to bring it into compliance with statutory requirements of 15-8-111, MCA. The statute does not address in detail how the department must arrive at market value, and the trend tables provide that information for the taxpayer. The name of the valuation guide referred to in the rule has changed so the rule is amended to correct that reference.

42.21.125 BUSINESS EQUIPMENT (1) and (2) remain the same.

~~(3) Business equipment held pursuant to a purchase incentive rental program shall remain in the dealer's business inventory subject to the following criteria:~~

~~(a) The equipment is rented to one or more consumers as part of a purchase incentive program;~~

~~(b) The rental to a consumer shall not exceed one year; and~~

~~(c) There is no depreciation allocated to the equipment for the purpose of filing Montana income tax or corporation tax returns. (Reference IRS Rule 167-G)~~

~~(4) The department may require a copy of the purchase incentive rental program standards and criteria referred to in (3)(a).~~

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

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-6-202, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.21.125 because the department believes that (3) and (4) of the rule complicate rather than clarify how business equipment is taxed. The inventory exemption statute is fairly clear and has never been challenged. The rule as amended would simply reiterate the special emphasis in the inventory statute (15-6-202, MCA) that "business inventories do not include goods that are leased or rented" and allow for dealer sales and demonstration programs to remain as inventory.

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

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

(5) The trended depreciation schedule referred to in (2), (3), and (4) is listed below and shall be used for tax year ~~2002~~ 2003. The values derived through the use of these percentages approximate the "quick sale" values as calculated in the guidebooks listed in (1).

HEAVY EQUIPMENT TRENDED DEPRECIATION SCHEDULE

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD WHOLESALE</u>
<del>2002</del> <u>2003</u>	80%
<del>2001</del> <u>2002</u>	65%
<del>2000</del> <u>2001</u>	53 <u>52%</u>
<del>1999</del> <u>2000</u>	51 <u>47%</u>
<del>1998</del> <u>1999</u>	47 <u>49%</u>
<del>1997</del> <u>1998</u>	40 <u>43%</u>
<del>1996</del> <u>1997</u>	39 <u>42%</u>
<del>1995</del> <u>1996</u>	39 <u>38%</u>
<del>1994</del> <u>1995</u>	32 <u>36%</u>
<del>1993</del> <u>1994</u>	32 <u>36%</u>
<del>1992</del> <u>1993</u>	30 <u>32%</u>
<del>1991</del> <u>1992</u>	29 <u>30%</u>
<del>1990</del> <u>1991</u>	27 <u>30%</u>
<del>1989</del> <u>1990</u>	28%
<del>1988</del> <u>1989</u>	26 <u>27%</u>
<del>1987</del> <u>1988</u>	22 <u>27%</u>
<del>1986</del> <u>1987</u>	21 <u>25%</u>
<del>1985</del> <u>1986</u>	20%
<del>1984</del> <u>1985</u>	20%
<del>1983</del> <u>1984</u> and before	20%

(6) This rule is effective for tax years beginning after December 31, ~~2001~~ 2002, and applies to all heavy equipment.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-6-135, 15-6-136, 15-6-138, 15-6-140, 15-6-207, 15-24-921, 15-24-922, and 15-24-925, MCA

**REASONABLE NECESSITY:** The department is proposing to amend ARM 42.21.131 to update the tables because the statute does not provide in detail how the department is to arrive at market value. Annually, the department updates these schedules so that taxpayers will know the current percentages used by the department when valuing and taxing their property. To determine the market value of personal property, the department has historically used and adopted the concept of trending and depreciation. The method by which trended depreciation schedules are derived is described in the existing rule, and that method is not being changed. The First Judicial District Court indicated in 1986 that the department must publish these trend tables annually and these amendments are in compliance with that order.

42.21.137 SEISMOGRAPH UNITS AND ALLIED EQUIPMENT

(1) through (3) remain the same.

(4) The trended depreciation schedules referred to in (1) through (3) are listed below and shall be used for tax year 2002 2003.

SEISMOGRAPH UNIT

<u>TRENDED</u> <u>YEAR/NEW</u> <u>ACQUIRED</u>	<u>% GOOD</u>	<u>TREND</u> <u>FACTOR</u>	<u>TRENDED</u> <u>% GOOD</u>	<u>WHOLESALE</u> <u>FACTOR</u>	<u>WHOLESALE</u> <u>% GOOD</u>
<del>2002</del> <u>2003</u>	100%	1.000	100%	80%	80%
<del>2001</del> <u>2002</u>	85%	1.000	85%	80%	68%
<del>2000</del> <u>2001</u>	69%	<del>1.009</del> <u>1.002</u>	<del>70</del> <u>69%</u>	80%	<del>56</del> <u>55%</u>
<del>1999</del> <u>2000</u>	52%	<del>1.026</del> <u>1.012</u>	53%	80%	43%
<del>1998</del> <u>1999</u>	34%	<del>1.031</del> <u>1.028</u>	35%	80%	28%
<del>1997</del> <u>1998</u>	20%	<del>1.041</del> <u>1.033</u>	21%	80%	17%
<del>1996</del> <u>1997</u> and older	5%	<del>1.055</del> <u>1.044</u>	5%	80%	4%

SEISMOGRAPH ALLIED EQUIPMENT

<u>YEAR/NEW</u> <u>ACQUIRED</u>	<u>% GOOD</u>	<u>TREND</u> <u>FACTOR</u>	<u>TRENDED</u> <u>% GOOD</u>
<del>2002</del> <u>2003</u>	100%	1.000	100%
<del>2001</del> <u>2002</u>	85%	1.000	85%
<del>2000</del> <u>2001</u>	69%	<del>1.009</del> <u>1.002</u>	<del>70</del> <u>69%</u>
<del>1999</del> <u>2000</u>	52%	<del>1.026</del> <u>1.012</u>	53%
<del>1998</del> <u>1999</u>	34%	<del>1.031</del> <u>1.028</u>	35%
<del>1997</del> <u>1998</u>	20%	<del>1.041</del> <u>1.033</u>	21%
<del>1996</del> <u>1997</u> and older	5%	<del>1.055</del> <u>1.044</u>	5%

(5) This rule is effective for tax years beginning after December 31, ~~2001~~ 2002.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-6-135, 15-6-136, 15-6-138, 15-6-207, 15-24-921, 15-24-922, and 15-24-925, MCA



**REASONABLE NECESSITY:** The department is proposing to amend ARM 42.21.137 for the same reasons as stated in the reasonable necessity for ARM 42.21.131.

42.21.138 OIL AND GAS FIELD MACHINERY AND EQUIPMENT

(1) and (2) remain the same.

(3) The trended depreciation schedule referred to in (1) and (2) is listed below and shall be used for tax year 2002 2003.

OIL AND GAS FIELD PRODUCTION  
EQUIPMENT TRENDED DEPRECIATION SCHEDULE

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<del>2002</del> <u>2003</u>	100%	1.000	100%
<del>2001</del> <u>2002</u>	95%	1.000	95%
<del>2000</del> <u>2001</u>	90%	<del>1.009</del> <u>1.002</u>	<del>91</del> <u>90%</u>
<del>1999</del> <u>2000</u>	85%	<del>1.026</del> <u>1.012</u>	<del>87</del> <u>86%</u>
<del>1998</del> <u>1999</u>	79%	<del>1.031</del> <u>1.028</u>	81%
<del>1997</del> <u>1998</u>	73%	<del>1.041</del> <u>1.033</u>	<del>76</del> <u>75%</u>
<del>1996</del> <u>1997</u>	68%	<del>1.055</del> <u>1.044</u>	<del>72</del> <u>71%</u>
<del>1995</del> <u>1996</u>	62%	<del>1.075</del> <u>1.057</u>	<del>67</del> <u>66%</u>
<del>1994</del> <u>1995</u>	55%	<del>1.115</del> <u>1.078</u>	<del>61</del> <u>59%</u>
<del>1993</del> <u>1994</u>	49%	<del>1.137</del> <u>1.118</u>	<del>56</del> <u>55%</u>
<del>1992</del> <u>1993</u>	43%	<del>1.152</del> <u>1.140</u>	<del>50</del> <u>49%</u>
<del>1991</del> <u>1992</u>	37%	<del>1.161</del> <u>1.155</u>	43%
<del>1990</del> <u>1991</u>	31%	<del>1.186</del> <u>1.164</u>	<del>37</del> <u>36%</u>
<del>1989</del> <u>1990</u>	26%	<del>1.217</del> <u>1.189</u>	<del>32</del> <u>31%</u>
<del>1988</del> <u>1989</u>	23%	<del>1.286</del> <u>1.220</u>	<del>30</del> <u>28%</u>
<del>1987</del> <u>1988</u>	20%	<del>1.341</del> <u>1.289</u>	<del>27</del> <u>26%</u>
and older			

(4) remains the same.

(5) This rule is effective for tax years beginning after December 31, ~~2001~~ 2002.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-6-135, 15-6-136, 15-6-138, 15-6-207, 15-24-921, 15-24-922, and 15-24-925, MCA

**REASONABLE NECESSITY:** The department is proposing to amend ARM 42.21.138 for the same reasons as stated in ARM 42.21.131.

42.21.139 WORK-OVER AND SERVICE RIGS (1) through (4) remain the same.

(5) The trended depreciation schedule referred to in (2) and (4) is listed below and shall be used for tax year 2002 2003.

SERVICE AND WORK-OVER RIG TRENDED DEPRECIATION SCHEDULE

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>WHOLESALE FACTOR</u>	<u>TRENDED WHOLESALE % GOOD</u>
<del>2002</del> <u>2003</u>	100%	1.000	80%	80%
<del>2001</del> <u>2002</u>	92%	1.000	80%	74%
<del>2000</del> <u>2001</u>	84%	<del>1.009</del> <u>1.002</u>	80%	<del>68</del> <u>67</u> %
<del>1999</del> <u>2000</u>	76%	<del>1.026</del> <u>1.012</u>	80%	62%
<del>1998</del> <u>1999</u>	67%	<del>1.031</del> <u>1.028</u>	80%	55%
<del>1997</del> <u>1998</u>	58%	<del>1.041</del> <u>1.033</u>	80%	48%
<del>1996</del> <u>1997</u>	49%	<del>1.055</del> <u>1.044</u>	80%	41%
<del>1995</del> <u>1996</u>	39%	<del>1.075</del> <u>1.057</u>	80%	<del>34</del> <u>33</u> %
<del>1994</del> <u>1995</u>	30%	<del>1.115</del> <u>1.078</u>	80%	<del>27</del> <u>26</u> %
<del>1993</del> <u>1994</u>	24%	<del>1.137</del> <u>1.118</u>	80%	<del>22</del> <u>21</u> %
<del>1992</del> <u>1993</u> and older	20%	<del>1.152</del> <u>1.140</u>	80%	18%

(6) This rule is effective for tax years beginning after December 31, ~~2001~~ 2002.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-6-135, 15-6-136, 15-6-138, 15-6-207, 15-24-921, 15-24-922, and 15-24-925, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.21.139 for the same reasons as stated in the reasonable necessity for ARM 42.21.131.

42.21.140 OIL DRILLING RIGS (1) remains the same.

(2) The department shall prepare a ten-year trended depreciation schedule for oil drilling rigs. The trended depreciation schedule shall be derived from depreciation factors published by Marshall and Swift Publication Company. The "% good" for all drill rigs less than one year old shall be 100%. The trended depreciation schedule for tax year ~~2002~~ 2003 is listed below.

DRILL RIG TRENDED DEPRECIATION SCHEDULE

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<del>2002</del> <u>2003</u>	100%	1.000	100%
<del>2001</del> <u>2002</u>	92%	1.000	92%
<del>2000</del> <u>2001</u>	84%	<del>1.009</del> <u>1.002</u>	<del>85</del> <u>84</u> %
<del>1999</del> <u>2000</u>	76%	<del>1.026</del> <u>1.012</u>	<del>78</del> <u>77</u> %
<del>1998</del> <u>1999</u>	67%	<del>1.031</del> <u>1.028</u>	69%
<del>1997</del> <u>1998</u>	58%	<del>1.041</del> <u>1.033</u>	60%
<del>1996</del> <u>1997</u>	49%	<del>1.055</del> <u>1.044</u>	<del>52</del> <u>51</u> %
<del>1995</del> <u>1996</u>	35%	<del>1.075</del> <u>1.057</u>	<del>38</del> <u>37</u> %
<del>1994</del> <u>1995</u>	30%	<del>1.115</del> <u>1.078</u>	<del>33</del> <u>32</u> %
<del>1993</del> <u>1994</u>	24%	<del>1.137</del> <u>1.118</u>	27%
<del>1992</del> <u>1993</u> and older	20%	<del>1.152</del> <u>1.140</u>	23%

(3) remains the same.

(4) This rule is effective for tax years beginning after December 31, ~~2001~~ 2002.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-6-135, 15-6-136, 15-6-138, 15-6-207, 15-24-921, 15-24-922, and 15-24-925, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.21.140 for the same reasons as stated in the reasonable necessity for ARM 42.21.131.

42.21.151 TELEVISION CABLE SYSTEMS (1) through (3) remain the same.

(4) The trended depreciation schedules referred to in (2) and (3) are listed below and shall be in effect for tax year ~~2002~~ 2003.

TABLE 1: FIVE-YEAR "DISHES"

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<del>2001</del> 2002	85%	1.000	85%
<del>2000</del> 2001	69%	<del>1.008</del> 1.004	<del>70</del> 69%
<del>1999</del> 2000	52%	<del>1.026</del> 1.012	53%
<del>1998</del> 1999	34%	<del>1.029</del> 1.030	35%
<del>1997</del> 1998 and older	20%	<del>1.038</del> 1.033	21%

TABLE 2: TEN-YEAR "TOWERS"

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<del>2001</del> 2002	92%	1.000	92%
<del>2000</del> 2001	84%	<del>1.008</del> 1.004	<del>85</del> 84%
<del>1999</del> 2000	76%	<del>1.026</del> 1.012	<del>78</del> 77%
<del>1998</del> 1999	67%	<del>1.029</del> 1.030	69%
<del>1997</del> 1998	58%	<del>1.038</del> 1.033	60%
<del>1996</del> 1997	49%	<del>1.055</del> 1.042	<del>52</del> 51%
<del>1995</del> 1996	39%	<del>1.071</del> 1.059	<del>42</del> 41%
<del>1994</del> 1995	30%	<del>1.110</del> 1.075	<del>33</del> 32%
<del>1993</del> 1994	24%	<del>1.141</del> 1.114	27%
<del>1992</del> 1993 and older	20%	<del>1.163</del> 1.145	23%

(5) This rule is effective for tax years beginning after December 31, ~~2001~~ 2002.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-6-135, 15-6-136, 15-6-138, 15-6-140, 15-6-207, 15-24-921, 15-24-922, and 15-24-925, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.21.151 for the same reasons as stated in the reasonable necessity for ARM 42.21.131.

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

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

DEPRECIATION TABLE FOR SKI LIFT EQUIPMENT

Installed Cost X Trended Percent Good = Average Market Value

<u>YEAR</u>	<u>% GOOD</u>	<u>TREND</u>	<u>TRENDED</u>
		<u>FACTOR</u>	<u>% GOOD</u>
<del>2001</del> <u>2002</u>	92%	1.000	92%
<del>2000</del> <u>2001</u>	84%	<del>1.008</del> <u>1.004</u>	<del>85</del> <u>84</u> %
<del>1999</del> <u>2000</u>	76%	<del>1.026</del> <u>1.012</u>	<del>78</del> <u>77</u> %
<del>1998</del> <u>1999</u>	67%	<del>1.029</del> <u>1.030</u>	69%
<del>1997</del> <u>1998</u>	58%	<del>1.038</del> <u>1.033</u>	60%
<del>1996</del> <u>1997</u>	49%	<del>1.055</del> <u>1.042</u>	<del>52</del> <u>51</u> %
<del>1995</del> <u>1996</u>	39%	<del>1.071</del> <u>1.059</u>	<del>42</del> <u>41</u> %
<del>1994</del> <u>1995</u>	30%	<del>1.110</del> <u>1.075</u>	<del>33</del> <u>32</u> %
<del>1993</del> <u>1994</u>	24%	<del>1.141</del> <u>1.114</u>	27%
<del>1992</del> <u>1993</u>	20%	<del>1.163</del> <u>1.145</u>	23%
and older			

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

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

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

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

(4) This methodology is effective for tax years beginning after December 31, ~~2001~~ 2002.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-6-135, 15-6-136, 15-6-138, 15-6-207, 15-24-921, 15-24-922, and 15-24-925, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.21.153 for the same reasons as stated in the reasonable necessity for ARM 42.21.131.

42.21.155 DEPRECIATION SCHEDULES (1) remains the same.

(2) The trended depreciation schedules for tax year ~~2001~~ 2003 are listed below. The categories are explained in ARM 42.21.156. The trend factors are derived according to ARM 42.21.156 and 42.21.157.

CATEGORY 1

<u>YEAR NEW/</u>	<u>% GOOD</u>	<u>TREND</u>	<u>TRENDED</u>
<u>ACQUIRED</u>		<u>FACTOR</u>	<u>% GOOD</u>
<del>2001</del> <u>2002</u>	70%	1.000	70%
<del>2000</del> <u>2001</u>	45%	<del>0.950</del> <u>0.952</u>	43%

<u>1999</u> <u>2000</u>	20%	<u>0.896</u> <u>0.905</u>	18%
<u>1998</u> <u>1999</u>	10%	<u>0.849</u> <u>0.854</u>	8 <u>9%</u>
and older			

CATEGORY 2

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2001</u> <u>2002</u>	85%	1.000	85%
<u>2000</u> <u>2001</u>	69%	<u>1.003</u> <u>1.006</u>	69%
<u>1999</u> <u>2000</u>	52%	<u>1.005</u> <u>1.008</u>	52%
<u>1998</u> <u>1999</u>	34%	<u>1.002</u> <u>1.010</u>	34%
<u>1997</u> <u>1998</u>	20%	<u>1.006</u> <u>1.008</u>	20%
and older			

CATEGORY 3

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2001</u> <u>2002</u>	85%	1.000	85%
<u>2000</u> <u>2001</u>	69%	<u>0.984</u> <u>0.968</u>	<u>68</u> <u>67%</u>
<u>1999</u> <u>2000</u>	52%	<u>0.971</u> <u>0.953</u>	50%
<u>1998</u> <u>1999</u>	34%	<u>0.946</u> <u>0.940</u>	32%
<u>1997</u> <u>1998</u>	20%	<u>0.901</u> <u>0.916</u>	18%
and older			

CATEGORY 4

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2001</u> <u>2002</u>	85%	1.000	85%
<u>2000</u> <u>2001</u>	69%	<u>0.980</u> <u>1.000</u>	<u>68</u> <u>69%</u>
<u>1999</u> <u>2000</u>	52%	<u>0.948</u> <u>0.982</u>	<u>49</u> <u>51%</u>
<u>1998</u> <u>1999</u>	34%	<u>0.937</u> <u>0.950</u>	32%
<u>1997</u> <u>1998</u>	20%	<u>0.926</u> <u>0.939</u>	19%
and older			

CATEGORY 5

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2001</u> <u>2002</u>	85%	1.000	85%
<u>2000</u> <u>2001</u>	69%	<u>1.007</u> <u>1.001</u>	69%
<u>1999</u> <u>2000</u>	52%	<u>1.012</u> <u>1.008</u>	<u>53</u> <u>52%</u>
<u>1998</u> <u>1999</u>	34%	<u>1.016</u> <u>1.014</u>	<u>35</u> <u>34%</u>
<u>1997</u> <u>1988</u>	20%	1.017	20%
and older			

CATEGORY 6

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2001</u> <u>2002</u>	85%	1.000	85%
<u>2000</u> <u>2001</u>	69%	<u>1.043</u> <u>1.034</u>	<u>72</u> <u>71%</u>

<u>1999</u> <u>2000</u>	52%	<u>1.088</u> <u>1.079</u>	57 56%
<u>1998</u> <u>1999</u>	34%	<u>1.149</u> <u>1.125</u>	39 <u>38%</u>
<u>1997</u> <u>1998</u> and older	20%	<u>1.179</u> <u>1.188</u>	24%

CATEGORY 7

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2001</u> <u>2002</u>	92%	1.000	92%
<u>2000</u> <u>2001</u>	84%	<u>1.010</u> <u>1.000</u>	<u>85</u> <u>84%</u>
<u>1999</u> <u>2000</u>	76%	<u>1.018</u> <u>1.011</u>	77%
<u>1998</u> <u>1999</u>	67%	<u>1.027</u> <u>1.019</u>	<u>69</u> <u>68%</u>
<u>1997</u> <u>1998</u>	58%	<u>1.042</u> <u>1.027</u>	60%
<u>1996</u> <u>1997</u>	49%	<u>1.061</u> <u>1.043</u>	<u>53</u> <u>51%</u>
<u>1995</u> <u>1996</u>	39%	<u>1.089</u> <u>1.062</u>	<u>42</u> <u>41%</u>
<u>1994</u> <u>1995</u>	30%	<u>1.113</u> <u>1.090</u>	33%
<u>1993</u> <u>1994</u>	24%	<u>1.137</u> <u>1.114</u>	27%
<u>1992</u> <u>1993</u> and older	20%	<u>1.163</u> <u>1.138</u>	23%

CATEGORY 8

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
<u>2001</u> <u>2002</u>	92%	1.000	92%
<u>2000</u> <u>2001</u>	84%	<u>1.011</u> <u>1.006</u>	85%
<u>1999</u> <u>2000</u>	76%	<u>1.023</u> <u>1.018</u>	<u>78</u> <u>77%</u>
<u>1998</u> <u>1999</u>	67%	<u>1.028</u> <u>1.030</u>	69%
<u>1997</u> <u>1998</u>	58%	<u>1.040</u> <u>1.035</u>	60%
<u>1996</u> <u>1997</u>	49%	<u>1.061</u> <u>1.047</u>	<u>52</u> <u>51%</u>
<u>1995</u> <u>1996</u>	39%	<u>1.090</u> <u>1.068</u>	<u>43</u> <u>42%</u>
<u>1994</u> <u>1995</u>	30%	<u>1.117</u> <u>1.097</u>	<u>34</u> <u>33%</u>
<u>1993</u> <u>1994</u>	24%	<u>1.144</u> <u>1.124</u>	27%
<u>1992</u> <u>1993</u> and older	20%	<u>1.163</u> <u>1.152</u>	23%

(3) This rule is effective for tax years beginning after December 31, 2001 2002.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-6-135, 15-6-136, 15-6-138, 15-6-139, 15-6-207, 15-24-921, 15-24-922, and 15-24-925, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.21.155 for the same reasons as stated in the reasonable necessity for ARM 42.21.131.

42.21.158 PROPERTY REPORTING REQUIREMENTS (1) Taxpayers having property in the state of Montana on January 1, 2000 of each tax year, must complete the statement as provided in 15-8-301, MCA.

(2) and (3) remain the same.

(4) A taxpayer who raises livestock subject to the per capita fees has 14 days from February 1 to respond to the

department request for information. The department may grant an extension if the taxpayer requests such an extension before February 15.

(5) through (7) remain the same.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-1-303, 15-8-104, 15-8-301, 15-8-303, 15-8-309, 15-24-902, 15-24-903, 15-24-904, 15-24-905, and 15-24-920, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.21.158 to make the rule applicable annually because the rule applies to property located in Montana on January 1st of each year. This amendment will reduce the need to amend this rule every year. Adding the text in (4) is necessary to bring the rule into compliance with the terms used in the laws as they were amended by the 2001 Legislature.

42.21.160 DEFINITIONS For purposes of this chapter the following definitions apply:

(1) "Aggregate" means the total sum of all class eight assets owned by a person or business entity within the state.

(2) "Business entity" means an organization engaged in the production, manufacture, distribution, purchasing, or sale of an article of commerce. Such organizations include but are not limited to:

- (a) a sole proprietorship;
- (b) a corporation (foreign or domestic);
- (c) a not-for-profit corporation;
- (d) a profit and not-for-profit unincorporated association;
- (e) a business trust;
- (f) limited liability company;
- (g) limited liability partnership;
- (h) a small business corporation; or
- (i) a partnership.

(3) "Commercial personal property" means all property, other than real property and real property improvements, which is used for the production of income.

(4) "Dealer demonstration program" is a program operated by equipment dealerships where the equipment is owned by the dealer and held for sale. The dealer is allowed to demonstrate the equipment as an incentive for sales of the equipment.

(5) "Dealer lease program" is a program operated by equipment dealerships where the equipment is owned by the dealer and is leased to a consumer.

(6) "Dealer rental program" is a program operated by equipment dealerships where equipment is owned by the dealer, held for rent to consumers and is depreciated as an asset.

(7) "Dealer sales program" is a typical sales program where equipment is owned by the dealer and held for sale.

(8) "Person" means an individual other than a business entity.

~~(9) "Purchase incentive rental program" is a program operated by equipment dealerships where the equipment is owned~~

by the dealer, held for sale and is rented to one or more consumers as an incentive for sales of the equipment.

(10)(9) "Taxable supplies" include all tangible materials used or consumed in a business except those tangible materials which are held by a taxpayer as his stock-in-trade for sale in the ordinary course of business. Taxable supplies do not include raw materials that are part of the final product. Examples of taxable supplies include, but are not limited to:

- (a) fuel used in operations;
- (b) parts held for repair of machinery; and
- (c) chemicals used in process operations.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-6-138 and 15-8-104, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.21.160 to delete the reference to the purchase incentive rental program because it is no longer applicable with the amendment to ARM 42.21.125.

42.22.1311 INDUSTRIAL MACHINERY AND EQUIPMENT TREND FACTORS (1) and (2) remain the same.

(3) Tables 1 through 32 represent the yearly trend factors for each of the categories.

<u>YEAR</u>	<u>TABLE 1</u> <u>Airplane</u> <u>Mfg.</u>	<u>TABLE 2</u> <u>Baking</u>	<u>TABLE 3</u> <u>Bottling</u>	<u>TABLE 4</u> <u>Brew/Dis.</u>	<u>TABLE 5</u> <u>Candy</u> <u>Confect.</u>
2001	1.000	1.000	1.000	1.000	1.000
2000	1.007	1.011	1.009	1.010	1.011
1999	1.026	1.031	1.028	1.029	1.031
1998	1.027	1.035	1.030	1.035	1.035
1997	1.035	1.045	1.038	1.045	1.046
1996	1.047	1.063	1.054	1.062	1.065
1995	1.062	1.079	1.070	1.082	1.082
1994	1.104	1.123	1.112	1.123	1.127
1993	1.133	1.158	1.142	1.149	1.161
1992	1.150	1.180	1.161	1.167	1.182
1991	1.158	1.195	1.172	1.180	1.199
1990	1.177	1.222	1.195	1.206	1.228
1989	1.202	1.256	1.225	1.241	1.264
1988	1.262	1.325	1.296	1.314	1.337
1987	1.320	1.384	1.359	1.373	1.398
1986	1.335	1.408	1.376	1.390	1.422
1985	1.341	1.432	1.385	1.402	1.449
1984	1.359	1.460	1.403	1.423	1.478
1983	1.396	1.494	1.439	1.458	1.512
1982	1.422	1.516	1.461	1.479	1.531

<u>YEAR</u>	<u>TABLE 6</u> <u>Cement</u> <u>Mfg.</u>	<u>TABLE 7</u> <u>Chemical</u> <u>Mfg.</u>	<u>TABLE 8</u> <u>Clay</u> <u>Mfg.</u>	<u>TABLE 9</u> <u>Contractor</u> <u>Eq.</u>	<u>TABLE 10</u> <u>Creamery/</u> <u>Dairy</u>
2001	1.000	1.000	1.000	1.000	1.000
2000	1.010	1.009	1.010	1.006	1.011
1999	1.026	1.026	1.027	1.023	1.031



1998	1.031	1.031	1.031	1.031	1.036
1997	1.042	1.041	1.042	1.043	1.046
1996	1.054	1.055	1.058	1.063	1.064
1995	1.074	1.075	1.078	1.081	1.082
1994	1.112	1.115	1.115	1.111	1.128
1993	1.137	1.138	1.141	1.138	1.158
1992	1.155	1.152	1.162	1.170	1.177
1991	1.164	1.161	1.174	1.191	1.192
1990	1.187	1.186	1.198	1.220	1.221
1989	1.219	1.217	1.234	1.259	1.256
1988	1.280	1.286	1.298	1.319	1.332
1987	1.325	1.341	1.345	1.363	1.394
1986	1.338	1.356	1.361	1.382	1.416
1985	1.347	1.362	1.373	1.393	1.438
1984	1.367	1.381	1.395	1.410	1.464
1983	1.400	1.418	1.436	1.439	1.498
1982	1.423	1.439	1.463	1.470	1.518

<u>YEAR</u>	<u>TABLE 11</u> <u>Elec Pwr</u> <u>Eq.</u>	<u>TABLE 12</u> <u>Elec. Eq.</u> <u>Mfg.</u>	<u>TABLE 13</u> <u>Cannery/</u> <u>Fish</u>	<u>TABLE 14</u> <u>Flour,</u> <u>Cer. Feed</u>	<u>TABLE 15</u> <u>Cannery/</u> <u>Fruit</u>
2001	1.000	1.000	1.000	1.000	1.000
2000	1.009	1.008	1.010	1.011	1.010
1999	1.029	1.027	1.031	1.031	1.031
1998	1.024	1.023	1.034	1.035	1.034
1997	1.026	1.027	1.044	1.045	1.044
1996	1.031	1.037	1.063	1.061	1.065
1995	1.040	1.049	1.079	1.078	1.079
1994	1.095	1.099	1.123	1.121	1.120
1993	1.117	1.125	1.160	1.152	1.159
1992	1.125	1.138	1.182	1.170	1.186
1991	1.121	1.139	1.199	1.181	1.207
1990	1.128	1.152	1.227	1.205	1.235
1989	1.147	1.174	1.262	1.236	1.270
1988	1.217	1.241	1.333	1.305	1.342
1987	1.295	1.313	1.394	1.362	1.402
1986	1.305	1.327	1.418	1.380	1.427
1985	1.312	1.333	1.441	1.395	1.450
1984	1.325	1.349	1.469	1.417	1.476
1983	1.359	1.387	1.505	1.449	1.512
1982	1.375	1.409	1.528	1.466	1.538

<u>YEAR</u>	<u>TABLE 16</u> <u>Packing/</u> <u>Fruit</u>	<u>TABLE 17</u> <u>Laundry/</u> <u>Clean</u>	<u>TABLE 18</u> <u>Logging</u> <u>Eq.</u>	<u>TABLE 19</u> <u>Packing/</u> <u>Meat</u>	<u>TABLE 20</u> <u>Metal</u> <u>Work</u>
2001	1.000	1.000	1.000	1.000	1.000
2000	1.007	1.008	1.006	1.010	1.007
1999	1.029	1.027	1.024	1.029	1.021
1998	1.033	1.029	1.028	1.034	1.021
1997	1.042	1.037	1.037	1.046	1.031
1996	1.066	1.054	1.053	1.065	1.044
1995	1.079	1.070	1.068	1.083	1.062
1994	1.113	1.109	1.102	1.124	1.103
1993	1.154	1.139	1.133	1.157	1.131

1992	1.188	1.160	1.158	1.179	1.148
1991	1.214	1.172	1.176	1.197	1.158
1990	1.241	1.197	1.200	1.227	1.182
1989	1.278	1.230	1.232	1.264	1.215
1988	1.347	1.295	1.289	1.334	1.274
1987	1.400	1.348	1.336	1.388	1.330
1986	1.423	1.369	1.353	1.411	1.347
1985	1.441	1.381	1.363	1.434	1.356
1984	1.461	1.401	1.381	1.462	1.380
1983	1.500	1.442	1.414	1.500	1.418
1982	1.531	1.467	1.444	1.523	1.450

<u>YEAR</u>	<u>TABLE 21</u> <u>Mine</u> <u>Mill</u>	<u>TABLE 22</u> <u>Paint</u> <u>Mfg.</u>	<u>TABLE 23</u> <u>Petroleum</u>	<u>TABLE 24</u> <u>Printing</u>	<u>TABLE 25</u> <u>Paper</u> <u>Mfg.</u>
2001	1.000	1.000	1.000	1.000	1.000
2000	1.006	1.009	1.011	1.009	1.006
1999	1.023	1.028	1.025	1.023	1.026
1998	1.028	1.031	1.031	1.024	1.028
1997	1.039	1.041	1.045	1.029	1.037
1996	1.056	1.056	1.062	1.046	1.058
1995	1.073	1.075	1.083	1.061	1.072
1994	1.106	1.117	1.123	1.101	1.109
1993	1.136	1.144	1.146	1.128	1.142
1992	1.160	1.163	1.157	1.145	1.168
1991	1.180	1.173	1.166	1.149	1.184
1990	1.207	1.197	1.196	1.166	1.208
1989	1.245	1.228	1.227	1.185	1.239
1988	1.312	1.298	1.290	1.249	1.307
1987	1.354	1.354	1.343	1.309	1.360
1986	1.365	1.371	1.347	1.330	1.379
1985	1.372	1.379	1.348	1.343	1.387
1984	1.388	1.399	1.363	1.362	1.403
1983	1.416	1.439	1.388	1.406	1.443
1982	1.449	1.462	1.401	1.433	1.468

<u>YEAR</u>	<u>TABLE 26</u> <u>Refriger-</u> <u>ation</u>	<u>TABLE 27</u> <u>Rubber</u>	<u>TABLE 28</u> <u>Steam</u> <u>Power</u>	<u>TABLE 29</u> <u>Textile</u>	<u>TABLE 30</u> <u>Ware-</u> <u>Housing</u>
2001	1.000	1.000	1.000	1.000	1.000
2000	1.009	1.008	1.008	1.007	1.006
1999	1.029	1.023	1.024	1.022	1.025
1998	1.033	1.027	1.025	1.024	1.026
1997	1.043	1.038	1.033	1.032	1.029
1996	1.060	1.053	1.043	1.050	1.046
1995	1.079	1.073	1.060	1.064	1.056
1994	1.119	1.110	1.103	1.097	1.086
1993	1.149	1.137	1.126	1.125	1.121
1992	1.171	1.159	1.139	1.147	1.148
1991	1.185	1.171	1.144	1.161	1.164
1990	1.211	1.197	1.163	1.187	1.184
1989	1.244	1.231	1.194	1.217	1.212
1988	1.313	1.294	1.264	1.278	1.267
1987	1.366	1.345	1.324	1.332	1.307

1986	1.386	1.367	1.339	1.354	1.325
1985	1.397	1.378	1.345	1.369	1.335
1984	1.418	1.402	1.366	1.389	1.350
1983	1.460	1.446	1.411	1.429	1.381
1982	1.487	1.475	1.430	1.454	1.397

<u>YEAR</u>	<u>TABLE 31</u> <u>Wood</u> <u>Working</u>	<u>TABLE 32</u> <u>Glass</u> <u>Mfg.</u>
2001	1.000	1.000
2000	1.000	1.010
1999	1.017	1.029
1998	1.019	1.031
1997	1.023	1.040
1996	1.048	1.053
1995	1.059	1.071
1994	1.090	1.115
1993	1.127	1.140
1992	1.165	1.157
1991	1.188	1.163
1990	1.208	1.184
1989	1.241	1.213
1988	1.309	1.281
1987	1.362	1.338
1986	1.381	1.354
1985	1.389	1.361
1984	1.408	1.378
1983	1.447	1.415
1982	1.480	1.435

<u>YEAR</u>	<u>TABLE 1</u> <u>Airplane</u> <u>Mfg.</u>	<u>TABLE 2</u> <u>Baking</u>	<u>TABLE 3</u> <u>Bottling</u>	<u>TABLE 4</u> <u>Brew/Dis.</u>	<u>TABLE 5</u> <u>Candy</u> <u>Confect.</u>
2002	1.000	1.000	1.000	1.000	1.000
2001	1.001	1.004	1.002	1.004	1.004
2000	1.007	1.016	1.011	1.015	1.016
1999	1.026	1.036	1.030	1.033	1.036
1998	1.027	1.039	1.032	1.039	1.040
1997	1.035	1.050	1.040	1.049	1.051
1996	1.048	1.068	1.056	1.066	1.070
1995	1.062	1.084	1.072	1.086	1.086
1994	1.104	1.128	1.115	1.127	1.131
1993	1.133	1.163	1.144	1.154	1.166
1992	1.151	1.185	1.163	1.172	1.188
1991	1.158	1.201	1.175	1.185	1.204
1990	1.177	1.228	1.197	1.211	1.234
1989	1.203	1.262	1.227	1.246	1.270
1988	1.263	1.331	1.299	1.319	1.343
1987	1.321	1.391	1.361	1.378	1.404
1986	1.335	1.414	1.379	1.396	1.429
1985	1.342	1.439	1.388	1.408	1.455
1984	1.359	1.467	1.406	1.428	1.485
1983	1.396	1.501	1.442	1.464	1.519

<u>YEAR</u>	<u>TABLE 6</u> <u>Cement</u> <u>Mfg.</u>	<u>TABLE 7</u> <u>Chemical</u> <u>Mfg.</u>	<u>TABLE 8</u> <u>Clay</u> <u>Mfg.</u>	<u>TABLE 9</u> <u>Contractor</u> <u>Eq.</u>	<u>TABLE 10</u> <u>Creamery/</u> <u>Dairy</u>
2002	1.000	1.000	1.000	1.000	1.000
2001	1.003	1.002	1.005	1.005	1.004
2000	1.013	1.012	1.016	1.011	1.015
1999	1.030	1.028	1.032	1.029	1.036
1998	1.034	1.033	1.036	1.037	1.040
1997	1.045	1.044	1.047	1.049	1.051
1996	1.058	1.057	1.063	1.069	1.069
1995	1.078	1.078	1.083	1.087	1.087
1994	1.116	1.118	1.121	1.117	1.133
1993	1.141	1.140	1.147	1.145	1.164
1992	1.158	1.155	1.168	1.176	1.183
1991	1.168	1.164	1.180	1.198	1.197
1990	1.191	1.189	1.204	1.227	1.226
1989	1.223	1.220	1.240	1.266	1.262
1988	1.285	1.289	1.304	1.327	1.338
1987	1.330	1.345	1.352	1.370	1.400
1986	1.343	1.359	1.368	1.389	1.423
1985	1.352	1.365	1.380	1.401	1.445
1984	1.372	1.385	1.402	1.418	1.471
1983	1.405	1.422	1.444	1.447	1.505

<u>YEAR</u>	<u>TABLE 11</u> <u>Elec. Pwr.</u> <u>Eq.</u>	<u>TABLE 12</u> <u>Elec. Eq.</u> <u>Mfg.</u>	<u>TABLE 13</u> <u>Cannery/</u> <u>Fish</u>	<u>TABLE 14</u> <u>Flour,</u> <u>Cer. Feed</u>	<u>TABLE 15</u> <u>Cannery/</u> <u>Fruit</u>
2002	1.000	1.000	1.000	1.000	1.000
2001	0.994	0.996	1.004	1.003	1.005
2000	1.001	1.003	1.015	1.014	1.015
1999	1.021	1.022	1.035	1.034	1.037
1998	1.016	1.018	1.038	1.039	1.040
1997	1.018	1.023	1.049	1.049	1.050
1996	1.023	1.032	1.068	1.065	1.071
1995	1.032	1.044	1.084	1.082	1.085
1994	1.086	1.094	1.128	1.125	1.126
1993	1.109	1.120	1.165	1.155	1.165
1992	1.116	1.132	1.188	1.174	1.193
1991	1.112	1.133	1.205	1.185	1.214
1990	1.119	1.146	1.233	1.209	1.242
1989	1.138	1.169	1.267	1.241	1.277
1988	1.207	1.235	1.339	1.309	1.349
1987	1.285	1.307	1.401	1.366	1.410
1986	1.295	1.321	1.424	1.384	1.435
1985	1.302	1.326	1.448	1.400	1.459
1984	1.314	1.343	1.475	1.422	1.484
1983	1.348	1.381	1.512	1.454	1.521

<u>YEAR</u>	<u>TABLE 16</u> <u>Packing/</u> <u>Fruit</u>	<u>TABLE 17</u> <u>Laundry/</u> <u>Clean</u>	<u>TABLE 18</u> <u>Logging</u> <u>Eq.</u>	<u>TABLE 19</u> <u>Packing/</u> <u>Meat</u>	<u>TABLE 20</u> <u>Metal</u> <u>Work</u>
2002	1.000	1.000	1.000	1.000	1.000
2001	1.007	1.003	1.004	1.006	1.000
2000	1.015	1.012	1.009	1.016	1.007

1999	1.037	1.031	1.028	1.036	1.021
1998	1.041	1.032	1.032	1.041	1.020
1997	1.050	1.040	1.040	1.052	1.030
1996	1.075	1.057	1.057	1.071	1.043
1995	1.088	1.074	1.071	1.090	1.062
1994	1.122	1.112	1.106	1.131	1.103
1993	1.163	1.142	1.137	1.164	1.131
1992	1.198	1.164	1.162	1.186	1.147
1991	1.223	1.176	1.180	1.204	1.157
1990	1.251	1.200	1.204	1.234	1.182
1989	1.288	1.234	1.237	1.272	1.214
1988	1.357	1.299	1.294	1.342	1.274
1987	1.411	1.353	1.340	1.396	1.329
1986	1.434	1.373	1.358	1.419	1.346
1985	1.452	1.385	1.368	1.442	1.355
1984	1.473	1.406	1.385	1.471	1.380
1983	1.512	1.447	1.419	1.509	1.417

<u>YEAR</u>	<u>TABLE 21</u> <u>Mine</u> <u>Mill</u>	<u>TABLE 22</u> <u>Paint</u> <u>Mfg.</u>	<u>TABLE 23</u> <u>Petroleum</u>	<u>TABLE 24</u> <u>Printing</u>	<u>TABLE 25</u> <u>Paper</u> <u>Mfg.</u>
2002	1.000	1.000	1.000	1.000	1.000
2001	1.009	1.003	1.007	0.998	1.005
2000	1.016	1.012	1.020	1.007	1.011
1999	1.033	1.031	1.035	1.021	1.032
1998	1.038	1.034	1.040	1.022	1.034
1997	1.049	1.044	1.054	1.027	1.043
1996	1.066	1.059	1.071	1.044	1.064
1995	1.083	1.078	1.093	1.059	1.078
1994	1.116	1.120	1.133	1.099	1.115
1993	1.147	1.147	1.156	1.126	1.149
1992	1.172	1.166	1.167	1.143	1.175
1991	1.191	1.176	1.176	1.147	1.191
1990	1.219	1.200	1.207	1.164	1.214
1989	1.257	1.232	1.237	1.182	1.246
1988	1.324	1.301	1.301	1.247	1.314
1987	1.367	1.358	1.355	1.306	1.368
1986	1.378	1.375	1.359	1.327	1.386
1985	1.385	1.383	1.360	1.341	1.395
1984	1.402	1.403	1.375	1.359	1.411
1983	1.430	1.442	1.400	1.404	1.451

<u>YEAR</u>	<u>TABLE 26</u> <u>Refriger-</u> <u>ation</u>	<u>TABLE 27</u> <u>Rubber</u>	<u>TABLE 28</u> <u>Steam</u> <u>Power</u>	<u>TABLE 29</u> <u>Textile</u>	<u>TABLE 30</u> <u>Ware-</u> <u>Housing</u>
2002	1.000	1.000	1.000	1.000	1.000
2001	1.005	1.000	1.000	1.002	1.003
2000	1.015	1.009	1.009	1.010	1.009
1999	1.035	1.024	1.024	1.025	1.027
1998	1.039	1.028	1.025	1.027	1.028
1997	1.049	1.039	1.033	1.035	1.032
1996	1.066	1.054	1.043	1.053	1.049

1995	1.085	1.073	1.060	1.067	1.058
1994	1.126	1.111	1.103	1.100	1.088
1993	1.156	1.138	1.126	1.128	1.124
1992	1.178	1.160	1.139	1.150	1.151
1991	1.192	1.171	1.144	1.164	1.167
1990	1.218	1.198	1.163	1.190	1.187
1989	1.251	1.231	1.194	1.220	1.215
1988	1.320	1.295	1.265	1.282	1.270
1987	1.374	1.346	1.324	1.336	1.310
1986	1.394	1.368	1.339	1.358	1.328
1985	1.405	1.378	1.345	1.373	1.338
1984	1.426	1.403	1.366	1.393	1.353
1983	1.468	1.447	1.411	1.433	1.384

<u>YEAR</u>	<u>TABLE 31</u> <u>Wood</u> <u>Working</u>	<u>TABLE 32</u> <u>Glass</u> <u>Mfg.</u>
2002	1.000	1.000
2001	1.006	1.002
2000	1.007	1.012
1999	1.024	1.031
1998	1.026	1.033
1997	1.030	1.042
1996	1.056	1.056
1995	1.067	1.074
1994	1.097	1.117
1993	1.134	1.143
1992	1.173	1.159
1991	1.196	1.166
1990	1.216	1.186
1989	1.249	1.216
1988	1.318	1.284
1987	1.371	1.341
1986	1.390	1.357
1985	1.399	1.364
1984	1.417	1.381
1983	1.456	1.418

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-6-138 and 15-8-111, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.22.1311 for the same reasons as stated in the reasonable necessity for ARM 42.21.131.

4. The Department proposes to repeal the following rule:

42.21.122 LIVESTOCK which can be found on page 42-2121 of the Administrative Rules of Montana.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-6-135, 15-6-136, 15-6-137, 15-6-138, 15-6-207, 15-24-921, 15-24-922, and 15-24-925, MCA

REASONABLE NECESSITY: The department is proposing to repeal ARM 42.21.122 because this rule outlined the methodology for the valuation of livestock, and livestock are exempt from property tax effective January 1, 2003.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to:

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

and must be received no later than November 29, 2002.

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

7. An electronic copy of this Notice of Public Hearing is available through the Department's site on the World Wide Web at [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.

8. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding particular subject matter or matters. Such written request may be mailed or delivered to the person in 5 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

/s/ Cleo Anderson  
CLEO ANDERSON  
Rule Reviewer

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

Certified to Secretary of State October 21, 2002



BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PUBLIC HEARING
adoption of NEW RULE I	)	ON PROPOSED ADOPTION
regarding the official version	)	AND AMENDMENT
of the Administrative Rules of	)	
Montana and amendment of	)	
ARM 1.2.419 regarding the	)	
scheduled dates for the	)	
Montana Administrative	)	
Register	)	

TO: All Concerned Persons

1. On November 21, 2002, a public hearing will be held at 10:00 a.m. in the Secretary of State's Office, Room 260, State Capitol Building, Helena, Montana, to consider the proposed adoption of NEW RULE I regarding the official version of the Administrative Rules of Montana and amendment of ARM 1.2.419 regarding the scheduled dates for the Montana Administrative Register.

2. The Secretary of State 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 Secretary of State no later than 5:00 p.m. on November 15, 2002, to advise us of the nature of the accommodation that you need. Please contact Kathy Lubke, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-2055; FAX (406) 444-5833; e-mail klubke@state.mt.us.

3. The proposed new rule provides as follows:

NEW RULE I OFFICIAL VERSION OF THE ADMINISTRATIVE RULES OF MONTANA (1) The Administrative Rules of Montana, published by the secretary of state, in accordance with ARM Title 1, chapter 2, is the official version of the Administrative Rules of Montana.

AUTH: Sec. 2-4-306, 2-4-311 MCA  
IMP: Sec. 2-4-306, 2-4-311 MCA

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

1.2.419 FILING, COMPILING, PRINTER PICKUP AND PUBLICATION SCHEDULE FOR THE MONTANA ADMINISTRATIVE REGISTER

(1) The scheduled filing dates, time deadlines, compiling dates, printer pickup dates and publication dates for material to be published in the Montana Administrative Register are listed below:

20022003 Schedule

<u>Filing</u>	<u>Compiling</u>	<u>Printer Pickup</u>	<u>Publication</u>
January 76	January 87	January 98	January 1716
January 1817	January 2221	January 2322	January 3130
February 43	February 54	February 65	February 1413
February 1914	February 2018	February 2119	February 2827
March 43	March 54	March 65	March 1413
March 1817	March 1918	March 2019	March 2827
<del>April 1</del>			
March 31	April 21	April 32	April 1110
April 1514	April 1615	April 1716	April 2524
May 6	May 7	May 8	
April 28	April 29	April 30	May 168
May 2012	May 2113	May 2214	May 3022
June 32	June 43	June 54	June 1312
June 1716	June 1817	June 1918	June 2726
July 17	July 28	July 39	July 1117
July 1521	July 1622	July 1723	July 2531
August 54	August 65	August 76	August 1514
August 1918	August 2019	August 2120	August 2928
<del>August 30</del>			
September 2	September 3	September 4	September 1211
September 1615	September 1716	September 1817	September 2625
October 76	October 87	October 98	October 1716
October 2120	October 2221	October 2322	October 3130
November 13	November 4	November 65	November 1413
November 1817	November 1918	November 2019	November 2726
December 21	December 32	December 43	December 1211
December 1615	December 1716	December 1817	December 2624

(2) remains the same.

AUTH: Sec. 2-4-312, MCA  
IMP: Sec. 2-4-312, MCA

5. The new rule is proposed to be adopted to identify the official version of the Administrative Rules of Montana as the printed version published by the Secretary of State as opposed to an electronic version appearing on a web site. ARM 1.2.419 is proposed to be amended to set dates pertinent to the publication of the Montana Administrative Register during 2003. The schedule is proposed during the month of October in order that it may be adopted during December. This allows state agencies the opportunity to plan their rulemaking schedule to meet program needs for the upcoming year.

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 to Kathy Lubke, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mail to

klubke@state.mt.us, and must be received no later than November 29, 2002.

7. Janice Doggett, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801 has been designated to preside over and conduct the hearing.

8. The Secretary of State 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 administrative rules, corporations, elections, notaries, records, uniform commercial code or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Bureau, 1236 Sixth Avenue, P.O. Box 202801, Helena, MT 59620-2801, faxed to the office at (406) 444-5833, or e-mailed to klubke@state.mt.us or may be made by completing a request form at any rules hearing held by the Secretary of State's Office.

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

/s/ Bob Brown  
BOB BROWN  
Secretary of State

/s/ Janice Doggett  
JANICE DOGGETT  
Rule Reviewer

Dated this 21st day of October 2002.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF AMENDMENT  
of ARM 17.53.105 pertaining to )  
incorporation by reference of )  
current federal regulations )  
into hazardous waste rules ) (HAZARDOUS WASTE)

TO: All Concerned Persons

1. On August 15, 2002, the Department of Environmental Quality published a notice of public hearing on the proposed amendment of the above-stated rule at page 2139 of the 2002 Montana Administrative Register, Issue No. 15.

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

3. No comments or testimony were received.

DEPARTMENT OF ENVIRONMENTAL QUALITY

By: Jan P. Sensibaugh  
JAN P. SENSIBAUGH, Director

Reviewed by:

David Rusoff  
DAVID RUSOFF, Rule Reviewer

Certified to the Secretary of State October 21, 2002.

BEFORE THE BOARD OF CRIME CONTROL  
OF THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the matter of the amendment )  
of ARM 23.14.404 regarding ) CORRECTED NOTICE OF  
POST training hours awarded ) AMENDMENT  
for college credits )  
)

To: All Concerned Persons

1. On August 29, 2002, the Board of Crime Control published a notice at page 2314 of the 2002 Montana Administrative Register, Issue Number 16, of the proposed amendment of ARM 23.14.404 regarding POST training hours awarded for college credits.

2. This corrected notice of amendment is being published because the original proposed notice should have been amended to reflect ARM 23.14.404(5)(v) as remaining the same but being renumbered (e).

3. The Board of Crime Control has amended the remaining portions of ARM 23.14.404 as proposed.

4. The replacement pages for this rule were filed with the Secretary of State's office on September 30, 2002.

By: /s/ Jim Oppedahl  
JIM OPPEDAHL, Director  
Board of Crime Control

/s/ Ali Bovington  
ALI BOVINGDON, Rule Reviewer

Certified to the Secretary of State October 15, 2002.

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

In the matter of the ) NOTICE OF AMENDMENT  
amendment of ARM 24.114.501 )  
and 24.114.503, relating to )  
architecture matters )

TO: All Concerned Persons

1. On August 29, 2002, the Board of Architects published a notice of proposed amendment of the above-stated rules at page 2299, 2002 Montana Administrative Register, Issue Number 16.

2. A public hearing on the proposed amendments was held on September 23, 2002.

3. The Board met on October 3, 2002. The Board has amended ARM 24.114.501 and 24.114.503 exactly as proposed.

4. The Board received several written comments from one person opposing the proposed amendment of ARM 24.114.501. The Board has thoroughly considered the comments received. A summary of the comments received and the Board's responses are as follows:

Comment 1: One commenter questioned whether the rarity of the rule (Montana is currently one of only three jurisdictions having a time limit for examinations) should be a significant reason for the rule's elimination.

Response 1: The Board acknowledges that Montana is one of three jurisdictions that currently have a time limit for completing the licensure examinations. The Board questions the necessity for maintaining such a requirement, when examination candidates can easily circumvent the time constraint by becoming licensed in a jurisdiction without the time limit, and then applying and becoming licensed in Montana by reciprocity.

Comment 2: The same commenter queried how amending the rules to be more consistent with our neighbors compares to a potential reduction in the qualifications of new Montana architects and the attendant reduction in the ability of the board to protect the public.

Response 2: The Board concludes that the elimination of the time limit would in no manner affect the Board's protection of the public's health and safety or the quality of licensed architects in the State of Montana. The Board believes that since architects-in-training can become licensed in other states without any time limit, then obtain Montana licensure

by reciprocity, the same licensed architects will be practicing in Montana.

Comment 3: The commenter questioned whether there would be significant diminished skills in a licensee who passed the last section of the examination eight, ten or twenty years after passing the first section.

Response 3: The Board concludes that there would be no adverse affect on a licensee's ability to perform based on how many years it took the individual to successfully complete the licensing examination. The Board's primary concern is having qualified licensed architects practicing in Montana. Allowing applicants to complete the examination over a longer time period may remove some pressure created by the relatively short time limit, and will also allow them to learn while working under other licensed architects.

Comment 4: The commenter questioned whether the Board is concerned with either a shortage of licensed architects in Montana or with an overabundance of architectural interns.

Response 4: The Board concludes that Montana is not experiencing a shortage in licensed architects and the Board is not concerned with the amount of architects-in-training that currently are working in the state.

BOARD OF ARCHITECTS  
GENE VOGL, PRESIDENT

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

/s/ KEVIN BRAUN  
Kevin Braun  
Rule Reviewer

Certified to the Secretary of State, October 21, 2002.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF AMENDMENT AND  
of ARM 42.2.613, 42.2.614, ) ADOPTION  
42.2.619, and 42.22.115; and )  
adoption of New Rule I )  
(42.2.510) and New Rule II )  
(42.2.511) relating to )  
taxpayer appeals )

TO: All Concerned Persons

1. On May 16, 2002, the department published notice of proposed amendment and adoption of the above-stated rules relating to taxpayer appeals at page 1430 of the 2002 Montana Administrative Register, issue no. 9.

2. A public hearing was held on June 6, 2002. No one appeared at the hearing. Written comments were received subsequent to the hearing from Ms. Mary Whittinghill representing the Montana Taxpayers' Association. Those comments are summarized as follows, along with the response of the department:

COMMENT NO. 1: In the amendments to ARM 42.2.613(1), the definition of an AB-26 should reference a "property assessment notice" and "notice of valuation" rather than "property tax bill." The AB-26 process is designed for taxpayers during the initial notification of a change in valuation.

RESPONSE NO. 1: The department will amend the rule to reflect a "property assessment notice" rather than a "property tax bill."

COMMENT NO. 2: The reference to (17) at the end of (1) should be (18).

RESPONSE NO. 2: The department agrees but has amended the rule to delete (1) entirely. This information is redundant because it is contained in (16).

COMMENT NO. 3: They suggested further clarification for ARM 42.2.613(3) regarding particular liabilities since "debt" can be construed to be liabilities in arrears. The definition could also be clarified for property assessment of centrally assessed companies.

RESPONSE NO. 3: The department agrees and has amended the rule accordingly.

COMMENT NO. 4: With regard to ARM 42.2.613(4), they suggested the department add language to advise the public that DOR Form 577 is available on the department's internet homepage



as stated in (1) of the rule.

RESPONSE NO. 4: The department agrees and has amended the rule to add the department's web site and further explain that the extension form may be used for both the SOA and assessment notice process.

COMMENT NO. 5: They recommended the department add "the first notice of assessment for centrally assessed company" in the first sentence following "owed to the department" in ARM 42.2.613(18).

RESPONSE NO. 5: The department has created a separate rule to address centrally assessed companies. Therefore, a definition of assessment notice has been provided in ARM 42.2.613(2).

COMMENT NO. 6: They suggested the department delete the reference to "federal express" in ARM 42.2.613(19) because the language "or any other generally accepted delivery service" is sufficient.

RESPONSE NO. 6: The department agrees and the rule has been amended to reflect this change.

COMMENT NO. 7: In ARM 42.2.614(1), they suggest the department add "liquor licensing" as one of the exemptions to be consistent with ARM 42.2.613(18).

RESPONSE NO. 7: The department agrees.

COMMENT NO. 8: They suggested adding "or video conferencing when available" following "telephonic" in ARM 42.2.619(3). They stated that some of their members reside out of state and would welcome the opportunity to utilize video conferencing when it is available to the parties.

RESPONSE NO. 8: The department has considered video conferencing for this process. However, due to the high cost of video conferences at this time, the department cannot provide that service as an option.

COMMENT NO. 9: New Rule I(1) indicates this process would apply to "all department actions" except two. They suggested that this could be clarified by adding "all department actions involving statement of accounts or notices of assessment for centrally assessed companies."

RESPONSE NO. 9: The department has adopted a separate rule to address assessment notices for centrally assessed companies so this change is not necessary. However, the department did revise (1) to clarify that it applies only to actions where an SOA has been issued by the department and does not apply to a notice of assessment for centrally assessed property.

COMMENT NO. 10: In New Rule I(2), they suggest that the department clarify language that the "SOA shall advise the customer of the requirement to file an AB-26 or a written objection to the SOA within 30 days."

RESPONSE NO. 10: The department agrees and has amended the rule accordingly.

COMMENT NO. 11: In New Rule I(3), following "is sent by United States mail" (US postal service is used in ARM 42.2.613(19)), they suggested the department insert "or by any other generally accepted delivery service."

RESPONSE NO. 11: The department has amended the rule to change the reference from "United States mail" to "U.S. postal service or by any other generally acceptable delivery service" as suggested by the Montana Taxpayers' Association.

COMMENT NO. 12: New Rule I(5)(b) and (6)(c) refer to the 15-day time period and that is not sufficient for corporations. They request that this time period be changed to 30 days to be consistent with other time periods in the rules.

RESPONSE NO. 12: The department believes that 15 days is sufficient time to file an appeal with the department's Office of Dispute Resolution for the majority of its customers. Therefore, the rule was not amended.

COMMENT NO. 13: New Rule I(10) and ARM 42.2.614(2) and (3) both refer to the following flow chart. If the flow chart currently included in ARM 42.2.614 is replaced by the proposed flow chart, then the language in New Rule I(10) should read "The flow chart in 42.2.614(3) shows the process from beginning with the initial notice provided to the customer." It would be helpful to reference the forms the taxpayer needs to file in the proposed flow chart. For example, in the bottom chart on the left hand side "customer disagrees with SOA and files written objection or an AB-26 within 30 days. Taxpayer may also file Form 577 requesting an extension."

RESPONSE NO. 13: These are two separate flow charts. The flow chart for New Rule I and now New Rule II will be found in Chapter 5 of the rules, where the flow chart for ARM 42.2.614 is found in Chapter 6. Therefore, there is no need to amend the rule. The taxpayer may not file Form 577 at the same time the AB-26 or written objection is filed. The extension form may only be filed after the original objection has been filed. The purpose of that form is to allow additional time for either party to gather and submit additional information necessary to support their position.

COMMENT NO. 14: Ms. Whittinghill stated that she understands the need to streamline the appeal process by combining the SOAs and notices of assessment for centrally

assessed companies, but the two should be kept separate. The issuance of an SOA initiates a liability owed to the department, where the assessment notice to a centrally assessed company initiates a future tax liability generated by local government. The flow chart and the language in New Rule I is confusing for the central assessment situations.

RESPONSE NO. 14: The department agrees that the process is sufficiently different to warrant two separate rules reflecting the review processes for statement of account billings and the centrally assessed property tax assessments. Therefore, the department is proposing New Rule II and amending ARM 42.22.115 to reflect the difference between the two processes.

3. The department has amended ARM 42.2.613, 42.2.614, and New Rule I (ARM 42.2.510) with the following changes:

42.2.613 DEFINITIONS The following definitions apply to rules found in this sub-chapter.

~~(1) "AB-26" is the form which may be used by the customer to notify the department of a dispute concerning an amount shown on a property tax bill or statement of account (SOA) for those items described in (17). This form is available on the department's internet homepage, <http://www.state.mt.us/revenue>.~~

~~(2) "Alternative dispute resolution (ADR)" means the option of a voluntary, confidential, and cooperative means of resolving disputes. One objective is to reduce costs and risks inherent in adjudication or litigation for either the person or other entity and the department. Alternative dispute resolution can include mediation.~~

~~(2) "CENTRALLY ASSESSED APPRAISAL REPORT" MEANS THE REPORT THAT NOTIFIES THE CUSTOMER OF THEIR MARKET VALUE FOR THEIR CENTRALLY ASSESSED PROPERTY EACH YEAR.~~

~~(3) "CENTRALLY ASSESSED ASSESSMENT NOTICE" MEANS THE FINAL REPORT SENT TO THE CUSTOMER AND LOCAL DEPARTMENT FIELD OFFICE NOTIFYING THEM OF THE CUSTOMER'S MARKET AND TAXABLE VALUE BY JURISDICTION.~~

~~(3) (4) "Customer" means any person or other entity subject, BUT NOT LIMITED to a tax, LICENSE FEE, ROYALTY, OR PERMIT imposed by the state of Montana or A liable LIABILITY for payment of a debt collected by the department.~~

~~(4) (5) "DOR form 577" means the extension form used to request an extension of the dates referred to in {New Rule I} ARM 42.2.622 WHICH IS AVAILABLE ON THE DEPARTMENT'S INTERNET HOMEPAGE, [HTTP://WWW.STATE.MT.US/REVENUE](http://www.state.mt.us/revenue).~~

~~(5) through (14) remain the same but are renumbered (6) through (15).~~

~~(15) (16) "Party" means either the customer or the responsible department representative.~~

~~(16) (17) "Request for informal review form (AB-26)" is a form used by the department and the customer to record changes, appeals and issues pertaining to a particular customer. This form is available on the department's internet homepage as stated in (1), [HTTP://WWW.STATE.MT.US/REVENUE](http://www.state.mt.us/revenue). IT MAY BE USED~~

BY THE CUSTOMER TO NOTIFY THE DEPARTMENT OF A DISPUTE CONCERNING AN AMOUNT SHOWN ON A PROPERTY ASSESSMENT NOTICE OR STATEMENT OF ACCOUNT (SOA) FOR THOSE ITEMS DESCRIBED IN (19).

(17) remains the same but is renumbered (18).

~~(18)~~ (19) "Statement of account (SOA)" means the first notice provided to the customer of an amount owed to the department or of a violation. It may include, but is not limited to, ~~a notice of assessment,~~ NOTICE OF REFUND REDUCTION, tax debt, fine, or notice of a violation of the laws administered by the department. It does not include notices pertaining to inheritance taxes, estate taxes, ~~non-centrally assessed property taxes,~~ or liquor licensing matters.

~~(19)~~ (20) "Written objections" include objections submitted through electronic media or delivered by the U.S. postal service, ~~federal express,~~ or any other generally accepted delivery service. FOR MATTERS BEFORE ODR, ELECTRONIC MEDIA FILINGS MUST BE SUPPLEMENTED WITH A HARD COPY DOCUMENT.

AUTH: Sec. 15-1-201 and 15-1-211, MCA

IMP: Sec. 15-1-211, 15-1-406, 15-23-102, 15-23-107, 15-30-257, and 39-51-1109, MCA

42.2.614 PURPOSE (1) Section 15-1-211, MCA, provides for the creation of an office of dispute resolution (ODR) within the department and requires a uniform dispute review process. A primary objective of the resolution procedure is to make dispute resolution as unintimidating and inexpensive as possible to parties appearing before the department. The law exempts non-centrally assessed property, inheritance, estate taxes, LIQUOR LICENSING, and the issue of whether an employer-employee relationship existed between the person or other entity SUBJECT to the requirements of Title 15, chapter 30, part 2, MCA, or whether the employment relationship was that of an independent contractor, from the dispute resolution process.

(2) As shown in the flow chart in (3), a final agency decision must be issued within 180 days from the date ~~notification of a dispute is~~ THE CVR-1 FORM IS received by the office of dispute resolution. Section 69-8-414, MCA, specifically requires the department to issue a final agency decision for uniform systems benefits (USB) matters within 60 days from the date the matter is submitted to ODR rather than the 180 days provided in 15-1-211, MCA.

(3) remains the same.

AUTH: Sec. 15-1-201 and 15-1-211, MCA

IMP: Sec. 15-1-211 and 69-8-414, MCA

NEW RULE I (ARM 42.2.510) REVIEW OF STATEMENT OF ACCOUNT NOTICES (1) This rule applies to all department actions WHERE A STATEMENT OF ACCOUNT (SOA) IS ISSUED except the review of certain tax issues that involve unemployment benefit claims pursuant to 15-30-257, MCA, ~~and where the department has made an adjustment or correction pursuant to 15-30-142, MCA.~~ STATEMENT OF ACCOUNTS DO NOT INCLUDE CENTRALLY ASSESSED APPRAISAL REPORTS AND CENTRALLY ASSESSED ASSESSMENT NOTICES WHICH ARE COVERED BY ARM 42.2.511.

(2) The THE department WILL PROVIDE NOTIFICATION TO THE CUSTOMER ~~shall~~ BY mailing the ~~statement of account (SOA)~~ as defined in ARM 42.2.613, to the customer as prescribed in 15-1-211, MCA. INFORMATION PROVIDED ON ~~the~~ SOA shall advise the customer of the requirement to file A REQUEST FOR INFORMAL REVIEW FORM (AB-26) OR a written objection to the SOA WITH THE DEPARTMENT within 30 days ~~of~~ FROM the date of the SOA; and that failure to file a written objection within the 30 days shall be deemed an admission that the customer agrees the debt stated in the SOA is due and owing.

(a) If the customer agrees with the SOA, the matter is resolved upon compliance with, or acceptance of, the terms set forth in the SOA.

(b) If the customer does not pay or respond to the SOA AS REQUIRED IN (2), ~~a bill is generated and~~ LETTER WILL BE sent to the customer and REQUESTING payment ~~shall be expected immediately~~ WITHIN 30 DAYS OF THE DATE OF THE LETTER OR A WARRANT FOR DISTRAINT MAY BE ISSUED PURSUANT TO 15-1-702, MCA.

(c) If payment TO THE BILL is received, the matter is resolved.

(d) If payment TO THE BILL is not received, the matter is forwarded to the department's accounts receivable and collection (ARC) process for handling.

(3) ~~If the customer objects to the SOA, the customer shall respond to the SOA~~ OBJECTION TO THE SOA WILL BE PROVIDED TO THE DEPARTMENT within 30 days of the date on the SOA. If the objection is sent by ~~United States mail~~ THE U.S. POSTAL SERVICE OR BY ANY OTHER GENERALLY ACCEPTED DELIVERY SERVICE, the objection must be postmarked within 30 days of the date of the SOA. If it is sent by electronic mail, it must be sent within 30 days of the date of the SOA. Failure to respond within the 30 days shall be deemed an admission that the customer concurs that they owe the debt stated in the SOA.

(a) Objections may be submitted using the ~~request for informal review form (AB-26)~~ or by a detailed letter.

(b) Electronic objections will be accepted. The e-mail address, [soaobjection.state.mt.us](mailto:soaobjection.state.mt.us), is provided on the SOA in the appeal rights section.

(4) A MUTUAL EXTENSION MAY BE GRANTED IF BOTH PARTIES AGREE. The parties may ~~mutually agree to~~ extend the time periods in this rule AFTER THE INITIAL OBJECTION HAS BEEN FILED by completing an extension form (DOR form 577) WHICH IS AVAILABLE ON THE DEPARTMENT'S INTERNET HOMEPAGE.

(5) The department shall review the objection and determine whether the department agrees or disagrees with the customer's objections. The department shall mail written notice to the customer advising the customer of the department's determination within 30 days after receipt of the objection.

(a) If the department concurs with the customer, the matter is resolved by withdrawing or revising the SOA.

(b) If the department disagrees with the customer, it shall explain the reasons for the disagreement, notify the customer of the dispute resolution procedures and provide a copy of notice of referral form (CVR-1). The department shall also

notify the customer that the customer must submit a CVR-1 form or detailed letter to the department within 15 days of the DATE ON THE notice of determination from the department, and that the customer will forfeit the right to a hearing if the customer fails to submit the CVR-1 or detailed letter within the 15-day period.

(6) APPEALS SHALL BE SUBMITTED TO THE OFFICE OF DISPUTE RESOLUTION ~~if the customer decides to appeal the department decision, the customer shall forward the matter to the office of dispute resolution (ODR),~~ as required in 15-1-211, MCA. This may be done by completing the ~~notice of referral form (CVR-1),~~ or by providing a detailed letter and submitting either document to the department within 15 days of the date of the notice of determination from the department.

(a) Failure to file an appeal by the customer within 15 days of the date of the notice of determination by the department shall be deemed an admission that the customer concurs that the debt stated in the SOA is due and owing.

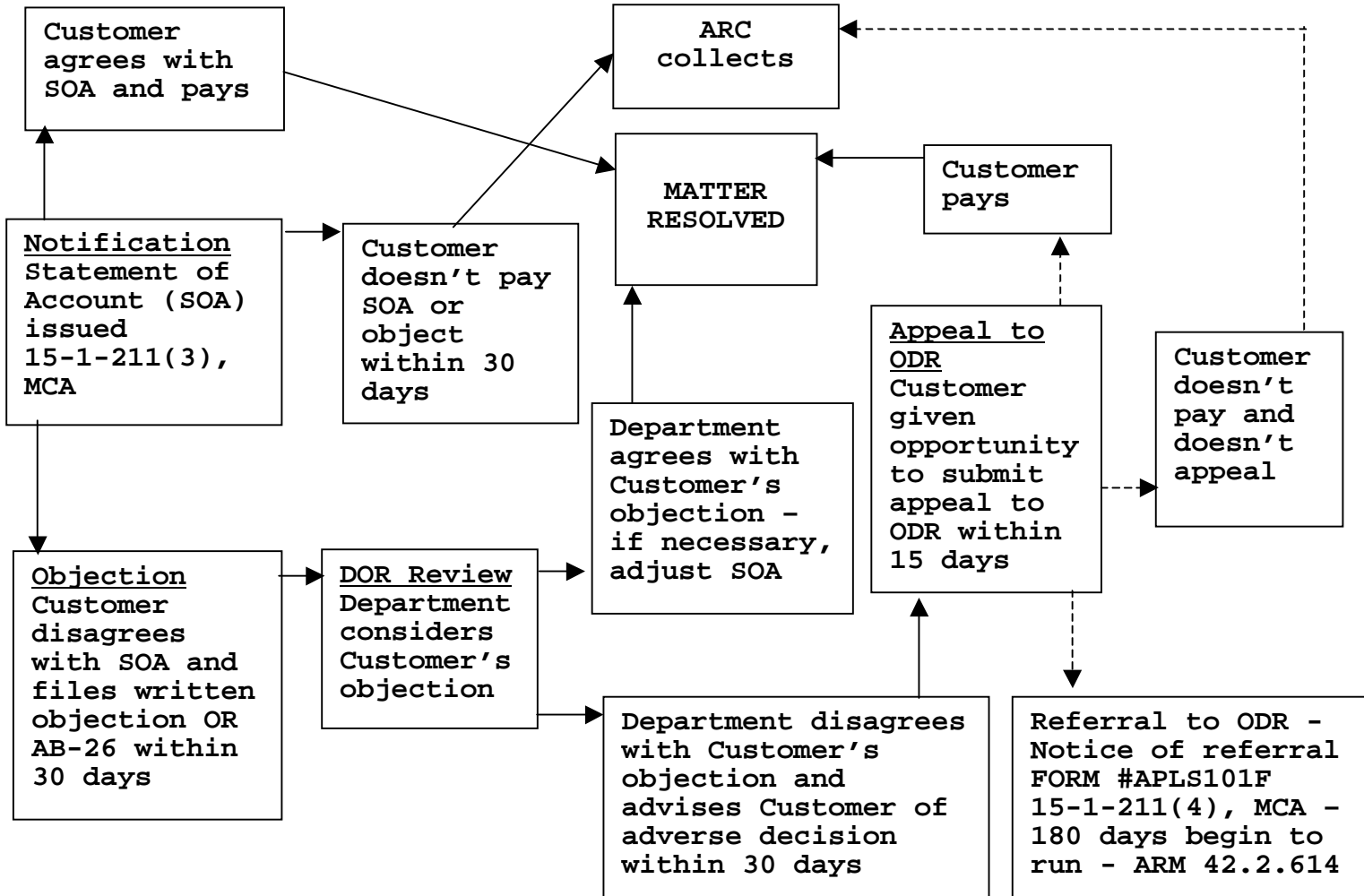
(b) If the customer pays the bill, the matter is resolved.

(c) If the customer does not pay the bill, the matter will be referred to ARC for collection.

(7) through (9) remain the same.

(10) The following flow chart shows the SOA process beginning with the initial notice provided to the customer:

AUDIT — SOA APPEAL PROCESS FLOW CHART



AUTH: Sec. 15-1-201 and 15-1-211, MCA

IMP: Sec. 15-1-211, 15-1-406, 15-23-102, 15-23-107, 15-30-142, 15-30-257, and 39-51-1109, MCA

4. As a result of the comments received the department is adopting New Rule II (42.2.511) to address the centrally assessed property tax review process, which is somewhat different than the SOA process described in New Rule I and amending ARM 42.22.115 because it conflicts with New Rule II (42.2.511). Those rules are reflected as follows:

NEW RULE II (42.2.511) REVIEW OF CENTRALLY ASSESSED PROPERTY APPRAISALS (1) This rule applies to all centrally assessed property tax appraisals issued by the department.

(2) Appraisal reports will be mailed to the customer as provided in ARM 42.22.115. The appraisal report shall advise the customer of the requirement to file a request for informal review form (AB-26) or a written objection to the appraisal report within 15 days of the date of the appraisal report; and that failure to file a written objection within the 15 days shall be deemed an admission that the customer agrees the appraisal is correct and final. If the customer agrees with the appraisal, no response is required and the department will advise the local department field office and the customer by issuing an assessment notice on or before July 1 of the year of assessment that the appraisal is final.

(3) Objections to appraisal report shall be sent to the department within 15 days of the date on the appraisal report. If the objection is sent by the U.S. Postal Service or by any other generally accepted delivery service, the objection must be postmarked within 15 days of the date of the appraisal report. If it is sent by electronic mail, it must be sent within 15 days of the date of the appraisal report. Failure to respond within the 15 days shall be deemed an admission that the customer concurs with the appraisal as stated in the appraisal report.

(a) Objections may be submitted using the AB-26 or by a detailed letter.

(b) Electronic objections will be accepted. The e-mail address, [soaobjection.state.mt.us](mailto:soaobjection.state.mt.us), is provided on the appraisal report in the appeal rights section.

(4) Mutual extensions may be granted if both parties agree. The parties may extend the time periods in this rule after the initial objection has been filed by completing an extension form (DOR form 577) or by detailed letter.

(5) The department shall review the objection and determine whether the department agrees or disagrees with the customer's objections. The department shall mail written notice to the customer advising the customer of the department's determination within 15 days after receipt of the objection.

(a) If the department concurs with the customer, the matter is resolved by revising the appraisal report and issuing a final assessment notice.

(b) If the department disagrees with the customer, it shall explain the reasons for the disagreement by issuing a



revised appraisal report, notify the customer of the dispute resolution procedures and provide a copy of a CVR-1. The department shall also notify the customer that the customer must submit a CVR-1 form or detailed letter to the department within 15 days of the date on the revised appraisal report, and that the customer will forfeit the right to a hearing if the customer fails to submit the CVR-1 or detailed letter within the 15-day period.

(6) If the customer decides to appeal the department's decision, the customer shall:

(a) within 15 days of the date of the revised appraisal report forward the matter to the office of dispute resolution (ODR), as required in 15-1-211, MCA, by completing the CVR-1, or by providing a detailed letter and submitting either document to the department; or

(b) upon mutual agreement of the parties file an appeal with the state tax appeal board.

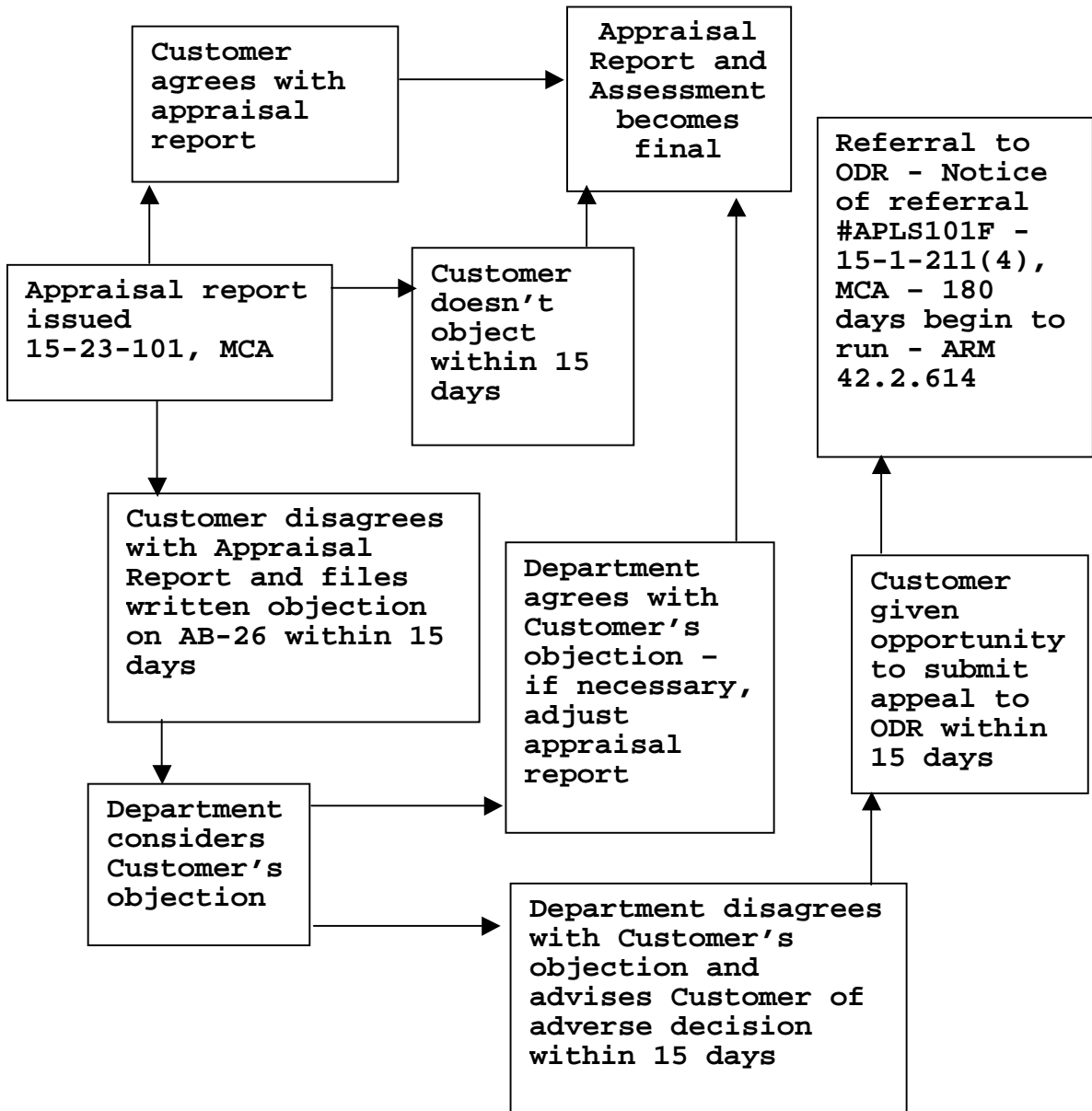
(7) If the matter is submitted to ODR, ARM 42.2.613 through 42.2.621 apply. The department has 180 calendar days from the referral date to resolve the matter.

(8) The parties can agree to settle the dispute at any point during the process.

(9) If the department fails to comply with the deadlines in this rule, the customer may immediately refer the matter to ODR.

(10) The following flow chart shows the process beginning with the appraisal report being provided to the customer:

APPRAISAL REPORT AND ASSESSMENT NOTICE APPEAL PROCESS FLOW CHART



AUTH: Sec. 15-1-201, 15-1-211, and 15-23-108, MCA

IMP: Sec. 15-1-211, 15-1-406, 15-23-102, and 15-23-107,

MCA

42.22.115 NOTIFICATION (1) On or before June 1 each year the department shall notify the centrally assessed companies of the ~~proposed valuation APPRAISAL REPORT~~ of their Montana properties. ~~Within 20 days of notification companies may meet with the department to review the valuation and provide additional information which is pertinent in arriving at a proper valuation. The department shall consider the company's suggestions and additional material and notify the company of its intended action.~~

(2) remains the same.

AUTH: Sec. 15-23-108, MCA

IMP: Sec. 15-23-102 and 15-23-403, MCA

5. As a result of the comments received the department has amended ARM 42.2.619 as proposed, further amended ARM 42.2.613 and 42.2.614, and adopted New Rule I (42.2.510) as shown above. Stricken material is interlined and new material is capitalized. The department has also adopted New Rule II (42.2.511) and amended ARM 42.22.115 as shown above.

6. An electronic copy of this Adoption 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 Adoption Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its 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.

/s/ Cleo Anderson  
CLEO ANDERSON  
Rule Reviewer

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

Certified to Secretary of State October 21, 2002.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT  
of ARM 42.17.504 relating to )  
rates for new employers )

TO: All Concerned Persons

1. On September 12, 2002, the department published notice of proposed amendment of the above-stated rule relating to rates for new employers at page 2424 of the 2002 Montana Administrative Register, issue no. 17.

2. A public hearing was held on October 9, 2002, to consider the proposed amendment. No one appeared to testify and no written comments were received. The department presented an analysis, which indicates that a minimal number of new employers will be impacted by the proposed amendments. The largest impact area for new employers is situated in Division A. Those employers are: agriculture, forestry, logging, fishing and hunting.

3. The department has amended ARM 42.17.504 with the following changes:

42.17.504 RATES FOR NEW EMPLOYERS (1) THE RATES IN THIS RULE ARE APPLICABLE BEGINNING JANUARY 1, 2003.

(2) Rates for new employers are based on North American Industry Classification System (NAICS) codes which are assigned to nine major INDUSTRIAL CLASSIFICATION rate divisions, plus a non-classifiable establishment division for employer accounts whose industrial class cannot be determined.

(2) remains the same but is renumbered (3).

~~(3)~~ (4) The NAICS codes are assigned to rate divisions as follows:

(a) through (f) same as proposed.

(g) Division G:

(i) NAICS Code 44-45 - retail trade; and

(ii) NAICS Code 722 - ACCOMMODATION AND food services and ~~drinking places;~~

(h) same as proposed.

(i) Division I:

(i) though (vi) same as proposed.

(vii) NAICS Code 71 - arts, entertainment, and recreation;

AND

(viii) ~~NAICS Code 721 - accommodation services; and~~

~~(ix)~~ NAICS Code 81 - other services; and

(j) same as proposed.

(4) and (5) remain as proposed but are renumbered (5) and (6).

AUTH: Sec. 39-8-201 and 39-51-302, MCA

IMP: Sec. 39-8-207 and 39-51-1101, MCA

4. Therefore, the department adopts the rule with the amendments listed above.

5. An electronic copy of this Adoption 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 Adoption Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its 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.

/s/ Cleo Anderson  
CLEO ANDERSON  
Rule Reviewer

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

Certified to Secretary of State October 21, 2002

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption ) NOTICE OF ADOPTION  
of New Rule I (42.20.156) )  
relating to changing land use )  
for agricultural (class three))  
and forest land (class ten) to)  
class four )

TO: All Concerned Persons

1. On August 15, 2002, the department published notice of proposed adoption of the above-stated rule relating to changing land use for agricultural (class three) and forest land (class ten) to class four at page 2178 of the 2002 Montana Administrative Register, issue no. 15.

2. A public hearing was held on September 4, 2002, where written and oral comments were received. The department invited representatives from agriculture, forest lands, realtors, developers, local governments, and taxpayer organizations to participate in the development of the rule prior to the hearing.

3. Oral and written comments received during and subsequent to the hearing are summarized as follows, along with the response of the department:

COMMENT NO. 1: Ms. Cindy Willis, with Real Estate Buyers Solutions from Polson, Montana, stated that (1)(e)(i)(K) should fall under (2)(a) "utility lines . . . for the benefit of a third party." She stated that since a cellular tower is not for the private use of the landowner, it should be considered just a utility line and, therefore, not cause a change in classification.

RESPONSE NO. 1: Section (1)(e)(i) refers only to examples of a commercial or industrial structure. If the land already contains any of the items listed in (1)(e)(i), the land should be classified as commercial or industrial. Therefore, if there were a presence of a cellular communication tower it would not cause another change in classification.

COMMENT NO. 2: Tim Huls presented a letter on behalf of the Right to Farm & Ranch Board of Hamilton, Montana, which addressed several concerns relating to this new rule. The Board unanimously opposed the new rule. They stated, in their letter, that they were concerned about operations being affected in Ravalli County because the County consists of century-old platted subdivisions. Virtually all the land irrigated under the Bitterroot Irrigation District was subdivided into small parcels years ago. Further, many of the trigger criteria in the rule are integral to sustaining modern and ongoing agricultural operations.

The Board stated that the Governor's task force on agriculture promoted value-added agriculture and alternative agriculture as economic tools to assist farmers and ranchers. In many instances, the infrastructures needed to add value or engage in alternative agriculture are located on the farm or ranch property and meet many of the proposed criteria that would result in the change of classification.

The Board is concerned that the rule would inhibit agriculture from expanding or incorporating a value-added or alternative agriculture option. These are business options that would supplement income to an established farm or ranch.

RESPONSE NO. 2: The department appreciates the comments offered by the Right to Farm & Ranch Board of Ravalli County. It is not the department's intent to move agricultural property that is legitimately operating as an agricultural operation into class four. Even though the land may be platted, three or more of the criteria in (1)(d), must be met before a classification change will occur.

COMMENT NO. 3: Mr. Huls also stated personal concerns regarding a trigger point that identifies platted subdivisions so those farms in Ravalli County would fit into the area that would trigger a change in use. There are nearly 17,000 acres of irrigated land in the Bitterroot Irrigation District. The majority of that land is in ten-acre platted parcels. This started around approximately 1910-1912 during the apple boom when the land was sold in orchard tracts. Much of those acres are in multiple orchard tracts. Therefore, that would make their ranch a platted subdivision.

The second thing for them to be concerned about is determining what would kick them into a change in use? He stated that after looking at the criteria stated in the rule he could identify several of the listed items as currently existing on their dairy farm that could consequently change their land use. A couple of them are:

(a) Utilities - they have three-phase power to the dairy operation and all over the ranch for various uses. There is underground gas that crosses most of the land on the ranch. Some of it is for third party use, but some of it is for their personal use in their own residences and agricultural operation.

(b) Underground storage tanks - they just put in a 10,000 gallon storage tank for storing milk. These rules could make a person think they have shifted gears to a different kind of use.

(c) Roads - they haul silage, and in order to get from one area to another they have improved their own road infrastructure to county standards. Many of those roads were built with their own money but they would meet the criteria that the county has for rural residential minor subdivisions. Also, there are platted roads that show up on a map but are not there in reality. There are many roads in Ravalli County that were platted and deeded to the public, but were never maintained and, in some cases, never even constructed.

(d) Other platted items include a city that has been

platted but never built. It is called Bitterroot, Montana. It is currently a hay field that is east of Stevensville.

Mr. Huls stated that he recognizes the need to clarify and move ahead with something that everyone can understand and that can be applied to everyone appropriately.

RESPONSE NO. 3: These rules are not intended to place properly classified bonafide agricultural operations out of agricultural land status into taxable tract land status. In the described examples, perhaps two criteria might be met; roads and utilities, but three or more are required in order to change the classification from agriculture. The storage tanks referred to in the rule apply to commercial and industrial property. If the use of the storage tank were clearly agricultural, the infrastructure would be classified as agricultural according to existing statutes. If actual commercial activity occurs on the site, such as a sales area, then there would be a change in the valuation status of that land.

4. The department has adopted the rule as proposed.

5. An electronic copy of this Adoption 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 Adoption Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its 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.

/s/ Cleo Anderson  
CLEO ANDERSON  
Rule Reviewer

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

Certified to Secretary of State October 21, 2002



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 June 30, 2002. This table includes those rules adopted during the period July 1, 2002 through September 30, 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 June 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.

ADMINISTRATION, Department of, Title 2

2.5.120 and other rules - State Procurement of Supplies and Services, p. 2037, 2651

8.94.4104 and other rules - Transfer from the Department of Commerce - Single Audit Act, p. 2045, 2649

(Public Employees' Retirement Board)

I Family Law Orders for the Public Employees' Retirement System Defined Contribution Retirement Plan Administered by the Public Employees' Retirement Board, p. 2052, 2653

I Purchase of Service Credit through Direct Trustee-to-Trustee Transfers, p. 1154, 1889

I-III Qualified Domestic Relations Orders for the Deferred Compensation (457) Plan Administered by the Public Employees' Retirement Board, p. 1612, 2185

I-III Deferred Compensation Plan Administered by the Public Employees' Retirement Board, p. 1150, 1893

I-X Deferred Retirement Option Plan (DROP) for Members of the Municipal Police Officers' Retirement System, p. 1118, 1891, 2652

2.43.404 and other rules - Defined Contribution Retirement Plan for Members of the Public Employees' Retirement System, p. 1126, 1884

- 2.43.606 Retirement Systems Administered by the Public Employees' Retirement Board, p. 1114, 1890
- 2.43.615 and other rules - Family Law Orders for Retirement Systems and Plans Administered by the Public Employees' Retirement Board, p. 1603, 2182

(State Compensation Insurance Fund)

- 2.55.319 and other rules - Multiple Rating Tiers - Premium Modifiers - Individual Loss Sensitive Dividend Distribution Plan - Premium Rates, p. 2073, 164, 1065
- 2.55.320 and other rule - Classifications of Employment - Construction Industry Premium Credit Program, p. 2710

(Banking and Financial Institutions)

- 2.59.107 Investments of Financial Institutions, p. 136, 901

AGRICULTURE, Department of, Title 4

- I-III Potato Research and Market Development Program, p. 1682, 2186
- 4.12.402 and other rules - Feed Penalties, p. 1, 778
- 4.13.1001A State Grain Laboratory Fees, p. 1008, 1548

STATE AUDITOR, Title 6

- I Prohibition of Discretionary Clauses in Insurance Policy Forms, p. 2486
- I-IV Insurance Information and Privacy Protection, p. 1686

COMMERCE, Department of, Title 8

(Community Development Division)

- I Administration of the 2002 Federal Community Development Block Grant Program, p. 2449, 1656, 1976
- I Application to the Treasure State Endowment Program (TSEP), p. 2447, 524

(Hard-Rock Mining Impact Board)

- 8.104.101 and other rules - Organizational Rule - Rules Governing Awarding of Grants, p. 425, 1660

(Board of Housing)

- 8.111.513 Terms and Conditions of Loans Made from TANF Housing Assistance Funds, p. 1832, 2432

(Montana Promotion Division)

- 8.119.101 Tourism Advisory Council, p. 1013, 1661

EDUCATION, Title 10

(Office of Public Instruction)

- 10.7.106A and other rules - Students Placed in Private Education Programs - Tuition, p. 855, 1662
- 10.7.112 and other rules - Establishment of Investment Accounts - Spending Accounts - Agreement with the County Treasurer - Payments into an Investment Account - Controls and Accounting Records - Closure of a School District Fund - Cash and Budget Transfers Between School District Funds - School Flexibility Payment - Basic Equalization Levy Shortfall, p. 825, 1740
- 10.13.307 and other rules - Traffic Education, p. 6, 1067
- 10.41.101 and other rules - Vocational Education, p. 1784, 2206, 780, 1304

(Board of Public Education)

- I Substantial and Material Non-performance of a Contract of Employment, p. 1016, 1549
- 10.55.602 and other rules - Criminal History Background Check - Substitute Teachers - Teacher License Classification - Definition of "Immoral Conduct" - Investigation - Reporting of the Surrender, Denial, Revocation or Suspension of a License - Accreditation - Teacher Certification - Hearing Procedures, p. 2489
- 10.57.211 and other rules - Model Rules - Teacher Certification - Testing for Certification and Minimum Scores, p. 867, 1463
- 10.64.301 and other rules - Bus Standards, p. 1530, 2187
- 10.66.104 GED Fees, p. 1534, 2188

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

- 12.9.802 and other rules - Issuance of Supplemental Game Damage Licenses to Hunters in Lieu of Kill Permits, p. 20, 1306

(Fish, Wildlife, and Parks Commission)

- I Creating a No Wake Zone on Hebgen Lake, p. 1156, 2894
- I Regulating the Use of Snowmobiles on Open Public Water, p. 27, 1084
- 12.3.135 and other rule - Allowing Successful Moose, Sheep or Goat Applicants to Annul and Return the License if Military or Emergency Duty Does Not Allow Use of the License - Bonus Point Exemption for Military or Emergency Personnel in Combat or Emergency Situations, p. 1835, 2654
- 12.3.402 Refunding of the Two-day Resident Fishing License, p. 17, 1072
- 12.7.801 and other rules - Fishing Contest Regulations, p. 29, 1073, 1894

(Department of Fish, Wildlife, and Parks and the Fish, Wildlife, and Parks Commission)

- I-V Contractual Public Elk Hunting Access Agreements, p. 1536, 1977
- 12.2.501 Declaring Black-tailed and White-tailed Prairie Dogs to be Nongame Wildlife in Need of Management, p. 1806, 526

ENVIRONMENTAL QUALITY, Department of, Title 17

- I Air Quality - Air Quality Fee Credit for Use of Postconsumer Glass in Recycled Material, p. 1950, 529
- 17.30.602 and other rules - Water Quality - Standards for Electrical Conductivity and Sodium Adsorption Ratio - Classifications for Constructed Coal Bed Methane Water Holding Ponds - Definitions for Water Quality Standards - Nonsignificance Criteria, p. 2280
- 17.30.602 and other rules - Water Quality - Standards for Electrical Conductivity and Sodium Adsorption Ratio - Classifications for Constructed Coal Bed Methane Water Holding Ponds - Definitions for Water Quality Standards - Nonsignificance Criteria, p. 2269
- 17.30.602 and other rule - Water Quality - Standards for Electrical Conductivity and Sodium Adsorption Ratio - Definitions for Water Quality Standards, p. 2262
- 17.36.101 and other rules - Subdivisions - Definitions - Storm Drainage - Sewage Systems - Water Supply Systems - Non-public Water Supply Systems - Alternate Water Supply Systems - Lot Sizes - Adoption by Reference of DEQ-4, p. 2785
- 17.36.101 and other rules - Subdivisions - Subdivision Review Under the Sanitation and Subdivisions Act, p. 568, 1465, 1981
- 17.40.201 and other rules - Wastewater Operators - Wastewater Treatment Operators, p. 1839
- 17.53.102 and other rules - Hazardous Wastes - Management of Hazardous Wastes, p. 35, 789, 1315
- 17.53.105 Incorporation by Reference of Current Federal Regulations into Hazardous Waste Rules, p. 2139
- 17.56.105 and other rule - Underground Storage Tanks - Variances - Issuance of Compliance Tags and Certificates, p. 51, 1477
- 17.56.308 and other rule - Underground Storage Tanks - Operating Permits or Compliance Plans - Compliance Inspections, p. 2452, 139, 1091
- 17.56.502 and other rules - Underground Storage Tanks - Release Reporting - Investigation, Confirmation and Corrective Action Requirements for Tanks Containing Petroleum or Hazardous Substances, p. 2792

(Board of Environmental Review)

- I Air Quality - Maintenance of Air Pollution Control Equipment for Existing Aluminum Plants, p. 1033, 2189
- I-X Water Quality - Storm Water Discharges, p. 2717
- 17.8.101 and other rules - Issuance of Montana Air Quality Permits, p. 2076
- 17.8.101 and other rules - Air Quality - Definitions - Incorporation by Reference of Current Federal Regulations - Additional Conditions of Air Quality Preconstruction Permit, p. 268, 1747
- 17.8.302 Incorporation by Reference of Hazardous Air Pollutants Emission Standards, p. 2124
- 17.8.505 and other rules - Air Quality - Air Quality Operation Fees - Annual Review of Air Quality Permit Fees - Open Burning Fees, p. 1692
- 17.8.601 and other rules - Open Burning, p. 2118
- 17.8.1101 and other rules - Protection of Visibility in Mandatory Class I Federal Areas, p. 2127
- 17.8.1201 Air Quality - Definition of Major Source in the Air Quality Operating Permit Rules, p. 1030, 2195
- 17.24.101 and other rules - Metal Mine Reclamation Act, p. 2059
- 17.30.502 and other rules - Water Quality - Definitions - Incorporation by Reference - Criteria for Determining Nonsignificant Changes in Water Quality, Standards for Ground Water - Sample Collection, Preservation and Analysis Methods, p. 2713
- 17.30.502 and other rules - Water Quality - Surface Water Quality, p. 1920, 387, 1089, 1314
- 17.30.602 and other rules - Water Quality - Water Use Classifications and Numeric Nutrient Standards - Definitions - Incorporations by Reference, p. 1019, 2196
- 17.30.1301 and other rules - Water Quality - Montana Pollutant Discharge Elimination System Permits, p. 2749
- 17.30.2003 Water Quality - Enforcement Actions for Administrative Penalties, p. 263, 1749
- 17.36.901 and other rules - Water Quality - Subsurface Wastewater Treatment Systems, p. 2761
- 17.38.101 and other rule - Public Water Supply - Public Water and Sewage System Requirements, p. 2780

(Petroleum Tank Release Compensation Board)

- 17.58.326 Operation and Management of Petroleum Storage Tanks, p. 2055, 2904

CORRECTIONS, Department of, Title 20

- 20.9.101 and other rules - Youth Placement Committees, p. 618, 1039, 2433
- 20.9.301 and other rules - Parole - Agreement Violation, Initial Investigation and Detainer - Scheduling and Notice of Hearing, Hearing Procedures - Appeal -



Waiver of Right to Hearing - Failure to Appear for Hearing, p. 2809

JUSTICE, Department of, Title 23

- 23.3.127 and other rules - Driver Licensing and Identification Cards, p. 428, 1316, 1896
- 23.4.201 and other rules - Field Certification of Associated Equipment, p. 871, 1482
- 23.4.501 and other rules - Definitions - Requirements for Collection and Storage of DNA, p. 1617, 1983
- 23.15.101 and other rules - Creating the Office of Victims Services and Restorative Justice, p. 1382, 1753
- 23.16.102 and other rules - Forms Used by the Department in Regulating Gambling - Gambling Applications and Licenses - Loans - Letters of Withdrawal - Machine Specifications - Bill Acceptors - Promotional Games of Chance, p. 1947, 2441
- 23.16.102 and other rules - Forms Used by the Department in Regulating Gambling - Gambling Applications - Video Gambling Machine Testing Fees, p. 308, 902
- 23.17.311 Montana Law Enforcement Academy Student Academic Performance Requirements for the Basic Course, p. 1386, 1754

(Board of Crime Control)

- I Authorizing Reimbursement to Counties for Detention of Indian Youth, p. 142, 305, 1484
- I-II Authorizing Establishing the Minimum Qualifications for Commercial Vehicle Inspectors - Establishing the Requirements for a Commercial Vehicle Inspector Basic Certificate, p. 2379
- 23.14.401 and other rule - Membership on the Peace Officers Standards and Training Advisory Council - POST Training Hours Awarded for College Credits, p. 1697, 2314

LABOR AND INDUSTRY, Department of, Title 24

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

- I-VIII Building Codes, p. 1631, 2656
- I-XVIII Investigating Complaints on Discrimination, p. 1158, 2908
- 24.11.204 and other rules - Unemployment Insurance Benefits Matters, p. 1044, 1665
- 24.11.442 Initial Monetary Determination Matters, p. 1863, 2322
- 24.16.9001 and other rules - Prevailing Wage Matters, p. 1172, 2446
- 24.16.9003 and other rule - Prevailing Wage Rates, p. 1391, 1985

- 24.17.127 Prevailing Wage Rates - Highway Construction Only, p. 2824
- 24.21.411 and other rules - Apprenticeship, p. 1701, 2453
- 24.21.414 Adoption of Wage Rates for Certain Apprenticeship Programs, p. 1400, 2655
- 24.29.1504 and other rules - Chiropractic, Occupational Therapy and Physical Therapy Services and Fees in Workers' Compensation Matters, p. 1403, 1758
- 24.29.2803 and other rules - Uninsured Employers' Fund, p. 1420, 1766
- 24.29.2814 Emergency Amendment - Uninsured Employers' Fund Administrative Costs Balance, p. 907
- 24.30.102 Occupational Safety and Health Standards for Public Sector Employment, p. 887, 1552
- 24.301.142 and other rules - Building Codes, p. 2833

(Board of Architects)

- 24.114.501 and other rule - Examination - Licensure of Applicants Who are Registered in Another State, p. 2299

(Board of Clinical Laboratory Science Practitioners)

- 8.13.101 and other rules - Transfer from the Department of Commerce - Board of Clinical Laboratory Science Practitioners, p. 1485
- 8.13.301 and other rules - Application - Fees - Minimum Standards for Licensure - Continuing Education - Inactive Status - Reactivation of License - Notification of Denial or Disciplinary Action - Supervision, p. 636, 1486

(Board of Cosmetologists)

- 8.14.101 and other rules - Transfer from the Department of Commerce - Board of Cosmetologist Rules, p. 2443
- 8.14.402 and other rules - Elimination of the Required Practical Examination for Cosmetologists, p. 465, 1318

(Board of Dentistry)

- 8.16.402 and other rules - Licensure of Dentists and Dental Hygienists - Application Requirements for Dentists and Dental Hygienists, p. 439, 1488

(State Electrical Board)

- 8.18.101 and other rules - Transfer from the Department of Commerce - State Electrical Board Rules, p. 1755

(Board of Funeral Service)

- 8.30.101 and other rules - Transfer from the Department of Commerce - Board of Funeral Service Rules, p. 790
- 8.30.406 and other rules - Examination - Continuing Education - Sponsors - Renewal, p. 1297, 84, 793

(Board of Landscape Architects)

- 8.24.101 and other rules - Transfer from the Department of Commerce - Board of Landscape Architects Rules, p. 1498
- 24.153.402 and other rules - Seals - Fee Schedule - Examinations - Renewals, p. 2302

(Board of Nursing)

- 8.32.301 and other rules - Probationary Licenses - Standards of Practice for Advanced Practice Registered Nurses - Standards Related to the Advanced Practice of Registered Nurses - Standards Related to Nurses as Members of the Nursing Profession - Method of Referral, p. 1952
- 8.32.303 and other rules - Nursing Licensure, p. 1621, 2315
- 8.32.1408 and other rule - LPN IV Procedures, p. 2294

(Board of Nursing Home Administrators)

- 8.34.418 Fees, p. 2817

(Board of Optometry)

- 8.36.601 Continuing Education, p. 632, 1550
- 8.36.801 Therapeutic Pharmaceutical Agents, p. 884, 1551

(Board of Pharmacy)

- 8.40.101 and other rules - Transfer from the Department of Commerce - Board of Pharmacy Rules, p. 904
- 8.40.401 and other rules - Substantive Pharmacy Rules - Automated Data Processing - Certified Pharmacies - Internship Regulations - Continuing Education for Pharmacists - Dangerous Drug Act - Collaborative Practice Agreement Requirements - Security of Certified Pharmacy - Administration of Vaccines by Pharmacists - Explosive Chemicals - Prescription Copies for Legend Drugs, p. 1422, 178, 794
- 8.40.1301 and other rules - Pharmacy Technicians - Registration of Pharmacy Technicians - Renewal, p. 1447, 86, 796
- 24.174.301 and other rules - Definitions - Foreign Graduates - Preceptor Requirements - Technician Ratio - Pharmacy Security Requirements - Licensing - Personnel - Absence of Pharmacist - Use of Emergency Drug Kits - Drug Distribution - Pharmacist Responsibility - Sterile Products - Return of Medication from Long Term Care Facilities - Pharmacist Meal/Rest Breaks - Health Care Facility Definition - Class I Facility - Class II Facility - Class III Facility, p. 1868, 2159

(Board of Professional Engineers and Land Surveyors)

- I Fire Protection System Shop Drawings, p. 1968
- 8.48.101 and other rules - Transfer from the Department of Commerce - Board of Professional Engineers and Land Surveyors Rules, p. 1756

8.48.401 and other rules - Board Organization - Board Meetings - Screening Panel - Applications - Reclassification of Engineers and Land Surveyors - Classification of Experience of Land Surveying Applicants, p. 450, 1326

(Board of Public Accountants)

8.54.410 Fees, p. 2820

8.54.802 and other rules - Basic Requirements and Credit for Formal Study Programs - Professional Monitoring, p. 2141

(Board of Real Estate Appraisers)

24.207.401 and other rules - Fees - Adoption of USPAP by Reference - Qualifying Experience - Inactive License/Certification, p. 144, 911

24.207.502 and other rules - Real Estate Appraisers, p. 2827

(Board of Realty Regulation)

8.58.301 and other rules - Realty Regulation, p. 2146, 2905

(Board of Sanitarians)

8.60.101 and other rules - Transfer from the Department of Commerce - Board of Sanitarians Rules, p. 1499

(Board of Social Work Examiners and Professional Counselors)

8.61.1201 Licensure Requirements, p. 1388, 2906

(Board of Speech-Language Pathologists and Audiologists)

8.62.413 and other rules - Speech-Language Pathologists and Audiologists Fees, p. 2536

(Board of Veterinary Medicine)

8.64.509 Licensure of Out-of-State Applicants (Endorsement), p. 1041, 1984

LIVESTOCK, Department of, Title 32

(Board of Horse Racing)

8.22.301 and other rules - Transfer from the Department of Commerce - Board of Horse Racing Rules, p. 642, 1500, 1897

(Board of Livestock)

32.2.301 and other rules - Fees for Environmental Impact Funds, p. 2162

32.2.401 Various Fees Charged by the Department of Livestock for Inspecting Livestock, p. 724, 1510

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

36.24.101 and other rules - Water Pollution Control State Revolving Fund Act - Purpose - Definitions and Construction of Rules - Direct Loans - Types of

Bonds; Financial and Other Requirements - Other Types of Bonds - Covenants Regarding Facilities Financed by the Loan - Fees - Evaluation of Financial Matters and Commitment Agreements - Requirements for Disbursing of Loan - Terms of Loan and Bond - Financial and Other Requirements for Loans to Private Persons, p. 1708, 2213

(Board of Land Commissioners)

I-L State Forest Land Management, p. 2540

(Board of Land Commissioners and Department of Natural Resources and Conservation)

36.2.1005 Minimum Easement Charge under the Jurisdiction of the State Board of Land Commissioners, p. 1540, 2210

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

I-IV Safety Devices in Long Term Care Facilities, p. 2382  
16.28.101 and other rules - Transfer from the Department of Health and Environmental Sciences - Communicable Disease Control, p. 913  
16.32.601 and other rules - Minimum Standards for Mental Health Centers, p. 1962, 916  
37.5.125 and other rules - Vocational Rehabilitation - Independent Living Services, p. 2618  
37.5.304 and other rules - Child Care Assistance and Hearing Appeal Rights, p. 727, 1553, 1989  
37.5.316 Continuation of Public Assistance Benefits, p. 2172, 2921  
37.40.301 and other rules - Nursing Facilities, p. 1262, 1767  
37.50.315 Foster Care Classification Model, p. 774, 1557  
37.70.107 Low Income Energy Assistance Program (LIEAP) and Low Income Weatherization Assistance Program (LIWAP), p. 2604  
37.76.101 and other rules - Temporary Assistance for Needy Families (TANF), p. 149, 952  
37.78.102 and other rules - Families Achieving Independence in Montana (FAIM) and Temporary Assistance for Needy Families (TANF), p. 1207, 1771  
37.80.201 Early Childhood Services Bureau Child Care Subsidy Program, p. 2590  
37.80.202 Parent's Copayment for Child Care Services, p. 2175, 2922  
37.82.701 and other rules - Medically Needy Family Medicaid Coverage, p. 1279, 1773  
37.85.204 Medicaid Cost Sharing, p. 2596  
37.85.204 Emergency Amendment - Medical Cost Sharing - Recipient Requirements, p. 2218  
37.85.204 and other rules - Independent Diagnostic Testing Facilities - Medicaid Reimbursement, p. 56, 797  
37.85.212 Medicaid Reimbursement for Subsequent Surgical Procedures, p. 2884

- 37.85.212 and other rules - Extension of the 2.6% Provider Reimbursement Reductions - Withholding of the Provider Rate Increase for Resource Based Relative Value Scale (RBRVS) Providers for Fiscal Year 2003, p. 2165, 2665
- 37.85.212 and other rules - Emergency Amendment - Extension of the 2.6% Provider Reimbursement Reductions - Withholding Provider Rate Increase for Resource Based Relative Value Scale (RBRVS) Providers for Fiscal Year 2003, p. 1899
- 37.85.212 and other rule - Resource Based Relative Value Scale (RBRVS), p. 1247, 1775
- 37.86.805 and other rules - Medicaid Reimbursement for Primary Care Services, p. 1251, 1779
- 37.86.1004 and other rule - Reimbursement Methodology for Source Based Relative Value on Dental Services, p. 1243, 1780
- 37.86.1101 and other rule - Medicaid Outpatient Drug Reimbursement, p. 1257, 1788
- 37.86.2105 Medicaid Eyeglass Services, p. 2881
- 37.86.2207 and other rules - Mental Health Services, p. 503, 1328
- 37.86.2801 and other rules - Inpatient and Outpatient Hospitals, p. 1289, 1543, 1725, 1991
- 37.88.101 and other rules - Mental Health Center Services - Mental Health Services Plan Services, p. 2887
- 37.88.101 and other rules - Emergency Amendment - Mental Health Center Services - Mental Health Services Plan Services, p. 2323
- 37.88.901 and other rules - Mental Health Center Services, p. 1424, 2225
- 37.95.102 and other rules - Licensure of Day Care Facilities, p. 483, 2231
- 37.106.2701 and other rules - Personal Care Facilities, p. 2839
- 37.108.507 Components of Managed Care Plan Quality Assessment Activities, p. 349, 954
- 37.110.101 Food Standards, p. 2593
- 37.114.799 Communicable Disease Control, p. 891, 1511

PUBLIC SERVICE REGULATION, Department of, Title 38

- 38.2.5007 and other rule - Protective Orders - Protection of Confidential Information, p. 1972
- 38.5.1107 Accrual of Interest on Customer Deposits with Utilities, p. 893, 1995
- 38.5.8001 General Requirement to Obtain License to Supply Electricity, p. 521, 1512

REVENUE, Department of, Title 42

- I Changing Land Use for Agricultural (Class Three) and Forest Land (Class Ten) to Class Four, p. 2178
- I Production Threshold for Beer Taxes, p. 379, 955

- I-III Exemptions, Reduced Tax Rates, and Credits for Energy Facilities, p. 1060
- I-V Exemptions, Reduced Tax Rates, and Credits for Energy Facilities, p. 2308, 2924
- 42.2.501 Partial Payments for Debts Collected by the Department, p. 1545, 1998
- 42.2.613 and other rules - Taxpayer Appeals, p. 1430
- 42.4.110 and other rules - Personal Income Tax Credits for Energy Conservation, p. 2428
- 42.5.213 Filing and Remittance Requirements for Electronic Fund Transfers, p. 1438, 1906
- 42.13.101 and other rules - Liquor Licensing, p. 1727, 2337
- 42.15.315 and other rules - Penalties and Interest Charges for Late Filed and Late Paid Taxes, p. 352, 1094
- 42.17.504 Rates for New Employers, p. 2424
- 42.18.106 and other rules - Montana Appraisal Plan Rules, p. 356, 1097
- 42.19.1102 and other rule - Treatment of Gasohol Production Facilities, p. 65, 811
- 42.20.101 and other rules - Valuation of Real Property, p. 2388
- 42.20.501 and other rules - Property Phase-in Valuation, p. 2410
- 42.22.1311 and other rules - Exemptions - Reduced Tax Rates - Credits for Energy Facilities, p. 369, 1092
- 42.31.501 and other rules - Retail Communications Excise Tax, p. 2399, 68, 956

(Board of Review)

- I-V One-Stop Licensing Program Administered by the Department of Revenue on Behalf of the Board of Review, p. 1056, 1559

SECRETARY OF STATE, Title 44

- 44.3.1101 Schedule of Fees for the Centralized Voter File, p. 896, 1667
- 44.5.101 and other rules - Filing and Copy Fees for Corporations, p. 2000, 2472, 960
- 44.6.201 and other rule - Uniform Commercial Code Filings (UCC), p. 898, 1668

(Commissioner of Political Practices)

- 44.12.101 and other rules - Lobbying - Regulation of Lobbying, p. 1440, 2458

## 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 September 2002, appear. Vacancies scheduled to appear from November 1, 2002, through January 31, 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 October 7, 2002.

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 SEPTEMBER 2002

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Architects (Labor and Industry) Mr. John Fontaine Glasgow Qualifications (if required): public member	Governor	Chaffin	9/12/2002 3/27/2004
Board of Medical Examiners (Labor and Industry) Dr. Arthur K. Fink Glendive Qualifications (if required): doctor of osteopathy	Governor	Grewell	9/4/2002 9/1/2006
Dr. Michael D. LaPan Sidney Qualifications (if required): licensed podiatrist	Governor	Huebner	9/4/2002 9/1/2006
Dr. Anne M. Williams Glasgow Qualifications (if required): doctor of medicine	Governor	reappointed	9/4/2002 9/1/2006
Montana Historical Records Advisory Council (Historical Society) Ms. Jodi L. Allison-Bunnell Missoula Qualifications (if required): public member	Governor	not listed	9/24/2002 9/24/2004
Ms. Ellen Crain Butte Qualifications (if required): public member	Governor	not listed	9/24/2002 9/24/2004
Ms. Judy Ellinghausen Great Falls Qualifications (if required): public member	Governor	not listed	9/24/2002 9/24/2004

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2002

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Historical Records Advisory Council (Historical Society) cont.			
Ms. Anne L. Foster Huntley	Governor	not listed	9/24/2002 9/24/2004
Qualifications (if required): public member			
Ms. Peggy Gow Deer Lodge	Governor	not listed	9/24/2002 9/24/2004
Qualifications (if required): public member			
Ms. Molly Miller Helena	Governor	not listed	9/24/2002 9/24/2004
Qualifications (if required): acting state archivist			
Ms. Lory Morrow Helena	Governor	not listed	9/24/2002 9/24/2004
Qualifications (if required): public member			
Mr. Kim Allen Scott Bozeman	Governor	not listed	9/24/2002 9/24/2004
Qualifications (if required): public member			
Risk Management Advisory Council (Administration)			
Ms. Julia Dilly Helena	Governor	Weldon	9/3/2002 2/21/2003
Qualifications (if required): representative of the Office of Public Instruction			
Mr. John Huth Helena	Governor	Drynan	9/3/2002 2/21/2003
Qualifications (if required): representative of the State Auditor's Office			

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2002

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Fund Structure Study Committee (State Fund)			
Mr. Jerry Driscoll	Governor	not listed	9/4/2002
Helena			12/31/2002
Qualifications (if required):	representative of employee groups		
Mr. Larry Jones	Governor	not listed	9/4/2002
Missoula			12/31/2002
Qualifications (if required):	representative of plan 1 insurers		
Mr. George Wood	Governor	not listed	9/4/2002
Missoula			12/31/2002
Qualifications (if required):	representative of plan 1 insurers		

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
AIDS Advisory Council (Public Health and Human Services) Mr. Jesse Sherratt, Helena Qualifications (if required): student representative	Governor	11/15/2002
Alternative Livestock Advisory Council (Fish, Wildlife, and Parks) Mr. Jeremy Kinross-Wright, Big Timber Qualifications (if required): representative of the Board of Livestock	Governor	1/1/2003
Mr. John Lane, Cascade Qualifications (if required): representative of the Fish, Wildlife, and Parks Commission	Governor	1/1/2003
Appellate Defender Commission (Administration) Judge Dorothy B. McCarter, Helena Qualifications (if required): district judge	Governor	1/1/2003
Mr. Michael Sherwood, Missoula Qualifications (if required): attorney	Governor	1/1/2003
Board of Aeronautics (Transportation) Mr. John Rabenberg, Fort Peck Qualifications (if required): public member	Governor	1/1/2003
Ms. Josephine Eisenzimer, Cascade Qualifications (if required): engaged in aviation education	Governor	1/1/2003
Mr. Craig Denney, Billings Qualifications (if required): commercial airline representative	Governor	1/1/2003
Mr. Bob Palmersheim, Fromberg Qualifications (if required): fixed base operator	Governor	1/1/2003

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Chiropractors (Commerce) Dr. Pamela Blanchard, Great Falls Qualifications (if required): practicing chiropractor	Governor	1/1/2003
Ms. Jo Ausk, Terry Qualifications (if required): public member	Governor	1/1/2003
Board of Crime Control (Justice) Mr. Craig Anderson, Glendive Qualifications (if required): chief probation officer	Governor	1/1/2003
Mr. Gary Buchanan, Billings Qualifications (if required): public member	Governor	1/1/2003
Rev. Steven Rice, Miles City Qualifications (if required): representative of the Youth Justice Council	Governor	1/1/2003
Ms. Sherry Matteucci, Billings Qualifications (if required): U.S. attorney	Governor	1/1/2003
Rep. Sylvia Bookout-Reinicke, Alberton Qualifications (if required): state representative	Governor	1/1/2003
Mayor Laurel Frankenfield, Hamilton Qualifications (if required): representative of local government	Governor	1/1/2003
Mr. Richard L. Kirn, Poplar Qualifications (if required): representative of local government	Governor	1/1/2003
Board of Environmental Review (Environmental Quality) Ms. Susan K. Brooke, Helena Qualifications (if required): public member	Governor	1/1/2003

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Environmental Review (Environmental Quality) cont. Ms. Kim Lacey, Glasgow Qualifications (if required): public member	Governor	1/1/2003
Mr. Joseph Russell, Kalispell Qualifications (if required): county health officer	Governor	1/1/2003
Board of Horse Racing (Commerce) Mr. Tim Donnelly, Miles City Qualifications (if required): representing District 1	Governor	1/20/2003
Ms. Barbara Cole, Shelby Qualifications (if required): representing District 3	Governor	1/20/2003
Board of Housing (Commerce) Mr. Bob Thomas, Stevensville Qualifications (if required): public member	Governor	1/1/2003
Ms. Waneeta Farris, Forsyth Qualifications (if required): public member	Governor	1/1/2003
Ms. Teresa Lightbody, Helena Qualifications (if required): public member	Governor	1/1/2003
Board of Investments (Commerce) Ms. Maureen J. Fleming, Missoula Qualifications (if required): labor representative	Governor	1/1/2003
Mr. Douglas Bardwell, Missoula Qualifications (if required): financial community representative	Governor	1/1/2003
Mr. Calvin Wilson, Busby Qualifications (if required): attorney	Governor	1/1/2003

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Investments (Commerce) cont. Ms. Karen B. Fagg, Billings Qualifications (if required): businessperson	Governor	1/1/2003
Board of Labor Appeals (Labor and Industry) Ms. Carol Donaldson, Billings Qualifications (if required): attorney	Governor	1/1/2003
Board of Milk Control (Livestock) Dr. R. Clyde Greer, Bozeman Qualifications (if required): Independent	Governor	1/1/2003
Mr. Michael F. Kleese, Stevensville Qualifications (if required): Democrat and an attorney	Governor	1/1/2003
Board of Occupational Therapists (Commerce) Ms. Elspeth Richards, Missoula Qualifications (if required): occupational therapist	Governor	12/31/2002
Ms. Barbara Tamietti, Stockett Qualifications (if required): public member	Governor	12/31/2002
Board of Oil and Gas Conservation (Natural Resources and Conservation) Mr. Denzil Young, Baker Qualifications (if required): landowner with no mineral rights and an attorney	Governor	1/1/2003
Mr. Jack King, Billings Qualifications (if required): representative of the oil and gas industry	Governor	1/1/2003
Ms. Elaine Mitchell, Cut Bank Qualifications (if required): public member	Governor	1/1/2003

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Pardons (Corrections) Mr. Patrick T. Fleming, Butte Qualifications (if required): attorney	Governor	1/1/2003
Board of Pardons and Parole (Corrections) Mr. Michael E. McKee, Hamilton Qualifications (if required): auxiliary member	Governor	1/1/2003
Board of Personnel Appeals (Labor and Industry) Mr. Steve Johnson, Missoula Qualifications (if required): representative of management in collective bargaining	Governor	1/1/2003
Mr. Joe Dwyer, Billings Qualifications (if required): substitute labor representative	Governor	1/1/2003
Mr. Ed Maronick, East Helena Qualifications (if required): substitute management representative	Governor	1/1/2003
Board of Public Assistance (Public Health and Human Services) Mr. John Larson, Clancy Qualifications (if required): public member	Governor	1/1/2003
Board of Social Work Examiners and Professional Counselors (Commerce) Dr. Leta Livoti, Helena Qualifications (if required): licensed professional counselor	Governor	1/1/2003
Ms. Antoinette Rosell, Billings Qualifications (if required): licensed professional counselor	Governor	1/1/2003
Judge Richard A. Simonton, Glendive Qualifications (if required): public member	Governor	1/1/2003



VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Speech-Language Pathologists and Audiologists (Commerce) Ms. Marilyn Thaden, Miles City Qualifications (if required): speech-language pathologist	Governor	12/31/2002
Ms. Jennifer L. Hartze, Belgrade Qualifications (if required): audiologist	Governor	12/31/2002
Children's Trust Fund Board (Public Health and Human Services) Ms. Ann (Punky) Bullis, Crow Agency Qualifications (if required): public member	Governor	1/1/2003
Ms. Kathleen Perez, Harlem Qualifications (if required): public member	Governor	1/1/2003
Coal Board (Commerce) Ms. Janice Riebhoff, Belgrade Qualifications (if required): expertise in education and residing in District 2	Governor	1/1/2003
Ms. Linda Price, Lewistown Qualifications (if required): expertise in education and residing in District 3	Governor	1/1/2003
Mr. John Sutton, Butte Qualifications (if required): engineer residing in District 2	Governor	1/1/2003
Commission on Human Rights (Labor and Industry) Mr. Jack Copps, Seeley Lake Qualifications (if required): public member	Governor	1/1/2003
Ms. Kathy Ogren, Missoula Qualifications (if required): public member	Governor	1/1/2003

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Developmental Disabilities Planning and Advisory Council (Public Health and Human Services) Ms. Suzie Twedt, Great Falls Qualifications (if required): representing Region II	Governor	1/1/2003
Mr. Kevin Kosmann, Billings Qualifications (if required): representing Region III	Governor	1/1/2003
Ms. Sylvia Danforth, Miles City Qualifications (if required): representative of a service provider	Governor	1/1/2003
Sen. Bea McCarthy, Anaconda Qualifications (if required): state legislator	Governor	1/1/2003
Mr. Peyton Terry, Glasgow Qualifications (if required): representative of consumers	Governor	1/1/2003
Mr. Dan McCarthy, Helena Qualifications (if required): representative of the Office of Public Instruction	Governor	1/1/2003
Ms. Florence Massey, Billings Qualifications (if required): representative of Region III	Governor	1/1/2003
Dr. R. Timm Vogelsberg, Missoula Qualifications (if required): representative of the university programs	Governor	1/1/2003
Rep. Bob Lawson, Whitefish Qualifications (if required): state legislator	Governor	1/1/2003
Ms. Bernadette Franks-Ongoy, Helena Qualifications (if required): representative of the Montana Advocacy Program	Governor	1/1/2003

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Developmental Disabilities Planning and Advisory Council (Public Health and Human Services) cont. Ms. Marlene Tocher, Great Falls Qualifications (if required): consumer	Governor	1/1/2003
Ms. Sally Grover, Helena Qualifications (if required): consumer representative	Governor	1/1/2003
Ms. Ramona Weber, Billings Qualifications (if required): primary consumer	Governor	1/1/2003
Mr. Keven Halsey, Libby Qualifications (if required): primary consumer	Governor	1/1/2003
Ms. Kathy Phillips, Missoula Qualifications (if required): primary consumer	Governor	1/1/2003
Ms. Marlene Disburg, Helena Qualifications (if required): representative of vocational rehabilitation	Governor	1/1/2003
Ms. Jannis Conselyea, Helena Qualifications (if required): representative of the Department of Public Health and Human Services	Governor	1/1/2003
Ms. Kim Evermann, Helena Qualifications (if required): representative of the Older American Act	Governor	1/1/2003
Fish, Wildlife, and Parks Commission (Fish, Wildlife, and Parks) Ms. Darlyne Dascher, Fort Peck Qualifications (if required): representative of District 4 and a rancher	Governor	1/1/2003
Mr. Tim Mulligan, Whitehall Qualifications (if required): representative of District 2	Governor	1/1/2003

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's Advisory Council on Disability (Administration) Ms. Katherine Kountz, Helena Qualifications (if required): ex-officio member	Governor	11/14/2002
Ms. June Hermanson, Billings Qualifications (if required): public member	Governor	11/14/2002
Ms. Ladonna Fowler, Polson Qualifications (if required): public member	Governor	11/14/2002
Ms. Mary Morrison, Missoula Qualifications (if required): public member	Governor	11/14/2002
Mr. Michael Regnier, Missoula Qualifications (if required): public member	Governor	11/14/2002
Ms. Shelley Laing, Kalispell Qualifications (if required): public member	Governor	11/14/2002
Mr. Gene Haire, Helena Qualifications (if required): public member	Governor	11/14/2002
Mr. David Diehl, East Helena Qualifications (if required): public member	Governor	11/14/2002
Governor's HIV/AIDS Advisory Council (Public Health and Human Services) Mr. Frank Gary, Butte Qualifications (if required): public member	Governor	11/15/2002
Mr. Steven C. Yeakel, Helena Qualifications (if required): public member	Governor	11/15/2002

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's HIV/AIDS Advisory Council (Public Health and Human Services) cont. Ms. Verbena Savior, Poplar Qualifications (if required): Native American	Governor	11/15/2002
Mr. David Herrera, Billings Qualifications (if required): public member	Governor	11/15/2002
Ms. Rita Munzenrider, Missoula Qualifications (if required): public member	Governor	11/15/2002
Ms. Teresa Louise Dunn, Whitefish Qualifications (if required): public member	Governor	11/15/2002
Sen. John Bohlinger, Billings Qualifications (if required): legislator	Governor	11/15/2002
Mr. Kevin Petersen, Clancy Qualifications (if required): public member	Governor	11/15/2002
Mr. Fred Zaino, Conrad Qualifications (if required): public member	Governor	11/15/2002
Ms. Kim Ackerman, Helena Qualifications (if required): public member	Governor	11/15/2002
Ms. Annie Tavary, Helena Qualifications (if required): public member	Governor	11/15/2002
Mr. Jack Preston, Lincoln Qualifications (if required): public member	Governor	11/15/2002
Mr. Jeff Lovely, Helena Qualifications (if required): public member	Governor	11/15/2002

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's HIV/AIDS Advisory Council (Public Health and Human Services) cont. Sister Mary Vincentia Maronick, Billings Qualifications (if required): public member	Governor	11/15/2002
Governor's Income Tax Advisory Council (Revenue) Mr. Leo Berry, Helena Qualifications (if required): representing Association of Montana Retired Public Employees	Governor	12/31/2002
Rep. Chase Hibbard, Helena Qualifications (if required): representing Montana Taxpayers Association	Governor	12/31/2002
Mr. Jon Marchi, Polson Qualifications (if required): representing Montana Ambassadors	Governor	12/31/2002
Rep. Trudi Schmidt, Great Falls Qualifications (if required): legislator	Governor	12/31/2002
Sen. Bob DePratu, Whitefish Qualifications (if required): legislator	Governor	12/31/2002
Sen. Jon Tester, Big Sandy Qualifications (if required): legislator	Governor	12/31/2002
Rep. Karl A. Waitschies, Peerless Qualifications (if required): legislator	Governor	12/31/2002
Mr. Kurt Alme, Helena Qualifications (if required): representative of the Governor's Office	Governor	12/31/2002
Mr. Jerry Driscoll, Helena Qualifications (if required): representing AFL-CIO	Governor	12/31/2002

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's Income Tax Advisory Council (Revenue) cont. Mr. Scott Mendenhall, Whitehall Qualifications (if required): representing Jefferson County Local Development Corporation	Governor	12/31/2002
Mr. Tim Bartz, Helena Qualifications (if required): accountant	Governor	12/31/2002
Mr. Doug Young, Bozeman Qualifications (if required): academic	Governor	12/31/2002
Mr. Lary Johnson, Kalispell Qualifications (if required): accountant	Governor	12/31/2002
Ms. Karen Olson, Sidney Qualifications (if required): representing Chamber of Commerce	Governor	12/31/2002
Governor's Local Option Tourist Tax Advisory Council (Revenue) Mayor Larry J. Bonderud, Shelby Qualifications (if required): representing local government - city	Governor	12/31/2002
Sen. Jon Ellingson, Missoula Qualifications (if required): legislator	Governor	12/31/2002
Rep. Bob Gilbert, Sidney Qualifications (if required): representing Rosebud County	Governor	12/31/2002
Ms. Betty T. Lund, Hamilton Qualifications (if required): representing local government - county	Governor	12/31/2002
Ms. Maureen Averill, Bigfork Qualifications (if required): representing Tourism Advisory Council	Governor	12/31/2002

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's Local Option Tourist Tax Advisory Council (Revenue) cont. Sen. Wm. E. (Bill) Glaser, Huntley Qualifications (if required): legislator	Governor	12/31/2002
Mr. John Lawton, Great Falls Qualifications (if required): representing local government - city	Governor	12/31/2002
Rep. Joe McKenney, Great Falls Qualifications (if required): legislator	Governor	12/31/2002
Rep. Ralph Lenhart, Glendive Qualifications (if required): legislator	Governor	12/31/2002
Ms. Carol Brooker, Plains Qualifications (if required): representing local government - county	Governor	12/31/2002
Mr. Kurt Alme, Helena Qualifications (if required): representative of the Governor's Office	Governor	12/31/2002
Mr. Evan Barrett, Butte Qualifications (if required): representing Butte Local Development Corporation	Governor	12/31/2002
Ms. Marti Bara, Helena Qualifications (if required): representing Montana Innkeepers Association	Governor	12/31/2002
Mr. Don Hofmann, Ismay Qualifications (if required): representing Montana Farm Bureau Federation	Governor	12/31/2002
Governor's Tourist Tax Advisory Council (Revenue) Mr. Bob Fletcher, Bozeman Qualifications (if required): representing Montana Tavern Association	Governor	12/31/2002



VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's Tourist Tax Advisory Council (Revenue) cont. Mr. Dennis M. Taylor, Billings Qualifications (if required): representing local government - city	Governor	12/31/2002
Sen. Emily Stonington, Bozeman Qualifications (if required): legislator	Governor	12/31/2002
Rep. Robert R. Story Jr., Park City Qualifications (if required): legislator	Governor	12/31/2002
Mr. Kelly Flynn, Townsend Qualifications (if required): representing Montana Outfitters and Guides	Governor	12/31/2002
Rep. Ron Devlin, Terry Qualifications (if required): legislator	Governor	12/31/2002
Rep. Ron Erickson, Missoula Qualifications (if required): legislator	Governor	12/31/2002
Mr. Webb Brown, Helena Qualifications (if required): representing Chamber of Commerce	Governor	12/31/2002
Mr. Kurt Alme, Helena Qualifications (if required): Governor's Office representative	Governor	12/31/2002
Ms. Mary Whittinghill, Helena Qualifications (if required): representing Montana Taxpayers Association	Governor	12/31/2002
Mr. Bill Howell, West Yellowstone Qualifications (if required): representing Montana Restaurant Association	Governor	12/31/2002
Mr. Dean Harman, Bainville Qualifications (if required): representing local government - county	Governor	12/31/2002

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Governor's Tourist Tax Advisory Council (Revenue) cont. Mr. Dale Duff, Whitefish Qualifications (if required): representing Rocky Mountain Transportation Inc.	Governor	12/31/2002
Ms. Nancy Schlepp, Bozeman Qualifications (if required): representing Montana Farm Bureau Federation	Governor	12/31/2002
Mr. Don Serba, Missoula Qualifications (if required): representing Pulp and Paperworks Resource Council	Governor	12/31/2002
Mr. George Willett, Neihart Qualifications (if required): public member	Governor	12/31/2002
Hard Rock Mining Impact Board (Commerce) Mr. Donald B. Kinsey, Big Timber Qualifications (if required): public member from District 4	Governor	1/1/2003
Ms. Mary Taylor, Thompson Falls Qualifications (if required): school district trustee and residing in District 1	Governor	1/1/2003
Ms. Betty Aye, Broadus Qualifications (if required): public member residing in District 4	Governor	1/1/2003
Montana Alfalfa Seed Committee (Agriculture) Mr. James Whitmer, Bloomfield Qualifications (if required): alfalfa seed grower and rearing alfalfa leaf-cutting bees	Governor	12/21/2002
Mr. David Sagmiller, Ronan Qualifications (if required): alfalfa seed seller	Governor	12/21/2002
Mr. John Mehling, Hardin Qualifications (if required): alfalfa seed grower	Governor	12/21/2002

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Facility Finance Authority (Commerce) Mr. Kenneth Jansa, Glasgow Qualifications (if required): public member	Governor	1/1/2003
Montana Grass Conservation Commission (Natural Resources and Conservation) Ms. Sandra Brown, Terry Qualifications (if required): public member	Governor	1/1/2003
Montana Health Facility Authority (Commerce) Mr. John Bartos, Corvallis Qualifications (if required): public member	Governor	1/1/2003
Mr. Greg Hanson, Missoula Qualifications (if required): public member	Governor	1/1/2003
Montana Higher Education Student Assistance Corporation (Education) Ms. Shirley Warehime, Helena Qualifications (if required): at large director	Board of Regents	12/31/2002
Ms. Jean Hagan, Big Fork Qualifications (if required): public member	Governor	1/1/2003
Motor Fuel Tax Collection Enforcement and Refund Advisory Council (Transportation) Sen. Barry "Spook" Stang, Helena Qualifications (if required): public member	Governor	12/31/2002
Mr. Steve Pilcher, Helena Qualifications (if required): public member	Governor	12/31/2002
Sen. Dan W. Harrington, Butte Qualifications (if required): legislator	Governor	12/31/2002

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Motor Fuel Tax Collection Enforcement and Refund Advisory Council (Transportation) cont. Mr. David A. Galt, Helena Qualifications (if required): representative of state government	Governor	12/31/2002
Sen. Ric Holden, Glendive Qualifications (if required): legislator	Governor	12/31/2002
Rep. Ron Devlin, Terry Qualifications (if required): legislator	Governor	12/31/2002
Mr. Bob Stephens, Dutton Qualifications (if required): public member	Governor	12/31/2002
Mr. Patrick McNulty, Buffalo Qualifications (if required): public member	Governor	12/31/2002
Mr. Keith Olson, Kalispell Qualifications (if required): public member	Governor	12/31/2002
Ms. Gail Abercrombie, Helena Qualifications (if required): public member	Governor	12/31/2002
Mr. Wes Choc, Helena Qualifications (if required): public member	Governor	12/31/2002
Mr. Cary Hegreberg, Helena Qualifications (if required): public member	Governor	12/31/2002
Rep. John L. Musgrove, Havre Qualifications (if required): legislator	Governor	12/31/2002

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Motor Fuel Tax Collection Enforcement and Refund Advisory Council (Transportation) cont. Ms. Ronna Christman, Helena Qualifications (if required): public member	Governor	12/31/2002
State Employee Group Benefits Advisory Council (Administration) Mr. Thomas Schneider, Helena Qualifications (if required): none specified	Director	12/31/2002
Mr. Dale Taliafero, Helena Qualifications (if required): none specified	Director	12/31/2002
Ms. Mary Dalton, Helena Qualifications (if required): none specified	Director	12/31/2002
Mr. Steve Barry, Helena Qualifications (if required): none specified	Director	12/31/2002
Sen. Duane Grimes, Clancy Qualifications (if required): none specified	Director	12/31/2002
Mr. John W. Northey, Helena Qualifications (if required): none specified	Director	12/31/2002
Mr. John McEwen, Helena Qualifications (if required): none specified	Director	12/31/2002
Mr. Todd Lovshin, Helena Qualifications (if required): none specified	Director	12/31/2002
Mr. Richard Cooley, Helena Qualifications (if required): none specified	Director	12/31/2002

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Employee Group Benefits Advisory Council (Administration) cont. Ms. Barbara Smith, Helena Qualifications (if required): none specified	Director	1/1/2003
Ms. Kathleen Martin, Helena Qualifications (if required): none specified	Director	1/1/2003
Mr. Monte Brown, Helena Qualifications (if required): none specified	Director	1/1/2003
Ms. Amy Carlson, Helena Qualifications (if required): none specified	Director	1/1/2003
State Fund Structure Study Committee (State Fund) Mr. George Wood, Missoula Qualifications (if required): representative of plan 1 insurers	Governor	12/31/2002
Mr. Jerry Driscoll, Helena Qualifications (if required): representative of employee groups	Governor	12/31/2002
Mr. Larry Jones, Missoula Qualifications (if required): representative of plan 1 insurers	Governor	12/31/2002
State Tax Appeal Board (Administration) Mr. Gregory Thornquist, Helena Qualifications (if required): public member	Governor	1/1/2003
Transition Advisory Committee (Legislative Services) Mr. Russ Ritter, Helena Qualifications (if required): representing the industrial community	Governor	1/1/2003
Mr. Gene Leuwer, Helena Qualifications (if required): representing a low-income program provider	Governor	1/1/2003

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2002 through JANUARY 31, 2003

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Transition Advisory Committee (Legislative Services) cont. Mr. Stephen E. Bradley, Crow Agency Qualifications (if required): representing Montana's Indian tribes	Governor	1/1/2003
Ms. Kathie Roos, Helena Qualifications (if required): representing the environmental and conservation community	Governor	1/1/2003
Mr. Jerry Driscoll, Helena Qualifications (if required): representing organized labor	Governor	1/1/2003
Mr. Paul Farr, Billings Qualifications (if required): representing the electric power market industry	Governor	1/1/2003
Ms. Kathy Rice, Great Falls Qualifications (if required): representing the nonindustrial retail electric consumer sector	Governor	1/1/2003
Mr. David Kinnard, Billings Qualifications (if required): representing the electric power market industry	Governor	1/1/2003
Transportation Commission (Transportation) Ms. Nancy Espy, Broadus Qualifications (if required): Republican from District 4	Governor	1/1/2003
Mr. Dan Larson, Libby Qualifications (if required): Democrat from District 1	Governor	1/1/2003

ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
District Court Judge, 1st Judicial District, Department 3 Mr. Thomas C. Honzel, Helena Qualifications (if required): none specified	(Judiciary) Elected	1/1/2003
District Court Judge, 7th Judicial District, Department 2 Judge Richard G. Phillips, Glendive Qualifications (if required): none specified	(Judiciary) Elected	1/1/2003
District Court Judge, 13th Judicial District, Department 4 Judge Gregory Todd, Billings Qualifications (if required): appointed	(Judiciary) Governor	1/6/2003
District Court Judge, 18th Judicial District, Department 2 Mr. Mike Salvagni, Bozeman Qualifications (if required): none specified	(Judiciary) Elected	1/1/2003
District Court Judge, 20th Judicial District, Department 1 Judge C.B. McNeil, Polson Qualifications (if required): none specified	(Judiciary) Elected	1/1/2003
House District 1 (House) Rep. Keith Bales, Otter Qualifications (if required): none specified	Elected	1/1/2003
House District 2 (House) Rep. Ralph Lenhart, Glendive Qualifications (if required): none specified	Elected	1/1/2003
House District 3 (House) Rep. Ron Devlin, Terry Qualifications (if required): none specified	Elected	1/1/2003



ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
House District 4 (House) Rep. Gary Matthews, Miles City Qualifications (if required): none specified	Elected	1/1/2003
House District 5 (House) Rep. Norma Bixby, Lame Deer Qualifications (if required): none specified	Elected	1/1/2003
House District 6 (House) Rep. Bill Eggers, Crow Agency Qualifications (if required): none specified	Elected	1/1/2003
House District 7 (House) Rep. Monica J. Lindeen, Huntley Qualifications (if required): none specified	Elected	1/1/2003
House District 8 (House) Rep. Alan Olson, Roundup Qualifications (if required): none specified	Elected	1/1/2003
House District 9 (House) Rep. Mark E. Noennig, Billings Qualifications (if required): none specified	Elected	1/1/2003
House District 10 (House) Sen. Thomas F. Keating, Billings Qualifications (if required): none specified	County Commissioners	1/1/2003
House District 11 (House) Rep. Kim Gillan, Billings Qualifications (if required): none specified	Elected	1/1/2003

ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
House District 12 (House) Rep. Clarice Schrupf, Billings Qualifications (if required): none specified	Elected	1/1/2003
House District 13 (House) Rep. Joan Hurdle, Billings Qualifications (if required): none specified	Elected	1/1/2003
House District 14 (House) Rep. Roy Brown, Billings Qualifications (if required): none specified	Elected	1/1/2003
House District 15 (House) Rep. Daniel C. Fuchs, Billings Qualifications (if required): none specified	Elected	1/1/2003
House District 16 (House) Rep. Gary Forrester, Billings Qualifications (if required): none specified	Elected	1/1/2003
House District 17 (House) Rep. Gary Branae, Billings Qualifications (if required): none specified	Elected	1/1/2003
House District 18 (House) Rep. Dennis Himmelberger, Billings Qualifications (if required): none specified	Elected	1/1/2003
House District 19 (House) Rep. Tom Dell, Billings Qualifications (if required): none specified	Elected	1/1/2003

ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
House District 20 (House) Rep. Ken Peterson, Billings Qualifications (if required): none specified	Elected	1/1/2003
House District 21 (House) Rep. Daniel W. McGee, Laurel Qualifications (if required): none specified	Elected	1/1/2003
House District 22 (House) Rep. Jeff Laszloffy, Laurel Qualifications (if required): none specified	Elected	1/1/2003
House District 23 (House) Rep. Joan Andersen, Fromberg Qualifications (if required): none specified	Elected	1/1/2003
House District 24 (House) Rep. Robert R. Story Jr., Park City Qualifications (if required): none specified	Elected	1/1/2003
House District 25 (House) Rep. John Esp, Big Timber Qualifications (if required): none specified	Elected	1/1/2003
House District 26 (House) Rep. Michelle Lee, Livingston Qualifications (if required): none specified	Elected	1/1/2003
House District 27 (House) Rep. Bob Davies, Bozeman Qualifications (if required): none specified	Elected	1/1/2003

ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
House District 28 (House) Rep. Cindy Younkin, Bozeman Qualifications (if required): none specified	Elected	1/1/2003
House District 29 (House) Rep. Larry Jent, Bozeman Qualifications (if required): none specified	Elected	1/1/2003
House District 30 (House) Rep. Christopher Harris, Gallatin Gateway Qualifications (if required): none specified	Elected	1/1/2003
House District 31 (House) Rep. John Sinrud, Belgrade Qualifications (if required): appointed	County Commissioners	1/1/2003
House District 32 (House) Rep. Joe Balyeat, Bozeman Qualifications (if required): none specified	Elected	1/1/2003
House District 33 (House) Rep. Diane Rice, Harrison Qualifications (if required): none specified	Elected	1/1/2003
House District 34 (House) Rep. Debby Barrett, Dillon Qualifications (if required): none specified	Elected	1/1/2003
House District 35 (House) Rep. Steve Gallus, Butte Qualifications (if required): none specified	Elected	1/1/2003

ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
House District 36 (House) Rep. Jim Keane, Butte Qualifications (if required): none specified	Elected	1/1/2003
House District 37 (House) Rep. Larry Cyr, Butte Qualifications (if required): none specified	Elected	1/1/2003
House District 38 (House) Rep. Brad Newman, Butte Qualifications (if required): none specified	Elected	1/1/2003
House District 39 (House) Rep. Rick Dale, Whitehall Qualifications (if required): none specified	Elected	1/1/2003
House District 40 (House) Rep. Gay Ann Masolo, Townsend Qualifications (if required): none specified	Elected	1/1/2003
House District 41 (House) Rep. James Whitaker, Great Falls Qualifications (if required): none specified	Governor	1/1/2003
House District 41 (House) Rep. James Whitaker, Great Falls Qualifications (if required): none specified	Elected	1/1/2003
House District 42 (House) Rep. Trudi Schmidt, Great Falls Qualifications (if required): none specified	Elected	1/1/2003

ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
House District 43 (House) Rep. T.M. "Tim" Callahan, Great Falls Qualifications (if required): none specified	Elected	1/1/2003
House District 44 (House) Rep. George Golie, Great Falls Qualifications (if required): none specified	Elected	1/1/2003
House District 45 (House) Rep. Jeff Mangan, Great Falls Qualifications (if required): none specified	Elected	1/1/2003
House District 46 (House) Rep. Brett Tramelli, Great Falls Qualifications (if required): none specified	Elected	1/1/2003
House District 47 (House) Rep. Joe Tropila, Great Falls Qualifications (if required): none specified	Elected	1/1/2003
House District 48 (House) Rep. Kathleen M. Galvin-Halcro, Great Falls Qualifications (if required): none specified	Elected	1/1/2003
House District 49 (House) Rep. Joe McKenney, Great Falls Qualifications (if required): none specified	Elected	1/1/2003
House District 50 (House) Rep. Rick Ripley, Wolf Creek Qualifications (if required): none specified	Elected	1/1/2003

ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
House District 51 (House) Rep. Gilda Clancy, Helena Qualifications (if required): none specified	Elected	1/1/2003
House District 52 (House) Rep. Dave Gallik, Helena Qualifications (if required): none specified	Elected	1/1/2003
House District 53 (House) Rep. Christine Kaufmann, Helena Qualifications (if required): none specified	Elected	1/1/2003
House District 54 (House) Rep. Hal Jacobson, Helena Qualifications (if required): none specified	Elected	1/1/2003
House District 55 (House) Rep. Dave Lewis, Helena Qualifications (if required): none specified	Elected	1/1/2003
House District 56 (House) Rep. Allen Rome, Garrison Qualifications (if required): none specified	Elected	1/1/2003
House District 57 (House) Rep. Jesse Laslovich, Anaconda Qualifications (if required): none specified	Elected	1/1/2003
House District 58 (House) Rep. Doug Mood, Seeley Lake Qualifications (if required): none specified	Elected	1/1/2003

ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
House District 59 (House) Rep. Rick Laible, Victor Qualifications (if required): none specified	Elected	1/1/2003
House District 60 (House) Rep. Allan Walters, Hamilton Qualifications (if required): none specified	Elected	1/1/2003
House District 61 (House) Rep. Jim Shockley, Victor Qualifications (if required): none specified	Elected	1/1/2003
House District 62 (House) Rep. Butch Waddill, Florence Qualifications (if required): none specified	Elected	1/1/2003
House District 63 (House) Rep. Dick Haines, Missoula Qualifications (if required): none specified	Elected	1/1/2003
House District 64 (House) Rep. Ron Erickson, Missoula Qualifications (if required): none specified	Elected	1/1/2003
House District 65 (House) Rep. Rosalie Buzzas, Missoula Qualifications (if required): none specified	Elected	1/1/2003
House District 66 (House) Rep. Gail Gutsche, Missoula Qualifications (if required): none specified	Elected	1/1/2003



ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
House District 67 (House) Rep. Tom Facey, Missoula Qualifications (if required): none specified	Elected	1/1/2003
House District 68 (House) Rep. David E. Wanzenried, Missoula Qualifications (if required): none specified	Elected	1/1/2003
House District 69 (House) Rep. Nancy Rice Fritz, Missoula Qualifications (if required): none specified	Elected	1/1/2003
House District 70 (House) Rep. Holly Raser, Missoula Qualifications (if required): none specified	Elected	1/1/2003
House District 71 (House) Rep. Sylvia Bookout-Reinicke, Alberton Qualifications (if required): none specified	Elected	1/1/2003
House District 72 (House) Rep. Paul Clark, Trout Creek Qualifications (if required): none specified	Elected	1/1/2003
House District 73 (House) Rep. Joey Jayne, Arlee Qualifications (if required): none specified	Elected	1/1/2003
House District 74 (House) Rep. John Brueggeman, Polson Qualifications (if required): none specified	Elected	1/1/2003

ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
House District 75 (House) Rep. Stanley M. Fisher, Bigfork Qualifications (if required): none specified	Elected	1/1/2003
House District 76 (House) Rep. Elaine Sliter, Somers Qualifications (if required): appointed	County Commissioners	1/1/2003
House District 77 (House) Rep. Rod Bitney, Kalispell Qualifications (if required): none specified	Elected	1/1/2003
House District 78 (House) Rep. Roger Somerville, Kalispell Qualifications (if required): none specified	Elected	1/1/2003
House District 79 (House) Rep. Verdell Jackson, Kalispell Qualifications (if required): none specified	Elected	1/1/2003
House District 80 (House) Rep. Bob Lawson, Whitefish Qualifications (if required): none specified	Elected	1/1/2003
House District 81 (House) Rep. Aubyn Curtiss, Fortine Qualifications (if required): none specified	Elected	1/1/2003
House District 82 (House) Rep. Eileen Carney, Libby Qualifications (if required): none specified	Elected	1/1/2003

ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
House District 83 (House) Rep. Dee L. Brown, Hungry Horse Qualifications (if required): none specified	Elected	1/1/2003
House District 84 (House) Rep. George Everett, Kalispell Qualifications (if required): none specified	County Commissioners	1/1/2003
House District 85 (House) Rep. Carol C. Juneau, Browning Qualifications (if required): none specified	Elected	1/1/2003
House District 86 (House) Rep. Linda L. Holden, Valier Qualifications (if required): none specified	Elected	1/1/2003
House District 87 (House) Rep. Larry R. Lehman, Power Qualifications (if required): none specified	Elected	1/1/2003
House District 88 (House) Rep. Edith J. Clark, Sweet Grass Qualifications (if required): none specified	Elected	1/1/2003
House District 89 (House) Rep. John E. Witt, Carter Qualifications (if required): none specified	Elected	1/1/2003
House District 90 (House) Rep. Merlin Wolery, Rudyard Qualifications (if required): none specified	Elected	1/1/2003

ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
House District 91 (House) Rep. John L. Musgrove, Havre Qualifications (if required): none specified	Elected	1/1/2003
House District 92 (House) Rep. Matt McCann, Harlem Qualifications (if required): none specified	Elected	1/1/2003
House District 93 (House) Rep. Bill Thomas, Hobson Qualifications (if required): none specified	Elected	1/1/2003
House District 94 (House) Rep. Jim Peterson, Buffalo Qualifications (if required): none specified	County Commissioners	1/1/2003
House District 95 (House) Rep. Jeff Pattison, Glasgow Qualifications (if required): none specified	Elected	1/1/2003
House District 96 (House) Rep. Karl A. Waitschies, Peerless Qualifications (if required): none specified	Elected	1/1/2003
House District 97 (House) Rep. Donald L. Hedges, Antelope Qualifications (if required): none specified	Elected	1/1/2003
House District 98 (House) Rep. Frank J. Smith, Poplar Qualifications (if required): none specified	Elected	1/1/2003

ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
House District 99 (House) Rep. Dave Kasten, Brockway Qualifications (if required): none specified	Elected	1/1/2003
House District 100 (House) Rep. Donald Steinbeisser, Sidney Qualifications (if required): none specified	Elected	1/1/2003
Judicial Nomination Commission (Justice) Mr. Frank Stock, Polson Qualifications (if required): public member	Governor	1/1/2003
Public Service Commission, District 1 (Public Service Commission) Rep. Gary Feland, Shelby Qualifications (if required): none specified	Elected	1/1/2003
Public Service Commission, District 3 (Public Service Commission) Mr. Bob Anderson, Helena Qualifications (if required): none specified	Elected	1/1/2003
Senate District 1 (Senate) Sen. Ric Holden, Glendive Qualifications (if required): none specified	Elected	1/1/2003
Senate District 4 (Senate) Sen. Mack Cole, Hysham Qualifications (if required): none specified	Elected	1/1/2003
Senate District 7 (Senate) Sen. John Bohlinger, Billings Qualifications (if required): none specified	Elected	1/1/2003

ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Senate District 9 (Senate) Sen. Al Bishop, Billings Qualifications (if required): none specified	Elected	1/1/2003
Senate District 11 (Senate) Sen. Ken Miller, Laurel Qualifications (if required): none specified	Elected	1/1/2003
Senate District 12 (Senate) Sen. Alvin A. Ellis Jr., Red Lodge Qualifications (if required): none specified	Elected	1/1/2003
Senate District 13 (Senate) Sen. Lorents Grosfield, Big Timber Qualifications (if required): none specified	Elected	1/1/2003
Senate District 14 (Senate) Sen. Jack Wells, Bozeman Qualifications (if required): none specified	Elected	1/1/2003
Senate District 16 (Senate) Sen. Don Hargrove, Belgrade Qualifications (if required): none specified	Elected	1/1/2003
Senate District 20 (Senate) Sen. Duane Grimes, Clancy Qualifications (if required): none specified	Elected	1/1/2003
Senate District 21 (Senate) Sen. Eve Franklin, Great Falls Qualifications (if required): none specified	Elected	1/1/2003

ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Senate District 23 (Senate) Sen. B.F. "Chris" Christiaens, Great Falls Qualifications (if required): none specified	Elected	1/1/2003
Senate District 24 (Senate) Sen. Steve Doherty, Great Falls Qualifications (if required): none specified	Elected	1/1/2003
Senate District 26 (Senate) Sen. Mignon Waterman, Helena Qualifications (if required): none specified	Elected	1/1/2003
Senate District 28 (Senate) Sen. Thomas Beck, Deer Lodge Qualifications (if required): none specified	Elected	1/1/2003
Senate District 30 (Senate) Sen. Dale E. Berry, Hamilton Qualifications (if required): none specified	Elected	1/1/2003
Sen. Dorothy M. Berry, Hamilton Qualifications (if required): none specified	County Commissioners	1/1/2003
Senate District 32 (Senate) Sen. Fred R. Van Valkenburg, Missoula Qualifications (if required): none specified	Elected	1/1/2003
Senate District 33 (Senate) Sen. Jon Ellingson, Missoula Qualifications (if required): none specified	Elected	1/1/2003

ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Senate District 34 (Senate) Sen. Mike Halligan, Missoula Qualifications (if required): none specified	Elected	1/1/2003
Senate District 38 (Senate) Sen. Bob Keenan, Bigfork Qualifications (if required): none specified	Elected	1/1/2003
Senate District 39 (Senate) Sen. Arnie A. Mohl, Kalispell Qualifications (if required): none specified	Elected	1/1/2003
Senate District 41 (Senate) Sen. William Crismore, Libby Qualifications (if required): none specified	Elected	1/1/2003
Senate District 43 (Senate) Sen. Glenn A. Roush, Cut Bank Qualifications (if required): none specified	Elected	1/1/2003
Senate District 44 (Senate) Sen. E.P. "Pete" Ekegren, Choteau Qualifications (if required): none specified	Elected	1/1/2003
Senate District 45 (Senate) Sen. Jon Tester, Big Sandy Qualifications (if required): none specified	Elected	1/1/2003
Senate District 46 (Senate) Sen. Greg Jergeson, Chinook Qualifications (if required): none specified	Elected	1/1/2003



ELECTED OFFICIAL VACANCIES

<u>Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Supreme Court Justice #1 (Justice) Justice Jim Rice Jr., Helena Qualifications (if required): none specified	Governor	1/1/2003
Supreme Court Justice #4 (Justice) Justice C.W. Leaphart Jr., Helena Qualifications (if required): none specified	Elected	1/1/2003