ISSUE NO. 1

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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

Page Number

SPECIAL NOTICE AND TABLE SECTION

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 17.56.502, 17.56.504, 17.56.505, and 17.56.602 and the adoption of new rules pertaining to release reporting, investigation, confirmation and corrective action requirements for tanks containing petroleum or hazardous substances	)))))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT AND ADOPTION (UNDERGROUND STORAGE TANKS)

TO: All Concerned Persons

1. On March 2, 2004, at 10:00 a.m. a public hearing will be held in Room 122 of the Remediation Division Building (the old National Guard Armory Building) at 1100 North Last Chance Gulch, Helena, Montana, to consider the proposed amendment and adoption 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., February 23, 2004, to advise us of the nature of the accommodation that you need. Please contact Helenann Cannon, Department of Environmental Quality at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 841-5002; fax (406) 841-5050; or email hcannon@state.mt.us.

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

17.56.502 REPORTING OF SUSPECTED RELEASES (1) Owners and operators, any installer, any person who performs subsurface investigations for the presence of regulated substances, and any person who performs a tank tightness or line tightness test pursuant to ARM 17.56.407~~(3)~~ or 17.56.408~~(2)~~, must report suspected releases to the department and the implementing agency ~~by telephone~~ within ~~24 hours of the existence of any of the following conditions, and follow the procedures in ARM 17.56.504 for any of these conditions~~ the specified timeframes and in the following manner:

(a) ~~the discovery by an owner or operator or other person of a released regulated substance at the storage tank site or in the surrounding area (such as~~ The following conditions at a petroleum storage tank site constitute a suspected release that must be reported within 24 hours of discovery to a person within the remediation division of the department, or to the 24-hour disaster and emergency services duty officer available at telephone number (406) 841-3911:

(i) visual or olfactory observations, field monitoring

results or other indicators of the presence of regulated substances in soil or nearby surface or ground water, or the presence of free product or vapors in ~~soils,~~ basements, sewer ~~and~~ or utility lines~~, and nearby surface water and ground water)~~;

(ii) the sudden or unexplained loss of product from the tank system;

(iii) a failed tightness test, performed in accordance with subchapter 4, unless the tank system is found to be defective but not leaking and is immediately repaired or replaced;

(iv) sampling, testing or monitoring results from a release detection method, performed in accordance with subchapter 4, that indicate a release may have occurred, unless the release detection or monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced, and subsequent monitoring, sampling or testing indicates that the system is not leaking; and

(v) the presence of product in the tank secondary containment system.

(b) Messages left on answering machines, received by facsimile, email, voice mail or other messaging device are not adequate 24-hour notice.

(c) The following conditions at a petroleum storage tank site constitute a suspected release that must be reported within seven days of discovery:

~~(b)~~ (i) ~~Unusual operating conditions observed by an owner or operator (such as the erratic behavior of product dispensing equipment, the sudden loss of product from the tank system, or an unexplained presence of water in the tank) or person performing the test, unless the tank system~~ erratic behavior of product dispensing equipment or automatic release detection equipment unless the equipment is found to be defective but not leaking, and is immediately repaired or replaced~~; or~~;

(ii) an unexplained presence of water in the tank;

(iii) inconclusive results from a tank tightness test, performed in accordance with subchapter 4, unless the tank system is found to be defective but not leaking; and

~~(c)~~ (iv) sampling, testing or ~~M~~monitoring results from a release detection method, required under ~~ARM 17.56.402 and 17.56.403~~ subchapter 4, that ~~indicate a release may have occurred~~ are inconclusive and cannot rule out the occurrence of a release, unless~~:~~

~~(i)~~ the monitoring device is found to be defective~~,~~ and is immediately repaired, recalibrated or replaced, and ~~additional~~ subsequent monitoring~~, does not confirm the initial result; or~~ sampling or testing indicates that the system is not leaking.

~~(ii) in the case of inventory control, a second month of data does not confirm a suspected release~~.

AUTH: 75-11-319, 75-11-505, MCA
IMP: 75-11-309, 75-11-505, MCA

REASON: The term "suspected releases" is added by these proposed amendments to ARM 17.56.502(1). This amendment is necessary to clarify that this rule regulates only reports of suspected releases and not confirmed releases or spills, which are addressed by other rules.

The requirement to report a suspected release by telephone has been changed to allow reporting by any means that ensures a person within the remediation division of the department receives notice within the required timeframe. This amendment is necessary to reflect the way that releases are actually reported. Under the proposed rule, if a person personally notifies someone in the department of a suspected release, the person will no longer also be required to notify the department by telephone, which was unnecessarily duplicative.

The proposed amendments to ARM 17.56.502 are necessary to split the reporting of suspected releases into two categories: those that must be reported in 24 hours and those that must be reported in seven days. The types of releases requiring 24-hour reporting are those that may present an immediate and growing threat to public health, safety, and the environment. The department needs to be aware of these situations quickly in order to determine whether immediate response is required. Suspected releases that are less likely to pose a significant risk must be reported within seven days. The seven days gives owners and operators time to evaluate whether faulty equipment or false alarms are the cause of the suspected release. Owners and operators will still be required, under ARM 17.56.504, to immediately investigate and confirm all suspected releases.

Erratic behavior of release detection equipment is added to the list of situations, in ARM 17.56.502(1)(c), that are the basis for suspecting a release. This proposed amendment is necessary to address faulty release detection equipment, which may not be detecting an ongoing release. Some examples of sampling, testing or monitoring that must be reported to the department within seven days of discovery are: alarms from automatic release detection equipment, results from statistical inventory reconciliation, inventory control, or manual tank gauging methods that are inconclusive and cannot rule out the occurrence of a release. When inconclusive release detection results are recorded, the owner or operator essentially does not have a method of release detection and an ongoing release may be overlooked. Reporting a suspected release is critical in these instances so that the department can evaluate the potential for an ongoing release and take steps to resolve the issue.

The proposed amendments to (1)(a) and (1)(b) require notification within 24 hours to a person in the department's remediation division or to the Montana Disaster and Emergency Services (DES) duty officer when a suspected release may pose an immediate and growing threat to human health and the environment. A DES duty officer is on duty 24 hours a day.

The remediation division personnel and DES duty officers are trained on which emergency response agencies should be contacted to respond to a suspected release. The proposed amendment at (1)(c) states that messages left on answering machines, or received by other messaging device, do not satisfy the 24-hour notice requirement. This amendment is necessary because appropriate personnel must receive the information, respond appropriately and promptly, in order to avoid undue risks to human health and the environment.

The applicability of this proposed rule and all other proposed rules in this notice is defined under ARM 17.56.102.

17.56.504 RELEASE INVESTIGATION AND CONFIRMATION STEPS

(1) Unless corrective action is initiated in accordance with subchapter 6, owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under ARM 17.56.502, within seven days of the discovery of the condition identified in ARM 17.56.502, using either of the following steps, unless both are required by the language of this rule:

(a) Owners and operators must conduct tests (according to the requirements for tightness testing in ARM 17.56.407~~(3)~~ and 17.56.408~~(2)~~) that determine whether a leak exists in ~~that~~ any portion of the tank that routinely contains product, or the attached delivery piping, or both.

(1)(a)(i) through (b)(ii) remain the same.

(iii) The department may reject all or part of the test results, if it has ~~a~~ reasonable doubt as to the quality of data or if the sample or test methods ~~used~~ are scientifically unsound~~,~~. ~~and~~ In such cases, the department may require resampling, reanalysis, or both. The department will provide ~~to~~ the owner or operator with an explanation of its decision to reject any test results.

AUTH: 75-11-319, 75-11-505, MCA
IMP: 75-11-309, 75-11-505, MCA

REASON: The proposed amendments in ARM 17.56.504 serve to clarify the original intent of the rule, and do not change the substantive effect of the rule. The system test requirement at ARM 17.56.504(1)(a) requires testing to determine whether a leak exists in any portion of the tank that routinely contains product. The word "any" was inserted and the word "that" deleted to clarify this requirement.

In subsection (1)(b)(iii) of the proposed amendment, the department may reject test results if it has reason to question the data. The proposed language states that the department may reject all or part of the test results if it has reasonable doubt as to the quality of data or the scientific soundness of sampling or test methods. This proposed amendment is necessary to identify required methods for sampling and testing and to inform the regulated community that the department expects data to be collected using sound sampling and test methods.

17.56.505 REPORTING AND CLEANUP OF SPILLS AND OVERFILLS

(1) Owners and operators must contain and immediately clean up a spill or overfill, immediately report the spill or overfill to the department and the implementing agency ~~by telephone,~~ pursuant to (3) or by another method that ensures that a person within the remediation division of the department receives notice within 24 hours of the release, and must begin corrective action in accordance with subchapter 6 in the following cases:

(a) remains the same.

(b) Spill or overfill of a hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity under ~~CERCLA (~~40 CFR Part 302~~)~~.

(2) remains the same.

(3) Telephone notification required in (1) or (2) must be made to a person in the remediation division of the department or to the 24-hour disaster and emergency services duty officer at (406) 841-3911. Messages left on answering machines, received by facsimile, email, voice mail or other messaging device are not adequate 24-hour notice.

AUTH: ~~75-10-405,~~ 75-11-319, 75-11-505, MCA
IMP: ~~75-10-405,~~ 75-11-309, 75-11-505, MCA

REASON: Amendments to ARM 17.56.505 are necessary to require spill and overfill reporting to a person within the remediation division of the department. The requirement to report spills and overfills by telephone has been changed to allow reporting by other means that ensure a person receives the information. This amendment reflects the way that releases are actually reported. If a person personally notifies someone in the department of a spill or overfill, they will no longer be required to notify the department by telephone, which was unnecessarily duplicative.

The proposed amendment to (1)(b) is necessary to correct the citation to 40 CFR Part 302. This citation is to federal regulations related to designation, reportable quantities, and notification of hazardous substances under CERCLA, not to the CERCLA statute.

Section (3) requires owners and operators to notify a person in the department's remediation division within 24 hours, or the Montana Disaster and Emergency Services (DES) duty officer, who is on duty 24 hours a day. Spills and overfills may cause an immediate threat to public health, safety, and the environment and need to be addressed quickly. The remediation division personnel and DES duty officers are trained on which emergency response agencies should be contacted under these conditions. If a message were left on an answering machine, appropriate personnel might not receive the information for several days, which could lead to inappropriate response actions and undue risks to human health and the environment.

17.56.602 INITIAL RESPONSE AND ABATEMENT MEASURES

(1) Upon confirmation of a release in accordance with ARM 17.56.504 or after a release from the PST or UST system is identified in any other manner, owners and operators must:

(a) perform the following initial response actions ~~within 24 hours of a release~~:

(i) report the release to the department ~~and the implementing agency by telephone or electronic mail~~ in accordance with [NEW RULE I];

(1)(a)(ii) through (1)(d)(vii) remain the same.

AUTH: 75-11-319, 75-11-505, MCA
IMP: 75-11-309, 75-11-505, MCA

REASON: The procedures for reporting confirmed releases are being deleted from (1) and moved to subchapter 5 (proposed new rule I). All release reporting requirements will now be contained in Title 17, chapter 56, subchapter 5 of these rules. These amendments are necessary to consolidate release reporting requirements.

4. The proposed new rules provide as follows:

NEW RULE I REPORTING OF CONFIRMED RELEASES (1) Upon confirmation of a release in accordance with ARM 17.56.504, or after a release from the PST or UST system is identified in any other manner, owners and operators, any installer, any person who performs subsurface investigations for the presence of regulated substances, and any person who performs a tank tightness or line tightness test pursuant to ARM 17.56.407 or 17.56.408, must report releases to the department and the implementing agency within the specified timeframes and in the following manner:

(a) Except as provided in (1)(b), all confirmed releases must be reported to a person within the remediation division of the department, the implementing agency, or the 24-hour disaster and emergency services duty officer available at telephone number (406) 841-3911 within 24 hours of confirming the release. Messages left on answering machines, received by facsimile, email or voice mail or other messaging device are not adequate 24-hour notice.

(b) When a release is confirmed from laboratory analysis of samples collected from a site, the release must be reported to the department and implementing agency by a method that ensures the department or the implementing agency receives the information within seven days of release confirmation. The date of release confirmation, for purposes of this rule, is the date the owner, operator, installer, or person who performs subsurface investigations for the presence of regulated substances received notification of the sample results from the laboratory. Laboratory analytical results that exceed the following values confirm that a release has occurred:

(i) risk-based screening levels (RBSLs) established for petroleum contaminants in surface soil, or 50 micrograms per kilogram, for extractable petroleum hydrocarbon (EPH) compounds at UST sites, published in Montana Tier 1 Risk-Based Corrective Action Guidance for Petroleum Releases (RBCA) for petroleum compounds and mixtures in soil;

(ii) Montana water quality human health standards published in department Circular WQB-7 for contaminants in water that are not listed in RBCA; or

(iii) preliminary remediation goals or soil screening levels published in the United States Environmental Protection Agency, Region 9 Preliminary Remediation Goals for soil analyses of contaminants in soil that are not listed in RBCA.

AUTH: 75-11-319, 75-11-505, MCA
IMP: 75-11-309, 75-11-505, MCA

REASON: New rule I is necessary to codify the reporting requirements for confirmed releases originally contained in ARM 17.56.602 (Initial Response and Abatement Measures) and to split confirmed release reporting timeframes into two categories: (1) those that must be reported in 24 hours and (2) those that must be reported in seven days. The types of releases requiring 24-hour reporting are those that may present an immediate and growing threat to public health, safety, or the environment. The department needs to evaluate these situations and determine if immediate response is required. Releases that must be reported in seven days are those that are less likely to pose a significant risk to human health or the environment. The seven-day time period is necessary to give owners, operators, and their contractors sufficient time to receive, review, and understand laboratory reports that may confirm a release.

New rule I requires owners and operators and others to notify either a person in the department's remediation division within 24 hours of confirmation of a release, or the Montana disaster and emergency services (DES) duty officer. The reporting requirement is necessary because a confirmed petroleum release may cause an immediate threat to human health, safety, or the environment and may need to be addressed quickly. The remediation division personnel and DES duty officers are trained on which emergency response agencies should be contacted under these conditions. Messages left on answering machines or other messaging devices will not be considered adequate 24-hour notice because appropriate personnel might not receive the information for several days, which could lead to inappropriate response actions and undue risks to human health and the environment.

New rule I(1)(b) identifies laboratory analytical result concentrations that confirm a release. This amendment is necessary to inform persons receiving laboratory results that those listed analytical concentrations require reporting a confirmed release to the department within seven days of receipt of the results and that further response action will

be required.

NEW RULE II NUMBER OF PETROLEUM RELEASES (1) Except as provided in (2), from the date of the first discovery of a suspected or confirmed release of petroleum from a facility, all petroleum contamination that is discovered through any investigation of the initial release pursuant to subchapter 5 or 6, is considered part of the original release. The department will assign a unique identification number to the release.

(2) Under the following circumstances the department may consider subsequent contamination to be from a separate release and assign another release number:

(a) when a new release of petroleum is discovered and, based on substantial evidence, the department believes the release started after the department listed all earlier discovered releases on the resolved release list in accordance with [NEW RULE III(4)] or discontinued monitoring of earlier-discovered releases, in accordance with [NEW RULE III(2)(b)]; or

(b) when a new release of petroleum is discovered and, based on substantial evidence, the department believes the release started from an UST or PST after the date that the earlier release was confirmed.

(3) For the purposes of this rule only, "facility" means petroleum storage tank (PST) systems and their associated distribution piping that are located on contiguous property and are owned and operated as a single business by the same person(s), at the time the department believes a release started.

(a) A facility may include multiple PST systems located on contiguous property, which are used for storing multiple petroleum products for a single business at the time the department believes a release started;

(b) A facility does not include PST systems used in different businesses that are connected through permanent or temporary piping used to transfer petroleum products from one business to another at the time the department believes a release started.

(4) The department may delete a release number if the department determines that the release should not have been confirmed. This determination may be based on subsequent investigation that shows that the release did not occur, or shows that the contamination did not exceed standards cited in [NEW RULE I], or when subsequent investigation shows the contamination should have been attributed to an earlier release that has been assigned a release number.

AUTH: 75-11-319, 75-11-505, MCA
IMP: 75-11-308, 75-11-309, 75-11-505, MCA

REASON: New rule II is necessary to describe the way that the department defines a release and assigns release numbers. The methodology in this rule adopts as rules

informal guidelines that the department has operated under since 1989. The department determined that it was necessary to formalize these guidelines in order to ensure their consistent application and to give the regulated community notice of the department's process for determining and identifying releases.

Section (4) is necessary to allow the department to delete a release number if the department determines, based on new information, that the release should not have been confirmed because it did not occur, contamination did not exceed standards, or the release should have been attributed to an earlier confirmed release with a previously assigned release number.

NEW RULE III RELEASE CATEGORIZATION (1) Except as provided in (2), (3) and (4), the department shall categorize all releases from USTs and PSTs regulated under this chapter as active.

(2) The department may categorize a release as noncompliant ground water as provided in (2)(a). The department must notify the owner or operator of the department's determination to categorize the release as noncompliant ground water, and must document all conditions that preclude the site from being categorized as resolved.

(a) The department may only categorize a release as noncompliant ground water when:

(i) site conditions satisfy all criteria listed under (4) except that water quality parameters exceed:

(A) a standard published in department Circular WQB-7;

(B) a standard established as a drinking water maximum contaminant level published in 40 CFR Part 141; or

(C) a risk-based screening level published in RBCA;

(ii) ground water performance monitoring of natural attenuation data collected in accordance with U.S. Environmental Protection Agency Office of Solid Waste and Emergency Response Directive 9200.4-17P indicate that the dissolved contaminant plume has been stable or shrinking for a period of at least two consecutive years;

(iii) all sources of the release have been eliminated or reduced to the maximum extent practicable;

(iv) all free product has been removed to the maximum extent practicable;

(v) documented investigations or site-specific risk analyses demonstrate that taking additional remedial action is not cost effective nor practicable to address the release; and

(vi) engineering or institutional controls are in place to ensure that identified risks to human health and the environment are reduced to acceptable levels. For the purposes of this rule, engineering or institutional controls must consist of:

(A) deed restrictions or restrictive covenants that run with the land and that have been approved by the department and duly recorded;

(B) a designated controlled ground water area as

provided for in 85-2-506, MCA; or

(C) another method approved by the department that has been shown to ensure risk has been reduced to acceptable levels.

(b) The department may reduce or discontinue monitoring required for a noncompliant ground water release after a period of continuous monitoring, at least five years long, that is determined by the department to be sufficient to detect unacceptable risks to human health or the environment. In deciding to reduce or discontinue monitoring, the department shall consider whether the plume's extent, magnitude, and contaminant concentrations have remained stable under fluctuating hydrogeologic conditions. The department shall review noncompliant ground water releases once every five years, in consultation with the owner or operator, to determine whether site closure should be considered or whether unexpected conditions necessitate increased frequency of monitoring.

(c) When the department reduces or discontinues monitoring of a noncompliant ground water release in accordance with (2)(b), the department shall send a letter to the owner or operator that states all the information in (6)(a) through (e), includes a schedule of review that complies with (2)(b), and requires monitoring or a ground water investigation to determine whether the requirements at (4) are met when the owner, operator or department proposes to recategorize the release as resolved.

(3) The department may categorize a release as transferred when another state or federal program assumes jurisdiction of the facility and all releases and threatened releases of hazardous or deleterious substances from USTs or PSTs, regulated under this chapter, are addressed by that program at the facility. The department shall notify the owner or operator that the department will categorize the release as transferred.

(4) The department may categorize a release as resolved if the department has determined that all cleanup requirements have been met and that conditions at the site ensure present and long-term protection of human health, safety, welfare and the environment. The following requirements must be met before a release may be categorized as resolved:

(a) documented investigations conducted in accordance with ARM 17.56.604 identify the extent, or absence of, contamination remaining in the soil, ground water, surface water, and other environmental media relevant to the release;

(b) risks to human health and the environment from residual contamination at the site have been evaluated and indicate that unacceptable risks do not exist and are not expected to exist in the future. Owners or operators, or other persons, may use any of the following methods to evaluate risk from a release with department approval:

(i) RBCA for soil and water contamination, except for public health risk from inhalation of contaminant vapors, surface water, or sediment;

(ii) a site-specific risk assessment conducted in accordance with EPA Risk Assessment Guidance for Superfund: Volume I, Parts A through C, and EPA Exposure Factors Handbook: Volumes I through III; or

(iii) demonstration to the department's satisfaction that current and potential future exposure pathways are incomplete;

(c) all appropriate remedial actions associated with the release and required by the department, including compliance monitoring and confirmatory sampling, have been completed; and

(d) all applicable and relevant environmental requirements, criteria or limitations associated with the release have been met. Such requirements include, but are not limited to, local, state, and federal environmental, health and safety regulations that must be complied with during implementation of the corrective action plan. These requirements include, but are not limited to, air quality, drinking water and monitoring well requirements, solid waste management requirements, hazardous waste management requirements, national pollution discharge elimination system (NPDES) and Montana pollution discharge elimination system (MPDES) requirements, underground injection controls and standards, UST requirements, reclamation requirements, ground water and surface water quality standards, storm water requirements, and requirements for the protection of endangered species, historic sites, wetlands and floodplains.

(5) The department may recategorize a resolved or noncompliant ground water release as active if the department receives information upon which it determines that further remedial action is necessary. Such information may include, but is not limited to, changes in land use or site conditions that may increase the potential for adverse impacts to human health or the environment from residual contamination or noncompliant ground water. The department must notify the owner or operator of the department's determination to recategorize the release as active.

(6) When a release is categorized as resolved the department shall send a letter to the owner or operator that:

(a) states that, based on information then available, no further corrective action will be required at that time;

(b) requires that all monitoring wells, piezometers, and other ground water sampling points either be abandoned or maintained by the property owner in accordance with applicable rules and requirements;

(c) describes the amount and location of any residual contamination that remains in the subsurface;

(d) states the reasons why the department believes the release does not pose a present or future risk to human health or the environment; and

(e) identifies known conditions that may require additional work.

AUTH: 75-11-319, 75-11-505, MCA
IMP: 75-11-309, 75-11-505, MCA

REASON: Proposed new rule III is necessary to ensure appropriate management of all phases of cleanup. This new rule categorizes releases as active, noncompliant ground water, transferred or resolved.

The active release category, at (1), must include all petroleum releases from underground storage tanks (USTs) and petroleum storage tanks (PSTs) that have not been categorized as resolved, noncompliant ground water or transferred.

The noncompliant ground water release category, at (2), must include all petroleum releases from USTs and PSTs that have met all cleanup requirements and at which site conditions assure present and long-term protection of human health, safety, welfare, and the environment, but water quality standards, drinking water standards or other applicable standards are exceeded. Before a release may be categorized as noncompliant ground water, the release must have been monitored for two consecutive years and ground water monitoring data must show that the dissolved contaminant plume is stable or shrinking. Additionally, all sources of contamination must be eliminated or reduced to the maximum extent practicable, all free product must be removed to the maximum extent practicable, it must be demonstrated that additional remedial action is neither cost effective nor practicable, and that engineering or institutional controls are in place to ensure that risks to human health are reduced to acceptable levels. Subsection (2)(b) of proposed New Rule III is necessary to allow the department to reduce or discontinue the monitoring requirements for noncompliant ground water release when, after five years or another reasonable period of continuous monitoring, it can be demonstrated that contamination remaining does not pose a risk to human health or the environment.

Subsection (2)(c) is necessary to require the department to send a letter to the owner or operator of an UST or PST with a release at the time the release is categorized as noncompliant ground water. The letter will include all the same information as for resolved releases and provide a schedule for monitoring and review, including a five-year file and document review cycle and a ground water investigation at the time the owner or operator proposes to categorize the release as resolved. This will ensure final closure of releases in a timely manner. The department determined that the five-year review periods for file and document review are reasonable time periods to reassess site development, maintenance of engineering and institutional controls, and other changed circumstances that may change the conclusions of the risk assessment that was conducted in accordance with (4)(b) and require further work at the site. A ground water investigation at the time the owner or operator or the department proposes to categorize the release as resolved would provide information about site conditions without requiring the monitoring wells to be left in place. Leaving monitoring wells in place requires ongoing maintenance of the sampling points and may risk cross contamination or provide a

conduit for contamination of ground water.

The transferred release category, at (3), includes all releases for which another state or federal program has assumed jurisdiction.

The resolved release category, at (4), includes all releases for which cleanup requirements have been met. Under proposed (4)(d), all applicable and relevant environmental requirements, criteria or limitations (ERCLs) associated with a release or its remediation must be met before a release may be categorized as resolved. This includes, but is not limited to, requirements directly related to the specific contamination such as meeting Montana's water quality standards required under the Water Quality Act; and all environmental requirements related to the investigation and cleanup that may affect the release site or distant properties. Typical environmental requirements that may prevent categorizing a release as resolved may include solid waste requirements addressing contaminated soils removed from the site, hazardous waste requirements addressing hazardous wastes derived from sample collecting or cleanup systems, or requirements to properly construct, maintain, and abandon monitoring wells remaining on site. When innovative treatment technologies are used, such as active wetlands or phyto-remediation, requirements pertaining to migratory birds, endangered species, wetlands, and floodplains may need to be addressed prior to categorizing the release as resolved. Other environmental requirements, criteria or limitations may also need to be met to address specific and unique effects of a release and the technology utilized to investigate and clean up the release.

Section (5) is necessary to provide a process to recategorize resolved or noncompliant ground water releases as active when the department receives information regarding the need for further remedial action. This information may include changes in land use that increase the potential for adverse impacts from residual contamination.

Section (6) is necessary to require the department to send a letter to the owner or operator of the UST or PST with a release at the time the release is categorized as resolved. The letter will: 1) state that no further corrective action is required at the time; 2) state that monitoring wells, peizometers and other ground water sampling points must be abandoned or maintained in accordance with applicable rules and regulations; 3) describe any remaining residual contamination; 4) describe the reason the department believes the release does not pose a present risk to human health and the environment; and 5) describe any known conditions that may require further work at the site.

Proposed New Rule III at (2)(b) and (4) addresses completion of corrective action and how and when required corrective action, including monitoring, may be ceased or decreased. Current rules address investigation and cleanup of petroleum releases, not how and when to cease or decrease corrective actions. Proposed New Rule III is necessary to

provide the department and the regulated community with a regulatory framework for managing three categories of petroleum releases: those that are undergoing active corrective action, those that have noncompliant ground water after completion of required corrective action, and those that are resolved and meet all cleanup requirements.

NEW RULE IV ADOPTION BY REFERENCE (1) For purposes of this subchapter, the department hereby adopts and incorporates by reference:

(a) Department Circular WQB-7, "Montana Numeric Water Quality Standards" (January 2002);

(b) Montana Tier 1 Risk-based Corrective Action Guidance for Petroleum Releases (RBCA) (October 2003);

(c) U.S. Environmental Protection Agency, "Region 9 Preliminary Remediation Goals" (November 22, 2000); and

(d) Reportable Quantities for Hazardous Substances under section 102(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) published at 40 CFR Part 302 (2001).

(2) All references in this subchapter to the documents incorporated by reference in this rule are to the edition specified in this rule.

(3) Copies of the documents incorporated by reference in this rule may be obtained from the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901.

AUTH: 75-11-319, 75-11-505, MCA
IMP: 75-11-309, 75-11-505, MCA

REASON: New Rule IV is necessary to incorporate by reference all documents referred to in subchapter 5. Having a separate adoption by reference rule will save the department from having to update numerous references whenever there is a new edition of one of the referenced documents.

NEW RULE V ADOPTION BY REFERENCE (1) For purposes of this subchapter, the department hereby adopts and incorporates by reference:

(a) Department Circular WQB-7, "Montana Numeric Water Quality Standards" (January 2002);

(b) Drinking Water Maximum Contaminant Levels published at 40 CFR Part 141 (2001);

(c) Montana Tier 1 Risk-based Corrective Action Guidance for Petroleum Releases (RBCA) (October 2003);

(d) U.S. Environmental Protection Agency Office of Solid Waste and Emergency Response Directive 9200.4-17P, "Use of Monitored Natural Attenuation at Superfund, RCRA Corrective Action, and Underground Storage Tank Sites" (April 1999);

(e) U.S. Environmental Protection Agency Risk Assessment Guidance for Superfund Volume I, Part A, EPA/540/1-89/002 (December 1989), Part B, EPA/540/R-92/004 (December 1991), and Part C, EPA/540/R-92/004 (December 1991); and

(f) U.S. Environmental Protection Agency Exposure

Factors Handbook, Volume I, EPA/600/P-95/002Fa (August 1997), Volume II, EPA/600/P-95/002Fb (August 1997), and Volume III, EPA/600/P-95/002Fc (August 1997).

(2) All references in this subchapter to the documents incorporated by reference in this rule are to the edition specified in this rule.

(3) Copies of the documents incorporated by reference in this rule may be obtained from the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901.

AUTH: 75-11-319, 75-11-505, MCA
IMP: 75-11-309, 75-11-505, MCA

REASON: New Rule V is necessary to incorporate by reference all documents referred to in subchapter 6. Having a separate adoption by reference rule will save the department from having to update numerous references whenever there is a new edition of one of the referenced documents.

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 Kirsten Bowers, Remediation Division, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901, faxed to (406) 444-1901 or emailed to kbowers@state.mt.us and must be received no later than 5:00 p.m., March 15, 2004. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

6. Kirsten Bowers has been designated to preside over and conduct the hearing.

7. The Department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list 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 or may be made by completing a request form at any rules hearing held by the Department.

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

Reviewed by: DEPARTMENT OF ENVIRONMENTAL QUALITY

James M. Madden BY: *Jan P. Sensibaugh*
JAMES M. MADDEN JAN P. SENSIBAUGH, Director
Rule Reviewer

Certified to the Secretary of State, January 5, 2004.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 23.7.101A, 23.7.301, 23.7.302, 23.7.303, 23.7.304, 23.7.306, and 23.7.308 to adopt NFPA 1 Uniform Fire Code, and repeal of ARM 23.7.305, 23.7.307, 23.7.309, and 23.7.310 which are superseded by the adoption of NFPA 1 Uniform Fire Code	)	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT AND REPEAL

TO: All Concerned Persons

1. On February 10, 2004 at 9:30 a.m., a public hearing will be held in the Auditorium of the Scott Hart Building, in Helena, Montana, to consider the amendment of ARM 23.7.101A, 23.7.301, 23.7.302, 23.7.303, 23.7.304, 23.7.306, and 23.7.308 to adopt NFPA 1 Uniform Fire Code, and repeal of ARM 23.7.305, 23.7.307, 23.7.309, and 23.7.310 which are superseded by the adoption of NFPA 1 Uniform Fire Code.

2. The Department of Justice 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 Justice no later than 5:00 p.m. on February 3, 2004, to advise us of the nature of the accommodation that you need. Please contact Ali Bovingdon, Department of Justice, Office of the Attorney General, P.O. Box 201401, Helena, MT 59620-1401; (406) 444-2026; Fax (406) 444-3549; e-mail abovingdon@state.mt.us.

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

23.7.101A DEFINITIONS Unless the context requires otherwise, the following definitions apply to the rules in ARM Title 23, chapter 7:

(1) "Building code" means ~~the latest edition (1997) of the Uniform Building Code (UBC) adopted by the department of commerce. Whenever a provision of the building code is incorporated within the Uniform Fire Code (UFC) by reference, such provision is hereby adopted for application to all buildings within the jurisdiction of the fire prevention and investigation program (FPIP), unless the state fire marshal determines otherwise in accordance with 1997 UFC 103.1.2.~~ the current version of the State Building Code adopted by the department of labor and industry, building codes bureau, including the International Building Code as amended by administrative rule. Copies of the building code may be obtained from the Building Codes ~~Division~~ Bureau of the

Department of ~~Commerce~~ Labor and Industry, ~~1218 East Sixth Avenue, P.O. Box 200517, Helena, Montana 59620-0517~~ 301 South Park, Room 430, P.O. Box 200517, Helena, MT 59620-0517.

(2) "Building official" means the ~~division administrator~~ chief of the building codes ~~division~~ bureau of the department of ~~commerce~~ labor and industry, or when made applicable by statute or rule, the building official of the ~~local jurisdiction~~ certified city, county, or town.

(3) through (8) remain the same.

(9) "Fire code" means the edition of the ~~Uniform Fire Code (UFC)~~ National Fire Protection Association 1 Uniform Fire Code, (NFPA 1/UFC) currently adopted by the fire prevention and investigation program (FPIP) and any additions thereto currently adopted by the FPIP.

(10) through (12) remain the same.

(13) "Fire prevention and investigation program or FPIP" is the fire prevention and investigation program in the state fire marshal's office of the department of justice.

(13) through (18) remain the same but are renumbered (14) through (19).

~~(19)~~ (20) "Mechanical code" means the latest edition ~~(1997)~~ of the ~~Uniform~~ International Mechanical Code (~~U~~IMC) adopted by the department of ~~commerce~~ labor and industry. Whenever a provision of the mechanical code is incorporated within the ~~Uniform Fire Code (UFC)~~ NFPA 1 Uniform Fire Code, (NFPA 1/UFC) by reference, such provision is hereby adopted for application to all buildings within the jurisdiction of the ~~fire prevention and investigation program (~~FPIP~~)~~, unless the state fire marshal determines otherwise ~~in accordance with 1997 UFC 103.1.2~~. Copies of the mechanical code may be obtained from the Building Codes ~~Division~~ Bureau of the Department of ~~Commerce~~ Labor and Industry, ~~1218 East Sixth Avenue, P.O. Box 200517, Helena, Montana 59620-0517~~ 301 South Park, Room 430, P.O. Box 200517, Helena, MT 59620-0517.

(20) through (25) remain the same but are renumbered (21) through (26).

AUTH: 50-3-102, MCA
IMP: 50-3-102, MCA

23.7.301 ADOPTION OF ~~UNIFORM FIRE CODE~~ NFPA 1 UNIFORM FIRE CODE (1) The fire prevention and investigation program (FPIP) ~~hereby~~ adopts and incorporates by reference the ~~Uniform Fire Code and appendices, 1997 edition (UFC), and the Uniform Fire Code Standards, 1997 edition (UFC Standards),~~ NFPA 1 Uniform Fire Code, 2003 edition (2003 NFPA 1/UFC) and annexes with the additions, amendments, and deletions enumerated in this subchapter. Copies of the ~~1997 UFC~~ 2003 NFPA 1/UFC and related materials may be obtained from the ~~International Conference of Building officials, 5360 South Workman Mill Road, Whittier, CA 90601-2298, 1-800-423-6587800-423-6587, www.icbo.org.~~ National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169. This document is available for free online access at www.nfpa.org. Copies of

the ~~1997 UFC~~ 2003 NFPA 1/UFC and Montana's amendments thereto may be obtained from the Fire Services Training School, P.O. Box 6010, Great Falls, MT 59406-6010, (406) 771-4336.

(2) If there is any conflict between the ~~Uniform Fire Code~~ NFPA 1/UFC and the Montana Code Annotated, the provisions of the Montana Code Annotated control.

(3) This rule establishes a minimum fire protection code to be used in conjunction with the ~~Uniform Building Code, ARM 8.70.101, et seq~~ Building Code. Nothing in this rule prohibits any local government unit from adopting those portions of the ~~UFC~~ NFPA 1/UFC that are not adopted by the ~~fire prevention and investigation program~~ FPIP or standards which are more restrictive than the ~~UFC~~ NFPA 1/UFC.

(4) The design and construction requirements in NFPA 1/UFC that apply to public buildings or places of employment are not included in this adoption. The Building Code adopted by the building codes bureau of the department of labor and industry controls design and construction in Montana. If there is any conflict between the construction standards in the NFPA 1/UFC and construction standards set forth in the Building Code, the provisions of the Building Code control. NFPA 1/UFC construction standards only apply if no comparable Building Code construction standard exists.

(5) The following NFPA 1/UFC sections are modified as shown to be in accordance with the Building Code regarding design and construction requirements:

(a) Section 1.1.1 The scope includes, but is not limited to, the following:

1.1.1(3) Review of design and construction plans, drawings, and specifications for life safety systems, fire protection systems, access, water supplies, processes, and hazardous materials and other fire and life safety issues shall be in accordance with requirements of the Building Code.

(b) Section 1.3 Application. This Code shall apply to: New construction as required in the Building Code, and existing conditions. Existing buildings shall be maintained in accordance with the Building Code in effect at the time of construction. However, where existing conditions or buildings pose an imminent hazard or risk to public health and safety and are not, therefore, within the purview of the Building Code, the FPIP may take corrective action pursuant to the provisions of 50-61-101, MCA, et seq. and 50-62-101, MCA, et seq.

(c) Section 1.3.8 Repairs, renovations, alterations, reconstruction, change of occupancy, and additions to buildings shall conform with the Building Code.

(d) Section 2.1 General. The documents or portions thereof listed in this chapter are referenced within this code and shall be considered part of the requirements of this document.

(e) Section 2.2 NFPA Publications is not adopted.

(f) Section 10.1.1 Every existing building or structure shall be arranged, equipped, maintained, and operated in accordance with this Code so as to provide a reasonable level

of life safety, property protection, and public welfare from the actual and potential hazards created by fire, explosion, and other hazardous conditions.

(g) Section 10.1.2 is not adopted.

(h) Section 10.1.3 Building Code. All new construction shall comply with the Building Code.

(i) Section 14.1 Application. Means of egress in new and existing buildings shall comply with the Building Code in effect at the time of construction.

AUTH: 50-3-102, MCA
IMP: 50-3-103, MCA

23.7.302 ADMINISTRATION (1) ~~Article I of the UFC~~ Chapter 1 of the 2003 NFPA 1/UFC is adopted with the following exceptions:

(a) ~~Subsection 103.1.4 Appeals~~ Section 1.10 Board of Appeals is not adopted; and

(b) ~~1997 UFC 105.8 Permit Required~~ 1.12 Permits and Approvals and any other ~~sub~~sections of the ~~1997 UFC~~ 2003 NFPA 1/UFC referring to permits are not adopted. This ~~sub~~section applies only to ~~UFC~~ 2003 NFPA 1/UFC permitting requirements ~~only~~, not to permitting requirements contained in Montana law.

~~(2) Pursuant to Subsection 101.8, all appendices of the UFC are adopted, with the following deletions:~~

~~(a) 1997 APPENDIX II-C MARINAS Section 3-Permits is not adopted. The remainder of 1997 Appendix II-C is adopted in its entirety;~~

~~(b) APPENDIX II-D RIFLE RANGES (including all sections) is not adopted;~~

~~(c) APPENDIX II-G SECONDARY CONTAINMENT FOR UNDERGROUND TANK SYSTEMS CONTAINING FLAMMABLE OR COMBUSTIBLE LIQUIDS (including all sections) is not adopted;~~

~~(d) APPENDIX II-H SITE ASSESSMENTS FOR DETERMINING POTENTIAL FIRE AND EXPLOSION RISKS FROM UNDERGROUND FLAMMABLE OR COMBUSTIBLE LIQUID TANK LEAKS (including all sections) is not adopted;~~

~~(e) 1997 APPENDIX I-A is not adopted, except Section 2.4 Fire Escapes is adopted as stated at ARM 23.7.107 and SECTION 6-SMOKE DETECTORS is adopted as stated at ARM 23.7.108.~~

(2) The following annexes are adopted as part of this code:

(a) Annex D Hazardous Materials Management Plans and Hazardous Materials Inventory Statements;

(b) Annex G Ozone Gas-Generating Equipment;

(c) Annex H Fire Flow Requirements for Buildings;

(d) Annex I Fire Hydrant Locations and Distribution; and

(e) Annex J Additional Adoptable NFPA Codes and Standards.

AUTH: 50-3-102, MCA
IMP: 50-3-103, MCA

23.7.303 ADDITIONAL DEFINITIONS (1) ~~ARTICLE 2- DEFINITIONS AND ABBREVIATIONS~~ Chapter 3 Definitions is adopted with the following additions:

(a) "Farm" means a tract of land devoted to agricultural purposes;

(b) "Nationally recognized standards" as used in the ~~Uniform Fire Code (UFC)~~ 2003 NFPA 1/UFC, means any of the following standards referenced in ~~1997 UPC Article 90 : National Fire Protection Association (NFPA)~~ 2003 NFPA 1/UFC standards; Underwriters Laboratories Inc. (UL) standards; American Petroleum Institute (API) standards; American Society for Testing and Materials (ASTM) standards; and American National Standards Institute (ANSI) standards.

(c) and (d) remain the same.

AUTH: 50-3-102, 50-61-102, MCA
IMP: 50-3-102, 50-61-102, MCA

23.7.304 GENERAL ~~PROVISIONS FOR SAFETY~~ (1) ~~Articles 9 through 13 of the 1997 UPC~~ Chapters 10 through 19 of the 2003 NFPA 1/UFC are adopted with the following exceptions and additions:

(a) Section ~~1104~~ 10.18 Parade Floats (including all subsections) is not adopted; and

(b) ~~Subs~~Section ~~1302.3~~ 10.7.3 False Alarms is not adopted.

(2) Section 14.15.3 Fire Escapes: 1. Existing fire escapes which in the opinion of the chief comply with (3) may be used as one of the required means of egress. The location and anchorage of fire escapes shall be of approved design and construction.

(3) Fire escapes shall comply with the following:

(a) Access from a corridor shall not be through an intervening room;

(b) All openings within 10 feet (3048 mm) shall be protected by three-fourths-hour fire assemblies;

(c) When located within a recess or vestibule, adjacent enclosure walls shall not be of less than one hour fire-resistive construction;

(d) Egress from the building shall be by a clear opening having a minimum dimension of not less than 29 inches (737 mm). Such openings shall be openable from the inside without the use of a key or special knowledge or effort. The sill of an opening giving access shall not be more than 30 inches (762 mm) above the floor of the building or balcony;

(e) Fire escape stairways and balconies shall comply with the following requirements:

(i) fire escape stairways and balconies shall support the dead load plus a live load of not less than 100 pounds per square foot (4.78 kN/m2) and shall be provided with a top and intermediate handrail on each side;

(ii) the pitch of the stairway shall not exceed 60 degrees with a minimum width of 18 inches (457 mm);

(iii) treads shall not be less than 4 inches (102 mm) in width and the rise between treads shall not exceed 10 inches (254 mm);

(iv) all stair and balcony railings shall support a horizontal force of not less than 50 pounds per lineal foot (729.5 N/m) of railing;

(v) balconies shall not be less than 44 inches (1118 mm) in width with no floor opening other than the stairway opening greater than 5/8 inch (16 mm) in width;

(vi) stairway openings in such balconies shall not be less than 22 inches by 44 inches (599 mm by 1118 mm); and

(vii) the balustrade of each balcony shall not be less than 36 inches (914 mm) high with not more than nine inches (229 mm) between balusters;

(f) Fire escapes shall extend to the roof or provide an approved gooseneck ladder between the top floor landing and the roof when serving buildings four or more stories in height having roofs with less than four units vertical in 12 units horizontal (33.3% slope);

(g) Fire escape ladders shall be designed and connected to the building to withstand a horizontal force of 100 pounds per lineal foot (1459 N/m); each rung shall support a concentrated load of 500 pounds (2224 N) placed anywhere on the rung. All ladders shall be at least 15 inches (381 mm) wide, located within 12 inches (305 mm) of the building and shall be placed flatwise relative to the face of the building. Ladder rungs shall be 3/4 inch (19 mm) in diameter and shall be located 12 inches (305 mm) on center. Openings for roof access ladders through cornices and similar projections shall have minimum dimensions of 30 inches by 33 inches (762 mm by 838 mm);

(h) The lowest balcony shall not be more than 18 feet (5486 mm) from the ground;

(i) Fire escapes shall extend to the ground or be provided with counterbalanced stairs reaching to the ground;

(j) Fire escapes shall not take the place of stairways required by the codes under which the building was constructed;

(k) Fire escapes shall be kept clear and unobstructed at all times and maintained in good working order; and

(l) The sprinkler system may be supplied from the domestic water supply if of adequate volume and pressure. Vertical openings need not be protected if the building is protected by an approved automatic sprinkler system.

AUTH: 50-3-102, MCA
IMP: 50-3-103, MCA

23.7.306 ~~SPECIAL~~ PROCESSES (1) ~~Articles 45 through 52 of the 1997 UPC~~ Chapters 40 through 42 of 2003 NFPA 1/UFC are adopted with the following exceptions and amendments:

(a) ~~UFC 5201.1 Scope~~ Section 42.2.1 Applicability is amended by adding the following statement at the end of the ~~sub~~section: "For public automotive motor vehicle fuel-

dispensing stations located in rural areas, see ~~Article~~ Chapter ~~53~~ 42 of ~~the UFC~~ the 2003 NFPA 1/UFC";

~~(b) UFC 5201.2 Definitions. For definitions of BULK PLANT or TERMINAL, CNG, COMBUSTIBLE LIQUID, FLAMMABLE LIQUID and MOTOR VEHICLE FUEL-DISPENSING STATION, see 1997 UFC Article 2. For the definition of RURAL AREA, see ARM 23.7.303;~~

(c) ~~UFC 5201.3.1~~ Section 42.2.2.1 Permits is not adopted;

~~(d)~~(b) ~~UFC 5201.4.1.1 General~~ Section 42.2.2 Applicability is amended by referencing "~~Article 53 of the UFC~~ Chapter 42 of the 2003 NFPA 1/UFC" at the end of the first exception;

(e) ~~UFC 5201.4.1.3~~ Section 42.2.3.2.2 is amended as follows: ~~5201.4.1.3~~ 42.2.3.2.2 Bulk plants.

1. Motor vehicle fuel-dispensing stations are not permitted at bulk plants which are not located in a rural area~~. EXCEPTION:~~ with the following exceptions:

(i) Existing bulk plants which are not located in rural areas if the motor vehicle fuel-dispensing dispensers were installed prior to February 9, 1996, and if the dispensers are in compliance with ~~1997 UFC~~ 2003 NFPA 1/UFC ~~Article 52.2~~ Section 42.2.2.5.

(ii) Storage tanks which are located at bulk plants in rural areas and which are constructed and installed in accordance 2003 NFPA 1/UFC Chapter 66 and Section 42.6.

2. Bulk plants located inside the districts defined as "rural" are permitted to incorporate motor vehicle fuel-dispensing stations. The motor vehicle fuel-dispensing stations shall be separated by a fence or similar barrier from the area in which bulk operations are conducted and in accordance with Section ~~5201~~ 42.6~~.~~ ~~See UFC 5202.3.1 and Article 53 of the fire code~~;

~~(f)~~(i) ~~UFC 5201.6.3~~ Section 42.2.7.11 Unsupervised Dispensing is amended by requiring the sign to provide an "EMERGENCY" telephone number rather than a "Fire Department" telephone number;

~~(g)~~(f) ~~UFC 5202.1 General~~ Section 42.2.5.1 Scope is amended by adding the following statement at the end of the ~~sub~~section: "For public automotive motor vehicle fuel-dispensing stations located in rural areas, see ~~Article 53 of the fire code~~ section 42.6";

~~(h) UFC 5202.3.1 General is amended as follows: 5202.3.1 General. Class I liquids shall be stored in closed containers, in tanks located underground or in special enclosures in accordance with UFC 5202.3.6. Class II and III-A liquids shall be stored in containers or in tanks located underground or in special enclosures in accordance with UFC 5202.3.6. Storage of Class I, II, or III-A liquids at public motor vehicle fuel-dispensing stations located in rural areas and bulk plants located in rural areas is permitted in aboveground tanks. See also Appendix II-F and Article 53 of the fire code;~~

~~(i) UFC 5202.3.4 is amended as follows: 5202.3.4 Fuel tanks at bulk plants. Storage tanks used for fueling~~

~~operations shall not be connected to or serve as bulk plant tanks. EXCEPTION: Storage tanks which are located at bulk plants in rural areas and which are constructed and installed in accordance with 1997 UFC Articles 53 and 79;~~

~~(j) Subsection 5202.3.9 Inventory control. is amended by adding the following exception to the existing subsection (which is unchanged): EXCEPTION: Other methods as approved by the Montana department of environmental quality UST program are acceptable;~~

~~(k) UFC 5202.4.1 Aboveground tanks is amended as follows: Class I and II liquids shall not be dispensed into the fuel tank of a motor vehicle from aboveground tanks except when such tanks are installed inside special enclosures in accordance with UFC 5202.3.6. See also Appendix II-F, UFC. EXCEPTION: Aboveground tanks located at public automotive motor vehicle fuel-dispensing stations located in rural areas and bulk plants located in rural areas. See 1997 UFC Article 53;~~

~~(l)~~(d) ~~UFC 5202.4.4.1~~ Section 42.2.3.2 General Requirements is amended by adding at the end of the ~~third paragraph~~ section: "See ~~Article 53 of the fire code~~ 42.6";

~~(m)~~(h) ~~Subsection~~ Section ~~5202.5.3.3~~ 42.2.7.2.1 ~~Leak detection~~ Inventory Control is amended by adding the following exception to the existing ~~sub~~section (which is unchanged): EXCEPTION: Other leak detection methods as approved by the Montana department of environmental quality UST program are acceptable; and

~~(n)~~(g) ~~UFC 5202.13~~ Section 42.2.5.8 Vapor Recovery is not adopted;

~~(o) UFC 5203 and 5204 are adopted in their entirety;~~

~~(p)~~(j) ~~The following entire Article 53~~ Section 42.6 is added to the ~~1997~~ 2003 fire code:

~~Article 53~~ Section 42.6 - Rural Motor Vehicle Fuel - Dispensing Stations

SECTION ~~5301~~ 42.6 – GENERAL

~~5301.1~~ 42.6.1 Scope. Public automotive motor vehicle fuel-dispensing stations located in rural areas, including publicly accessible operations but excluding farms and ranches, shall be in accordance with ~~1997 UFC~~ 2003 NFPA 1/UFC ~~Articles 52 and 53~~ Chapters 42 and 66. Private operations, other than farms and ranches, shall comply with ~~1997 UFC Article 52~~ Chapter 42. Flammable and combustible liquids and LP-gas shall also be in accordance with ~~1997 UFC Articles 79 and 82~~ Chapters 66 and 69.

~~5301.2~~ 42.6.2 Definitions. For definitions of BULK PLANT or TERMINAL, CNG, COMBUSTIBLE LIQUID, FLAMMABLE LIQUID and MOTOR VEHICLE FUEL-DISPENSING STATION, see ~~Article 2, UFC~~ Chapter 3. For the definition of RURAL AREA, see ARM 23.7.303.

~~5301.3~~ 42.6.3 Plans.

~~5301.3.1~~ 42.6.3.1 Plans submittal. Plans ~~submittal is required~~ shall be submitted in accordance with Section 42.2.2.2 for public automotive motor vehicle fuel-dispensing stations located in rural areas.

~~5301.3.2~~ 42.6.3.2 Plans and specifications submittal. Plans and specifications shall be submitted for review and approval prior to the installation or construction of a public automotive motor vehicle fuel-dispensing station located in a rural area. A site plan shall be submitted which illustrates the location of flammable liquid, LP-gas, or CNG storage vessels, and their spatial relation to each other, property lines, and building openings. Both aboveground and underground storage vessels shall be shown on plans. For each type of station, plans and specifications shall include, but not be limited to, the following:

1. Plans, blueprints, or drawings for the renovation or construction of a public automotive motor vehicle fuel-dispensing station located in a rural area that utilizes aboveground storage of flammable or combustible liquids, or both, must be submitted to the fire prevention and investigation program (FPIP) by registered receipt mail for approval before beginning construction. The FPIP shall approve or deny the plans within 50 calendar days or they are automatically considered approved. ~~The plans must comply with UFC 7901.8, 7901.11, 7902.1.8.2.1, 7902.1.10, 7902.1.11, 7902.1.12, 7902.1.13, 7902.2.3, Article 53 of the UFC, and the National Electrical Code (NEC), and contain all the following information:~~

~~A. Tank styles, capacities, and types of liquids to be stored;~~

~~B. Distances from tanks to:~~

~~I. property lines, rights-of-way, and public ways;~~

~~II. buildings;~~

~~III. other tanks;~~

~~IV. dike walls;~~

~~V. dispensers;~~

~~C. Vehicle access;~~

~~D. Fire appliances;~~

~~E. Vehicle impact-protection;~~

~~F. Aboveground tanks and their supports;~~

~~G. Method of storage and dispensing;~~

~~H. Overfill prevention, spill containment, vents, dispensers, and other equipment and accessories;~~

~~I. Seismic design in accordance with the building code;~~

~~J. Secondary containment (include calculation sheets);~~

~~K. Venting;~~

~~L. Piping;~~

~~M. Electrical systems;~~

~~N. Emergency controls; and~~

~~O. Other information as required by the chief.~~

~~2.~~ 42.6.3.3 Prior to the proposed renovation or construction of a public automotive motor vehicle fuel-dispensing station located in a rural area, an applicant shall obtain a letter of approval from the local fire official

responsible for fire protection. This letter and two sets of plans, blueprints, or drawings shall be submitted to the fire prevention and investigation program for examination and approval.

~~3.~~ 42.6.4 Liquefied Petroleum Gas (LPG). See ~~UFC 5201.3.2(2) and 5203~~ Section 42.5.2.

~~4.~~ 42.6.5 Compressed Natural Gas (CNG). See ~~UFC 5201.3.2(3) and 5204~~ Section 42.5.1.

~~5301.4 Location of Dispensing Operations and Storage Vessels.~~

~~5301.4.1~~ 42.6.6 Dispensing operations shall comply with the provisions of Section 42.2.5 and 42.2.6.

~~5301.4.1.1 General. See UFC 5201.4.1.1.~~

~~5301.4.1.2 Dispensing devices. See UFC 5201.4.1.2.~~

~~5301.4.1.3 Bulk plants. See UFC 5201.4.1.3.~~

~~5301.5 Installation of Dispensing Devices.~~

~~5301.5.1 Protection of dispensers. See UFC 5201.5.1.~~

~~5301.5.2 Dispenser installation. See UFC 5201.5.2.~~

~~5301.5.3 Emergency shutdown devices. See UFC 5201.5.3.~~

~~5301.5.4 Dispenser electrical disconnects. See UFC 5201.5.4.~~

~~5301.6 Supervision of Dispensing Operations~~

~~5301.6.1 General. The dispensing of fuel into fuel tanks of automotive or portable containers shall be consistent with UFC 5201.6.1.~~

~~5301.6.2 Attendants. See UFC 5201.6.2.~~

~~5301.6.3 Unsupervised dispensing. See UFC 5201.6.3 with the exception that the posted sign may provide an emergency telephone number rather than a telephone number for a fire department.~~

~~5301.7 Sources of Ignition. See UFC 5201.7.~~

~~5301.8 Signs. See UFC 5201.8.~~

~~5301.9 Fire Protection. See UPC 5201.9.~~

~~5301.10 Clearance from Combustible Materials. See UFC 5201.10.~~

~~5301.11 Maintenance. See UFC 5201.11.~~

~~5301.12~~ 42.6.7 Spill Control, Drainage Control, and Secondary Containment. Spill control and secondary containment shall be provided in accordance with ~~UFC 7901.8~~ Section 42.2.3.3.2.8. ~~Drainage control and diking shall be provided as set forth in UFC 7902.2.8.~~

~~5301.13~~ 42.6.7.1 Leaking Aboveground Storage Tanks. A leaking tank shall be reported to the local fire official and the department and may be replaced with an approved tank of the same volume without prior written approval as required in ~~5302.2.4.1~~ 42.6.3.3. Subsequent inspection and approval shall be made by the local fire official.

~~SECTION 5302 -- PUBLIC FLAMMABLE AND COMBUSTIBLE LIQUID AUTOMOTIVE MOTOR VEHICLE FUEL-DISPENSING STATIONS LOCATED IN RURAL AREAS~~

~~5302.1 General. Public automotive motor vehicle fuel-dispensing stations located in rural areas and utilizing~~

~~flammable or combustible liquids shall be in accordance with 1997 UFC 5301 and 5302. See also 1997 UFC Article 79.~~

~~5302.2 Approvals.~~

~~5302.2.1 General. See UFC 5202.2.1.~~

~~5302.2.2 Approved equipment. See UFC 5202.2.2.~~

~~5302.2.3 Listed equipment. See UFC 5202.2.3.~~

~~5302.3 Storage of Fuel.~~

~~5302.3.1 General.~~

~~1. Class I, II, and III-A liquids may be stored in aboveground storage tanks at public automotive motor vehicle fuel-dispensing stations located in "rural areas" as defined in ARM 23.7.303. Primary product- bearing tanks may be of horizontal or vertical design but shall not exceed 12,000 gallons individual capacity or 48,000 gallons aggregate capacity.~~

~~2. Storage tanks, at the option of the owner, may be installed in accordance with the requirements of UFC 5202.3.1, Appendix II-F, or Appendix II-J of the 1997 UFC.~~

~~5302.3.2 Interconnection of aboveground tanks and underground tanks. See UFC 5202.3.2.~~

~~5302.3.3 Fueling from portable tanks. See UFC 5202.3.3.~~

~~5302.3.4 Fuel tanks at bulk plants. Storage tanks storing Class I, II, and III-A liquids at bulk plants located in "rural areas" as defined in ARM 23.7.303 and which are interconnected for use at motor vehicle fuel- dispensing stations, shall be installed in accordance with 1997 UFC 5302 and shall have no capacity restrictions.~~

~~5302.3.5 Class I liquids in basements or pits. See UFC 5202.3.5.~~

~~5302.3.6 Special enclosures. See UFC 5202.3.6.~~

~~5302.3.7 Container storage inside buildings. See UFC 5202.3.7.~~

~~5302.3.8 Testing of leak-detection devices. See UFC 5202.3.8.~~

~~5302.3.9 Inventory control. Accurate daily inventory records shall be maintained and reconciled on Class I, II, and III-A liquid storage tanks for indication of possible leakage from tanks and piping. The records shall be kept at the premises and available to the chief upon request and shall include records showing, by product, daily reconciliation between sales, use, receipts, and inventory on hand. If there is more than one system consisting of tanks serving separate pumps or dispensers for a product, the reconciliation shall be ascertained separately for each tank system. A consistent or accidental loss of Class I, II, or III-A liquids shall be immediately reported to the fire department.~~

~~5302.4 Dispensing.~~

~~5302.4.1 Aboveground tanks. Class I and II liquids may be dispensed into the fuel tank of a motor vehicle from aboveground tanks when the aboveground tanks are located in "rural areas" and the tanks are installed in accordance with these rules.~~

~~Existing installations shall have the following and new installations shall provide the following at the time of installation:~~

~~1. Valves.~~

~~A. Fire valve. Tanks shall be equipped with a heat actuated shut-off device.~~

~~B. Breakaway valves. Product delivery hoses are equipped with a listed emergency breakaway device designed to retain liquid on both sides of the breakaway point. Such devices shall be installed and maintained in accordance with manufacturer's instructions. See UFC 5202.4.3.~~

~~C. Over-fill device. Horizontal tanks shall be provided with either an automatic shut-off device capable of stopping the delivery of fuel when the level in the tank reaches 90 percent of tank capacity or an audible alarm that sounds when reaching a 90 percent capacity. Bottom fill vertical tanks shall be provided with a tank level gauge marked at 85 percent of tank capacity, or other approved means.~~

~~2. Guard posts. Guard posts or other means shall be provided outside the dike to protect from vehicle impact the dike and the area where tanks are installed. The design shall comply with UFC 8001.9.3.~~

~~3. Fencing. Tanks shall be surrounded by a fence not leas than five feet in height, constructed of wire mesh, solid metal sheathing, or masonry.~~

~~5302.4.2 Filling of portable containers, tanks, and cargo tanks. Class I, II, and III-A liquids shall not be dispensed into portable containers unless such container is of approved material and construction, and has a tight closure with screwed or spring cover so designed that the liquid can be dispensed into the container without spilling. Cargo tanks shall be filled at bulk plants or terminals.~~

~~5302.4.3 Design and Construction.~~

~~5302.4.3.1 General. See UFC 5202.4.4~~

~~1. Horizontal tanks.~~

~~a. Suction systems. Class I, II, and III-A liquids shall be dispensed by approved pumps taking suction through the top of the tank through the installation of a pick-up tube which terminates within six inches of the tank bottom. Such systems shall have an approved anti-syphon device installed in the dispensing line which is electrically connected to the dispenser; or~~

~~b. Pressure systems. Class I, II, and III-A liquids shall be dispensed by an approved submersible pressure pump installed in the top of the tank. Such systems shall have an approved anti-syphon device installed in the dispensing line which is electrically connected to the dispenser; or~~

~~c. Gravity flow systems. Class I, II, anti III-A liquids shall be dispensed by approved pumps taking product from openings in the bottom end of horizontal tanks provided the following is complied with:~~

~~(1) All openings below liquid level, through which product flows, have fire valves in accordance with UFC 5302.4.1(1)(a) above; and~~

~~(2) All dispensing lines have an approved anti-syphon device installed in the dispensing line which is electrically connected to the dispenser.~~

~~d. All electrically interconnected anti-syphon valves shall be located outside the diked area of storage tanks. See UFC 7902.2.8.3.8.~~

~~2. Vertical tanks. Vertical tanks dispensing Class 1, II, or III-A liquids may rely on gravity flow provided one of the following methods of product withdrawal is employed:~~

~~a. Day (pig) tanks:~~

~~(1) shall not exceed 250 gallons capacity;~~

~~(2) shall be located outside the storage tank dike area;~~

~~(3) shall be installed within a separate, independent secondary containment (liquid tight dike) system;~~

~~(4) shall be provided with fire valves in accordance with UFC 5302.4.1(1)(a);~~

~~(5) shall be provided with an approved method or device for equalization of head pressure between the primary storage tank and the day tank;~~

~~(6) shall have submersible pressure pumps installed in the top;~~

~~(7) shall have product withdrawal piping which has an approved anti-syphon device electrically connected to the dispensers; and~~

~~(8) shall, when equipped with underground piping, have an automatic line leak detection installed in accordance with department of environmental quality/underground storage tank (DEQ/UST) rules.~~

~~b. In-line suction and/or pressure pumps. Approved in-line suction and/or pressure pumps may be installed without the use of a day (pig) tank in accordance with the following:~~

~~(1) Pumps shall be located outside the dike area for storage tanks. See UFC 7902.2.8.3.8;~~

~~(2) Pumps shall be located within their own secondary containment (liquid tight dike) system;~~

~~(3) Tanks shall be provided with approved fire valves;~~

~~(4) Withdrawal piping shall be provided with an approved anti-syphon device electrically connected to the dispensers; and~~

~~(5) If any system piping runs underground, automatic line leak detection shall be installed in accordance with DEQ/UST rules.~~

~~c. Class I, II, and III-A liquids shall not be dispensed by a device that operates through pressure within a storage tank or container unless the tank or container has been approved as a pressure vessel for the use to which it is subjected. Air and oxygen pressure shall not be used for dispensing Class I, II, or III-A liquids.~~

~~5302.4.3.2 Nozzles. See UFC 5202.4.4.2.~~

~~5302.4.4 Supervision. In addition to the requirements in 5301.6, dispensing equipment used at unsupervised locations shall comply with 1997 UPC 5202.4.3 and 5202.4.5.~~

~~5302.4.5 Dispensing inside garages. See UFC 5202.4.6.~~

~~5302.4.6 Electrical controls. See UFC 5202.4.7.~~

~~5302.4.7 Special-type dispensers. See UFC 5202.4.8.~~
~~5302.4.8 Dispenser hoses.~~
~~5302.4.8.1 Hose length. See UFC 5202.4.3.1.~~
~~5302.5 Pressure Delivery Motor Vehicle Fuel-Dispensing Stations.~~
~~5302.5.1 General. See UFC 5202.5.1.~~
~~5302.5.2 Pits. See UFC 5202.5.2.~~
~~5302.5.3 Piping, valves and fittings. See UFC 5202.5.3.~~
~~5302.5.3.1 General. See UPC 5202.5.3.1.~~
~~5302.5.3.2 Valves. A check or manual valve shall be provided in the discharge dispensing supply line from the pump with a union between the valve and the same pump discharge. An approved emergency shutoff impact valve incorporating a fusible link designed to close automatically in the event of severe impact or fire exposure shall be rigidly mounted and connected by a union in the dispensing supply line at the base of each dispensing device. The shear section of the impact valve shall be mounted flush with the top of the surface upon which the dispenser is mounted.~~
~~5302.5.3.3 Leak detection. Pumps supplying Class I, II, or III-A liquids through underground piping systems shall have installed on the discharge an approved leak-detection device which will provide an indication if the piping and dispensers are not essentially liquid tight in accordance with DEQ/UST rules. Also see UFC 5302.4.4.1, Vertical Tanks.~~
~~5302.4.4.1, Vertical Tanks.~~
~~5302.5.3.4 Testing. See UFC 5202.5.3.4.~~
~~5302.6 Electrical Equipment. See UFC 5202.6.1 through 5202.6.3.~~
~~5302.7 Heating Equipment. See UFC 5202.7.1 and 5202.7.2.~~
~~5302.8 Drainage Control. Provisions shall be made to prevent liquids spilled during dispensing operations from flowing into buildings. Acceptable methods include grading driveways, raising doorsills, or other approved means. See UFC 5301.5.~~
~~5302.9 Fire Protection. See UPC 5202.9.~~
~~5302.10 Motor Vehicle Fuel-Dispensing Stations Located Inside Buildings. See UFC 5202.10.~~

AUTH: 50-3-102, MCA
IMP: 50-3-102, MCA

23.7.308 ~~SPECIAL SUBJECTS~~ HAZARDOUS MATERIALS

(1) ~~Articles 74 through 88 of the 1997 UFC~~ Chapters 60 through 73 of the 2003 NFPA 1/UFC are adopted with the following exceptions~~, and those in ARM 23.7.309~~:

~~(a)~~(b) ~~Subsection 7702.2.1.1 Storage. is amended as follows: Subsection 7702.2.1.1 Storage.~~ Section 65.9 Storage. The maximum quantities, storage conditions, and fire-protection requirements for gunpowder and ammunition stored in a building shall be as follows:

1. Smokeless powder--In accordance with 50-61-120 and 50-61-121, MCA.

2. Commercially manufactured sporting black powder--25 pounds (11.3 kg) in a separate, portable Type 4 magazine.

3. Small arms primers or percussion caps--In accordance with 50-61-120 and 50-61-121, MCA.

~~(b) Subsection 7703.1 Use and handling. (including all subsections) is not adopted;~~

~~(c) Subsection 7703.2 Transportation. (including all subsections) is not adopted;~~

~~(d) Subsection 7802.3 Prohibition. is not adopted;~~

~~(e)~~(d) ~~UFC 7902.1.7.4.2~~ Section 66.2.5.5.6 Disposal of Tanks is modified as follows: Tanks shall be disposed of in accordance with the following:

(i) Underground tanks shall be disposed of in accordance with American Petroleum Institute (API) 1604, ~~Second~~ Third Edition, ~~December 1987~~ March 1996 and the department of environmental quality's underground storage tank requirements;

(ii) All "unlisted" aboveground tanks which are no longer fit for continued service or which cannot be internally lined in accordance with nationally-recognized standards, shall be disposed of in accordance with API 2202, Third Edition, January 1991~~.~~; and

(iii) API documents can be obtained from the American Petroleum Institute, 1220 "L" Street, N~~.~~W~~.~~, Washington, D~~.~~C~~.~~, 20005.

~~(f) SECTION 7904 -- SPECIAL OPERATIONS is amended as follows: [subsections of SECTION 7904 not mentioned are adopted without change]~~

~~7904.1 General. The following special operations shall be in accordance with Sections 7901, 7902 and 7903 except as provided in Section 7904.~~

~~1. Storage and dispensing of flammable and combustible liquids at construction sites.~~

~~2. Well drilling and operating.~~

~~3. Bulk plants or terminals.~~

~~4. Loading and unloading of tank vehicles and tank cars.~~

~~5. Tank vehicles and tank vehicle operation.~~

~~6. Refineries.~~

~~7. Storage and dispensing of flammable and combustible liquids on farms and ranches.~~

~~7904.2 Storage and Dispensing of Flammable and Combustible Liquids at Construction Sites.~~

~~7904.2.1 General. Permanent and temporary storage and dispensing of Class I and II liquids for private use at construction sites, earth-moving projects, gravel pits or borrow pits shall be in accordance with Section 7904.2.~~

~~EXCEPTION: Storage and use of fuel-oil and containers connected with oil-burning equipment regulated by Article 61 and the Mechanical Code.~~

~~7904.2.5.4 Location.~~

~~7904.2.5.4.1 General. Tanks containing Class I or II liquids shall be kept outside of and at least 50 feet (15,240 mm) from buildings and combustible storage. Additional distance shall be provided when necessary to ensure that~~

~~vehicles, equipment, and containers being filled directly from such tanks will not be less than 50 feet (15,240 mm) from structures or other combustible storage.~~

~~7904.2.8 Dispensing from tank vehicles.~~

~~7904.2.8.1~~ (a) Section 42.2.1.2 General. When performed in the operation of a farm or ranch, or when approved by the chief, liquids used as fuels may be transferred from tank vehicles into the tanks of motor vehicles or special equipment, provided:

1. The tank vehicle's specific function is that of supplying fuel to motor vehicle fuel tanks;

2. The dispensing line does not exceed 50 feet (15,240 mm) in length;

3. The dispensing nozzle is an approved type;

4. The dispensing hose is properly placed on the approved reel or in a compartment provided before the tank vehicle is moved;

5. Signs prohibiting smoking or open flame within 25 feet (7620 mm) of a tank vehicle or the point of refueling are prominently posted on the tank vehicle;

6. Electrical devices and wiring in areas where fuel dispensing is conducted are in accordance with the Electrical Code;

7. Tank vehicle dispensing equipment is operated only by designated personnel who are trained to handle and dispense motor fuels; and

8. Provisions are made for controlling and mitigating unauthorized discharges.

(c) Section 66.2.3.2.1.1 Locations of aboveground tanks.

1. Aboveground storage tanks are not prohibited on farms and ranches. EXCEPTION: Pursuant to 50-3-103(6), MCA, there are no requirements regarding diked areas, or heat-actuated or other shut-off devices for storage tanks containing Class I or Class II liquids intended only for private use.

2. For existing and new bulk plants not located in a rural area, see ARM 23.7.306.

3. For existing and new public motor vehicle fuel-dispensing stations not located in a rural area, see ARM 23.7.306.

AUTH: 50-3-102, MCA
IMP: 50-3-102, MCA

4. The department has been operating under the 1997 Uniform Fire Code (UFC). The Fire Advisory Council which is made up of membership across the state was tasked with recommending a new fire code for adoption by the state. The recommendation of the Council was to adopt the 2003 NFPA 1 Uniform Fire Code (NFPA 1/UFC). The Council believes the provisions of NFPA 1/UFC will improve fire safety in Montana and better protect the public against fire hazards. Adoption of the NFPA 1/UFC, with the department’s additions and deletions, will better serve the public by ensuring fire

safety standards for buildings. The amendments are necessary to adopt the NFPA 1/UFC and to conform the department's current ARM to the provisions of the NFPA 1/UFC.

5. The department proposes to repeal the following rules:

23.7.305 SPECIAL OCCUPANCY USES found at page 23-368 of the Administrative Rules of Montana.

AUTH: 50-3-102, MCA
IMP: 50-3-103, MCA

23.7.307 EQUIPMENT found at page 23-377 of the Administrative Rules of Montana.

AUTH: 50-3-102, MCA
IMP: 50-3-103, MCA

23.7.309 FLAMMABLE AND COMBUSTIBLE LIQUIDS found at page 23-380 of the Administrative Rules of Montana.

AUTH: 50-3-102, MCA
IMP: 50-3-102, MCA

23.7.310 STANDARDS found at page 23-381 of the Administrative Rules of Montana.

AUTH: 50-3-102, MCA
IMP: 50-3-103, MCA

REASON: These rules are superseded by the department's adoption of the NFPA 1/UFC and are no longer necessary.

6. Concerned persons may submit their data, views, or arguments concerning the proposed actions either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Ali Bovingdon, Assistant Attorney General, Office of the Attorney General, P.O. Box 201401, Helena, MT 59620-1401; FAX (406) 444-3549; e-mail abovingdon@state.mt.us to be received no later than February 17, 2004.

7. Ali Bovingdon, Assistant Attorney General, Office of the Attorney General, P.O. Box 201401, Helena, MT 59620-1401, has been designated to preside over and conduct the hearing.

8. The Department of Justice maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices of rules regarding the Crime Control Division,

the Central Services Division, the Forensic Sciences Division, the Gambling Control Division, the Highway Patrol Division, the Law Enforcement Academy, the Division of Criminal Investigation, the Legal Services Division, the Motor Vehicle Division, the Justice Information Systems Division, or any combination thereof. Such written request may be mailed or delivered to the Office of the Attorney General, Attn: Interested Party List, P.O. Box 201401, Helena, MT 59620-1401, faxed to the office at (406) 444-3549, e-mailed to abovingdon@state.mt.us, or may be made by completing a request form at any rules hearing held by the Department.

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

By: /s/ Mike McGrath
MIKE MCGRATH
Attorney General
Department of Justice

/s/ Ali Bovingdon
ALI BOVINGDON, Rule Reviewer

Certified to the Secretary of State January 5, 2004.

BEFORE THE BOARD OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of amendment of ARM 32.6.712 as it relates to food safety and inspection service (meat and poultry)	))))	NOTICE OF PROPOSED AMENDMENT NO PUBLIC HEARING CONTEMPLATED

1. On February 14, 2004, the board of livestock proposes to amend ARM 32.6.712 as it relates to food safety and inspection service (meat and poultry).

2. The board of livestock 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 board of livestock no later than 5:00 p.m. on February 5, 2004, to advise us of the nature of the accommodation that you need. Please contact Tammy Bridges, 301 N. Roberts St. - Room 301, PO Box 202001, Helena, MT 59620-2001; phone: (406)444-5205; TTD number: 1-800-253-4091; fax: (406)444-1929; e-mail tbridges@state.mt.us.

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

32.6.712 FOOD SAFETY AND INSPECTION SERVICE (MEAT, POULTRY) (1) The department of livestock ~~hereby~~ incorporates by reference the following as they were effective July 25, 1996:

(a) 9 CFR 301 through 9 CFR 320.7;
(b) 9 CFR 325 through 9 CFR 325.21;
(c) 9 CFR 329.1 through 9 CFR 329.9;
(d) 9 CFR 352 through 9 CFR 362.5;
(e) 9 CFR 381 through 9 CFR 381.37;
(f) 9 CFR 381.45 through 9 CFR 381.95;
(g) 9 CFR 381.115 through 9 CFR 381.182;
(h) 9 CFR 381.190;
(i) 9 CFR 381.194;
(j) 9 CFR 381.300 through 9 CFR 381.311;
(k) 9 CFR 416;
(l) 9 CFR 417;
(m) 9 CFR 424; and
(n) 9 CFR 500~~,~~.

(2) The department of livestock incorporates by reference the following as they were effective January 9 and June 6, 2003:

(a) 9 CFR 430.1;
(b) 9 CFR 430.4; and
(c) 9 CFR 441.10.

(3) These regulations ~~which~~ set forth the federal rules on meat and poultry inspection with the following exceptions and clarification thereto:

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

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

AUTH: Sec. 81-9-220, MCA
IMP: Sec. 81-9-220, MCA

REASON: The board of livestock is required to adopt rules consistent with the requirements of the U.S. Department of Agriculture rules governing meat and poultry inspection. Effective January 9, 2003, and June 6, 2003, rules were adopted by the U.S. Department of Agriculture, Food Safety Inspection Service (FSIS) to address: 1. requirements for specific classes of product (9 CFR 430.1 and 9 CFR 430.4); and 2. consumer protection standards on raw products (9 CFR 441.10). It is therefore necessary to amend ARM 32.6.712 to incorporate these 2003 FSIS federal regulations by reference into Montana administrative rules.

4. Concerned persons may submit their data, views or arguments concerning the proposed amendments in writing to Carol Olmstead, 301 N. Roberts Street - Room 301, PO Box 202001, Helena, MT 59620-2001, or by faxing to (406)444-1929 or by e-mailing to colmstead@state.mt.us, to be received no later than 5:00 p.m., February 12, 2004.

5. If persons who are directly affected by the proposed amendments 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 the same address as above. The comments must be received no later than 5:00 p.m., February 12, 2004.

6. If the board receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed actions; 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 11 persons based on the 111 licensed processors and distributors in Montana.

7 An electronic copy of this Proposal Notice is available through the department's site at www.liv.state.mt.us.

8. The Meat and Poultry Inspection Bureau of the Montana Department of Livestock maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this bureau. 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 meat and poultry inspection issues. Such written request may be mailed or delivered to the Meat and Poultry Inspection Bureau, 301 N. Roberts Street - Room 301, PO Box 202001, Helena, MT 59620-2001.

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

DEPARTMENT OF LIVESTOCK

By: /s/ Marc Bridges
Marc Bridges, Exec. Officer,
Board of Livestock
Department of Livestock

By: /s/ Carol Grell Morris
Carol Grell Morris,
Rule Reviewer

Certified to the Secretary of State January 5, 2004.

BEFORE THE BOARD OF HORSE RACING
DEPARTMENT OF LIVESTOCK
STATE OF MONTANA

In the matter of the proposed amendment of ARM 32.28.502, 32.28.606, 32.28.712, 32.28.1602, and 32.28.1605; and the proposed adoption of NEW RULE I and NEW RULE II pertaining to horse racing	) NOTICE OF PROPOSED AMENDMENT AND ADOPTION))) NO PUBLIC HEARING CONTEMPLATED)

TO: All Concerned Persons

1. On February 14, 2004, the Board of Horse Racing proposes to amend and adopt the above stated rules.

2. The Board of Horse Racing 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 Board of Horse Racing no later than 5:00 p.m. on February 5, 2004, to advise us of the nature of the accommodation that you need. Please contact Marlys Stark, P.O. Box 200512, Helena, MT 59620-0512; phone: (406) 444-4287; TTD number: 1-800-253-4091; fax: (406) 444-4305; e-mail: mstark@state.mt.us.

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

32.28.502 ANNUAL LICENSE FEES The following fees shall be charged annually:

(1) through (11)(p) remain the same.

(12) Occupational

(a) through (u) remain the same.

(v) ~~Program~~ Chart company	355
~~(w) Program manager~~	~~35~~
~~(x)~~ (w)~~Program~~ Chart company employee	25

(y) and (z) remain the same, but are renumbered (x) and (y).

(13) through (15) remain the same.

AUTH: Sec. 23-4-104, 23-4-201, 37-1-134, MCA
IMP: Sec. 23-4-104, 23-4-201, 37-1-134, MCA

REASON: The proposed amendment to ARM 32.28.502 will delete the license categories of "Program company", "Program manager", and "Program employee" and substitute them with "Chart company" and "Chart company employee". The Board has determined that the track licensees have previously been required to obtain a "Program company" license in order to print the daily racing program, in addition to their usual track license, which is an additional fee that should not be

assessed against the tracks. Instead, the chart companies which are supplying past performance lines on the horses should be required to be licensed by the Board and meet Board requirements in order to maintain responsibility for this important program information they are supplying. The Board estimates a decrease in license revenue of $1,420 based on the six track licensees who paid a program company fee in 2003, and will no longer be required to do so.

32.28.606 RACING SECRETARY

(1) through (2) remain the same.

(3) The racing secretary shall be responsible for:

(a) an official program for each racing day, which shall state the time fixed for the first race and give the names of the horses which are to run in each of the races of the day; and ~~shall be responsible for~~

(b) any error to the board or commission in the official program for each racing day~~.~~ , except the racing secretary shall not be responsible for errors in past performance lines obtained from a licensed chart company.

(4) through (5) remain the same.

(6) It shall be the duty of the racing secretary to:

(a) assign to applicants such stabling as ~~he~~ the racing secretary may deem proper to be occupied by horses in preparation for racing~~,~~; and ~~he shall~~

(b) determine all conflicting claims for stable privileges.

(7) As soon as the entries have been closed and complied, and the declarations have been made, the racing secretary shall post in a conspicuous place in ~~his~~ the racing secretary's office a list of the entries and declarations ~~thereof~~. Any newspaper desiring the ~~same~~ list shall be furnished a copy.

(8) through (9) remain the same.

AUTH: Sec. 23-4-202, MCA
IMP: Sec. 23-4-201, MCA

REASON: The proposed amendment to (3) of the rule will clarify that the Board will now be licensing chart companies to provide past performance lines, and the chart companies will be solely responsible for any errors in those past performance lines. Therefore, it is necessary to delete any responsibility for the program past performance lines from the licensed racing secretary rule on program responsibility.

The proposed amendment to (6) and (7) of the rule will make the rule gender neutral.

32.28.712 ~~PROGRAM~~ CHART COMPANIES

(1) ~~Program~~ Chart companies must provide current and complete and accurate past performance lines on each horse entered in a race provided that such data ~~is~~ are available.

(2) ~~Program~~ Chart companies must submit proofs of ~~programs~~ past performance lines to the applicable racing

secretary and the executive secretary of the board or its representative prior to publication.

(3) All employees of ~~program~~ chart companies must be licensed as ~~program~~ chart company employees before entering the grounds of a race meet.

(4) The chart company shall be solely responsible for the accuracy of all past performance lines it has supplied, and shall be responsible for any error to the board.

AUTH: Sec. 23-4-104, MCA
IMP: Sec. 23-4-104, MCA

REASON: The proposed amendment to ARM 32.28.712 will eliminate the license category of "program company" and substitute "chart company" to more accurately reflect the method by which programs are currently compiled. The Board has determined it is necessary to specifically identify chart companies which are supplying past performance lines for the daily racing programs, license these companies, and make them responsible for errors in the past performance lines they supply. Previously, the track or racing secretary was responsible for program errors, including past performance line errors, when this information was beyond their control as an outside chart company supplied it. The amendment will clarify that chart companies, not tracks or racing secretaries, supply these past performance lines in the programs, and are therefore licensable and responsible for the information supplied.

32.28.1602 DUTIES OF THE LICENSEE

(1) through (16) remain the same.

(17) Each licensee shall report to the board the total face value of all unclaimed winning tickets from their meet within ~~45~~ 30 days of the end of the meet. A claim on a winning ticket may be made within a 30 day period after the end of the meet after which it may be retained by the licensee for capital improvements approved by the board. Board approved capital improvements shall be completed, and the unclaimed ticket money spent, within one year from the date of board approval.

AUTH: Sec. 23-4-104, 23-4-202, MCA
IMP: Sec. 23-4-104, 23-4-202, 23-4-301, 23-4-302, 23-4-303, MCA

REASON: The proposed amendment to (17) will correct an error in the rule. The statute upon which this rule is based, 23-4-305, MCA, specifically states "each licensee holding a race meet shall, within 30 DAYS of the end of the meet, report to the board the total face value of all unclaimed winning tickets". Therefore, the rule cannot exceed this statutory authority and allow 45 days for the licensees to report. The statutory authority is controlling, and has set the correct number of days to report at 30 days.

32.28.1605 PROGRAMS (1) All track licensees are required to print a program which may be sold to the public.

(2) and (3) remain the same.

(4) The daily racing program shall contain past performance lines only as obtained from a licensed chart company. The chart company shall be solely responsible for the accuracy of all past performance lines supplied by that chart company.

~~(4)~~ (5) The following must appear on the daily race program~~;~~: "No mutilated tickets will be paid or refunded after leaving the seller's window." and "No tickets will be refunded or exchanged after leaving the seller's window."

AUTH: Sec. 23-4-202, MCA
IMP: Sec. 23-4-202, 23-4-301, 23-4-302, 23-4-303, MCA

REASON: The proposed rule amendment will clearly delineate who is responsible for past performance lines, and is consistent in referring to the new license category of chart company as the entity responsible for past performance lines. The amendment is also necessary to clarify the contents of the racing program, and the track's involvement with and responsibility for printing the program.

4. The rules proposed for adoption provide as follows:

NEW RULE I OWNER AND BREEDER BONUSES (1) Under 23-4-204, MCA, the track licensee conducting a live race meet shall pay a sum equal to 10% of the first place money of every purse won by a horse bred in this state to the breeder of the horse within 30 days of the end of the live race meet. Only the money contributed by the track licensee conducting the live race meet may be considered in computing the breeder bonus.

(2) The track licensee conducting a live race meet shall pay a sum equal to 10% of the first place money of every purse won by a horse bred in this state to the owner of the horse within 30 days of the end of the live race meet. Only the money contributed by the track licensee conducting the live race meet may be considered in computing the owner bonus.

(3) Track licensees conducting a live race meet may, under 23-4-204, MCA, utilize a portion of funds generated by 3% of exotic wagering on a simulcast race, as deposited in the state special revenue fund account and approved by the board, in order to pay breeder and owner bonuses.

AUTH: Sec. 23-4-202, MCA
IMP: Sec. 23-4-204, MCA

REASON: The Board recognizes the need to attract further breeding of horses in Montana to continue live horse racing within the State. The Board has determined that adding an owner bonus will further encourage breeding of race horses in Montana, which will in turn contribute to larger live race

meets and additional horses entered in live racing in Montana. The Board has determined that the breeder and owner bonuses may be funded by the tracks through the three percent of exotic wagering on simulcast races, as deposited in the state special revenue fund account, as per 23-4-204(3), MCA. The Board estimates the breeder's bonus will equal approximately $12,000, divided among and paid to approximately 50 people, based on the amount of breeder's bonus paid in 2003. The Board estimates the owner's bonus will equal approximately $10,000, divided among and paid to approximately 50 people, based on the number of horses that generated a breeder's bonus in 2003.

NEW RULE II JOCKEY INCENTIVE AWARD PROGRAM (1) Track licensees conducting a live race meet may, with prior approval of the board, under 23-4-204, MCA, utilize a portion of funds generated by 3% of exotic wagering on a simulcast race, as deposited in the state special revenue fund account, in order to pay jockey incentive awards.

(2) The jockey incentive award program will award an amount of money to all remaining eligible jockeys at the end of each live race season, if all other incentive award program requirements in this rule are met. The board will compile the point totals and determine eligibility on a weekly basis. The board is the final authority on point totals, eligible jockeys and amounts to be paid at the end of each live race season.

(3) All jockey incentive award program points are cumulative throughout the live race season. All points expire at the end of the current year's race season. The jockey incentive program shall be calculated as follows:

(a) First place finish five points
(b) Second place finish four points
(c) Third place finish three points
(d) Fourth place finish two points
(e) Fifth through tenth place finish one point
(f) Jockeys named on a horse that is scratched prior to the race one point

(4) A jockey must be properly licensed by the board, in good standing, and not under suspension or revocation from any racing jurisdiction to participate in the jockey incentive award program. Jockeys whose licenses are suspended or revoked during the current live race meet season shall forfeit their point totals for that race season.

(5) A licensed jockey must ride in at least 20 races in Montana, and must ride at all but one of the licensed tracks in a live race meet season, in order to be eligible for participation in the jockey incentive award program.

AUTH: Sec. 23-4-202, MCA
IMP: Sec. 23-4-204, MCA

REASON: The Board recognizes the need to attract more and better-qualified jockeys to ride during the Montana live race meet season. The Board has determined that a jockey

award incentive program will function to attract additional jockeys and award those riders who remain in Montana throughout the live race season. The Board will allow a portion of the three percent wagered on exotics at simulcast races to be utilized by the track licensees to fund the jockey incentive award program. The Board estimates that $15,000 total will be divided among and paid to approximately 15 eligible jockeys, based on the number of eligible licensed jockeys in Montana in 2003.

5. Concerned persons may present their data, views or arguments about the proposed amendments and adoptions in writing to the Board of Horse Racing, Attn: Marlys Stark, P.O. Box 200512, Helena, MT 59620-0512, or by faxing to (406) 444-4305, or by e-mailing to mstark@state.mt.us to be received no later than 5:00 p.m. February 12, 2004.

6. If persons who are directly affected by the proposed amendments and adoptions wish to express their data, views and arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments they have to the same address as above. The request for hearing and comments must be received no later than 5:00 p.m. February 12, 2004.

7. If the board receives requests for a public hearing on the proposed actions from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee 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 130 based upon the 1,300 licensees in Montana in 2003.

8. An electronic copy of this proposal notice is available through the department’s site at www.liv.state.mt.us.

9. The Board of Horse Racing maintains a list of persons interested in the Board's rulemaking proceedings. 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 the Board of Horse Racing. Such written request may be mailed or delivered to Marlys Stark, Department of Livestock, Board of Horse Racing, P.O. Box 200512, Helena, MT 59620-0512.

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

BOARD OF HORSE RACING, DEPARTMENT OF LIVESTOCK

DEPARTMENT OF LIVESTOCK

By: /s/ Marc Bridges
Marc Bridges, Executive Officer,
Board of Livestock
Department of Livestock

By: /s/ Carol Grell Morris
Carol Grell Morris,
Rule Reviewer

Certified to the Secretary of State January 5, 2004.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the proposed amendment of ARM 42.19.401, 42.19.402, 42.19.406, 42.19.501, 42.19.503, 42.19.1202, 42.19.1211, 42.19.1212, 42.19.1213, 42.19.1221, 42.19.1222, 42.19.1223, 42.19.1224, and 42.19.1240 relating to the extended property tax assistance program and other property tax rules	NOTICE OF PROPOSED AMENDMENT NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. On February 27, 2004, the department proposes to amend ARM 42.19.401, 42.19.402, 42.19.406, 42.19.501, 42.19.503, 42.19.1202, 42.19.1211, 42.19.1212, 42.19.1213, 42.19.1221, 42.19.1222, 42.19.1223, 42.19.1224, and 42.19.1240 relating to the extended property tax assistance program and other rules regarding property taxes.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Revenue no later than 5:00 p.m. on February 12, 2004, 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) 459-2646; fax (406) 444-3696; e-mail canderson@state.mt.us.

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

42.19.401 PROPERTY TAX ASSISTANCE PROGRAM (1) The property owner of record or ~~his~~ the property owner's agent must make application through the Department of Revenue, P.O. Box 5805, Helena, Montana 59604-5805, in order to receive the benefit provided for in 15-6-134, MCA. An application must be made on a form available from the local county appraisal/assessment office before March 15 of the year for which the benefit is sought. Applications postmarked after March 15 will not be considered for that tax year unless the department determines the applicant was unable to apply for the current year due to hospitalization, physical illness, infirmity, or mental illness. These impediments must be demonstrated to have existed at significant levels from January 1 of the current year to the time of application. Telephone extensions and written extensions will be granted through July 1 of the current year for the above-listed reasons. Willful misrepresentation of facts pertaining to

income or the impediments that prevent timely application filing will result in the automatic rejection of the application.

(2) The department will review the application and any supporting documents. The department may review income tax records to determine accuracy of information. The department will approve or deny the application. The applicant will be advised in writing of the decision. An annual statement of eligibility is required unless a review of income tax records or other records related to the applicant's income demonstrates that ~~an~~ the individual had no significant change in income level and successfully qualified during the preceding 12 months prior to January 1 of the current tax year. In that situation, the department may waive the annual statement of eligibility required ~~may be waived by the department~~.

(3) remains the same.

(4) The applicant is required to list total income from all sources, including otherwise tax-exempt income of all types. That income includes, but is not limited to, employment income, gross business income less ordinary operating expenses but before deducting depreciation or depletion allowance, social security, railroad pension, teachers' pension, employment pension, veterans' pension, any other pension, alimony, disability income, unemployment benefits, welfare payments, aid to dependent children, rentals, interest from investments, stock/bond interest or dividends, interest from banks and any other income, but not including social security income paid directly to a nursing home, food stamps or direct utility payments paid by the energy share program.

(5) and (6) remain the same.

AUTH: Sec. 15-1-201, MCA
IMP: Sec. 15-6-134 and ~~15-6-151~~ 15-6-191, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.19.401 as general housekeeping and to correct one of the implementing statutes because the 1999 legislature renumbered this statute.

42.19.402 INFLATION ADJUSTMENT FOR PROPERTY TAX ASSISTANCE PROGRAM (1) through (2)(c) remain the same.

AUTH: Sec. 15-1-201, MCA
IMP: Sec. 15-6-134 and ~~15-6-151~~ 15-6-191, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.19.402 to correct one of the implementing statutes because the 1999 legislature renumbered this statute.

42.19.406 EXTENDED PROPERTY TAX ASSISTANCE PROGRAM

(1) The department will determine which taxpayers are potentially eligible for the extended property tax assistance program and will mail applications to those taxpayers. ~~In addition, applications will be available at the local~~

~~department office.~~ In order to receive the tax rate adjustment, the property owner of record, the property owner's agent, or a qualifying entity must annually complete and forward an application to the Department of Revenue, P.O. Box 5805, Helena, Montana 59604-5805.

(a) In order for qualifying taxpayers to receive the tax rate adjustment for tax year 2003, the department mailed letters to taxpayers by June 30, 2003, advising them that completed applications must be postmarked on or before July 25, 2003, and returned to the department if they want to be considered for the tax rate adjustment. This notification also advised the applicants that applications postmarked after July 25, 2003, would not be considered for the tax rate adjustment.

(b) Beginning with tax year 2004 and all subsequent tax years, the completed applications must be postmarked on or before ~~March~~ April 15 in order for applicants to receive the tax rate adjustment for the year the tax rate adjustment is sought. Applications postmarked after ~~March~~ April 15 will not be considered for the tax rate adjustment provided for under this section.

(2) remains the same.

(3) Total household income includes, but is not limited to:

(a) through (d) remain the same.

(e) teacher~~'~~s' pension;

(f) remains the same.

(g) veteran~~'~~s' pension;

(h) through (r) remain the same.

(4) through (14) remain the same.

AUTH: Sec. 15-1-201, MCA
IMP: Sec. 15-6-193, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.19.406 to change the deadline date for receipt of applications from taxpayers from March 15 to April 15 of each year. This change is made to comply with the April 15 filing deadline for the filing of federal and state income tax returns. Part of the application process requires that taxpayers submit copies of their latest federal individual or state corporate income tax returns. This deadline change will better enable taxpayers to submit copies of their most recent income tax returns with their applications.

42.19.501 PROPERTY TAX EXEMPTION FOR QUALIFIED DISABLED VETERANS (1) through (7) remain the same.

AUTH: Sec. 15-1-201, MCA
IMP: Sec. ~~15-6-151~~ 15-6-191 and 16-6-211, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.19.501 to correct one of the implementing statutes because the 1999 legislature renumbered this statute.

42.19.503 INFLATION ADJUSTMENT FOR QUALIFIED DISABLED VETERAN PROPERTY TAX EXEMPTION PROGRAM (1) through (2)(c) remain the same.

AUTH: Sec. 15-1-201, MCA
IMP: Sec. ~~15-6-151~~ 16-6-211, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.19.503 to correct one of the implementing statutes because the 1999 legislature renumbered this statute.

42.19.1202 TREATMENT OF PROPERTY NOT USED AS PART OF THE NEW INDUSTRY (1) remains the same.

(2) Raw materials, in-process, and finished product "business inventories" are not considered new industrial property and are exempt from property taxation under 15-6-202, MCA. Similarly, all materials, supplies, and merchandise held for sale or used by a new industrial plant ~~is~~ are not considered to be new industrial property.

AUTH: Sec. 15-1-201, MCA
IMP: Sec. 15-6-135, ~~15-6-152~~ 15-6-192, 15-24-1401, and 15-24-1402, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.19.1202 as general housekeeping and to correct one of the implementing statutes because the 1999 legislature renumbered this statute.

42.19.1211 PERIOD OF CLASSIFICATION AS NEW INDUSTRIAL PROPERTY (1) through (5) remain the same.

AUTH: Sec. 15-1-201, MCA
IMP: Sec. 15-6-135 and ~~15-6-152~~ 15-6-192, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.19.1211 to correct one of the implementing statutes because the 1999 legislature renumbered this statute.

42.19.1212 COMMENCEMENT OF OPERATIONS (1) and (2) remain the same.

AUTH: Sec. 15-1-201, MCA
IMP: Sec. 15-6-135 and ~~15-6-152~~ 15-6-192, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.19.1212 to correct one of the implementing statutes because the 1999 legislature renumbered this statute.

42.19.1213 CHANGES IN OPERATIONS (1) through (4) remain the same.

AUTH: Sec. 15-1-201, MCA
IMP: Sec. 15-6-135 and ~~15-6-152~~ 15-6-192, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.19.1213 to correct one of the implementing statutes because the 1999 legislature renumbered this statute.

42.19.1221 OPINION LETTERS (1) and (2) remain the same.
AUTH: Sec. 15-1-201, MCA
IMP: Sec. 15-6-135 and ~~15-6-152~~ 15-6-192, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.19.1221 to correct one of the implementing statutes because the 1999 legislature renumbered this statute.

42.19.1222 APPLICATION FOR SPECIAL CLASSIFICATION (1) through (5) remain the same.
AUTH: Sec. 15-1-201, MCA
IMP: Sec. 15-6-135, ~~15-6-152~~ 15-6-192, 15-24-1401, and 15-24-1402, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.19.1222 to correct one of the implementing statutes because the 1999 legislature renumbered this statute.

42.19.1223 PROCESSING OF APPLICATION (1) through (3) remain the same.
AUTH: Sec. 15-1-201, MCA
IMP: Sec. 15-6-135 and ~~15-6-152~~ 15-6-192, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.19.1223 to correct one of the implementing statutes because the 1999 legislature renumbered this statute.

42.19.1224 ADVERSE IMPACTS (1) remains the same.
AUTH: Sec. 15-1-201 and 15-6-152, MCA
IMP: Sec. 15-6-135 and ~~15-6-152~~ 15-6-192, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.19.1224 to correct one of the implementing statutes because the 1999 legislature renumbered this statute.

42.19.1240 TAXABLE RATE REDUCTION FOR VALUE ADDED PROPERTY (1) through (4) remain the same.
AUTH: Sec. 15-24-2405, MCA
IMP: Sec. 15-24-2401, ~~through~~ 15-24-2402, 15-24-2403, and 15-24-2404, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.19.1240 to correct the implementing statutes.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to:
Cleo Anderson
Department of Revenue
Director's Office
P.O. Box 5805
Helena, Montana 59604-5805
no later than February 12, 2004.

5. If persons who are directly affected by the proposed action wish to express their data, views and arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Cleo Anderson at the above address no later than February 12, 2004.

6. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

7. An electronic copy of this Proposal Notice is available through the Department's site on the World Wide Web at http://www.discoveringmontana.com/revenue, under "for your reference;" "DOR administrative rules;" and "upcoming events and proposed rule changes." The Department strives to make the electronic copy of this Proposal Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

8. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Such written request may be mailed or delivered to the person in 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

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

/s/ Cleo Anderson	/s/ Linda M. Francis
CLEO ANDERSON	LINDA M. FRANCIS
Rule Reviewer	Director of Revenue

Certified to Secretary of State January 5, 2004

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the proposed adoption of New Rules I through XVII and repeal of ARM 42.24.214 relating to corporation taxes and multi-state tax commission	)))))	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND REPEAL

TO: All Concerned Persons

1. On March 24, 2004, at 9:00 a.m., a public hearing will be held in the Fourth Floor Conference Room of the Sam W. Mitchell Building, at Helena, Montana, to consider the adoption of New Rules I through XVII; and the repeal of ARM 42.24.214 relating to corporation license taxes and multi-state tax commission.

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., March 1, 2004, 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 1712, Helena, Montana 59604-1712; telephone (406) 459-2646; fax (406) 444-3696; or e-mail canderson@state.mt.us.

3. The proposed new rules do not replace or modify any section currently found in the Administrative Rules of Montana. The following proposed new rules will be placed in Title 42, chapter 24, new sub-chapter 5, titled "Public Law 86-272," and provide as follows:

NEW RULE I PUBLIC LAW 86-272 (1) Public Law 86-272, 15 USC 381-384 (hereafter P.L. 86-272), restricts a state from imposing a net income tax on income derived within its borders from interstate commerce if the only business activity of the company within the state consists of the solicitation of orders from sales of tangible personal property, which orders are to be sent outside the state for acceptance or rejection, and, if accepted, are filled by shipment or delivery from a point outside the state. If any sales are made into a state that is precluded by P.L. 86-272 from taxing the income of the seller, such sales remain subject to throwback to the appropriate state that does have jurisdiction to impose its net income tax upon the income derived from those sales.

AUTH: Sec. 15-1-201 and 15-31-313, 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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule I to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax Commission.

NEW RULE II NATURE OF PROPERTY BEING SOLD (1) Only the solicitation to sell personal property is afforded immunity under P.L. 86-272; therefore, the leasing, renting, licensing, or other disposition of tangible personal property, or transactions involving intangibles, such as franchises, patents, copyrights, trademarks, service marks and the like, or any other type of property, are not protected activities under P.L. 86-272. The sale or delivery and the solicitation for the sale or delivery of any type of service that is not either ancillary to solicitation or otherwise set forth as a protected activity under [New Rule IV] is also not protected under P.L. 86-272 or this rule.

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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule II to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax Commission.

NEW RULE III SOLICITATION OF ORDERS AND ACTIVITIES ANCILLARY TO SOLICITATION (1) For the in-state activity to be a protected activity under P.L. 86-272, it must be limited solely to solicitation (except for de minimis activities described in [New Rule V], and those activities conducted by independent contractors described in [New Rule XI]). Solicitation means speech or conduct that explicitly or implicitly invites an order, and activities that neither explicitly nor implicitly invite an order, but are entirely ancillary to requests for an order.

(a) Ancillary activities are those activities that serve no independent business function for the seller apart from their connection to the solicitation of orders. Activities that a seller would engage in apart from soliciting orders shall not be considered as ancillary to the solicitation of orders. The mere assignment of activities to sales personnel does not, merely by such assignment, make such activities ancillary to solicitation of orders.

(b) Additionally, activities that seek to promote sales are not ancillary because P.L. 86-272 does not protect activity that facilitates sales; it only protects ancillary activities that facilitate the request for an order. The conducting of activities not falling within the foregoing definition of solicitation will cause the company to lose its protection from a net income tax afforded by P.L. 86-272,

unless the disqualifying activities, taken together, are either de minimis or are otherwise permitted under this sub-chapter.

AUTH: Sec. 15-1-201 and 15-31-313, 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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule III to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax Commission.

NEW RULE IV DE MINIMIS ACTIVITIES (1) De minimis activities are those that, when taken together, establish only a trivial connection with Montana. An activity conducted within Montana on a regular or systematic basis or pursuant to a company policy (whether such policy is in writing or not) shall normally not be considered trivial. Whether or not an activity consists of a trivial or non-trivial connection with Montana is to be measured on both a qualitative and quantitative basis. If such activity either qualitatively or quantitatively creates a non-trivial connection with Montana, then such activity exceeds the protection of P.L. 86-272. Establishing that the disqualifying activities only account for a relatively small part of the business conducted within Montana is not determinative of whether a de minimis level of activity exists. The relative economic importance of the disqualifying in-state activities, as compared to the protected activities, does not determine whether the conduct of the disqualifying activities within Montana is inconsistent with the limited protection afforded by P.L. 86-272.

AUTH: Sec. 15-1-201 and 15-31-313, 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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule IV to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax Commission.

NEW RULE V SPECIFIC LISTING OF UNPROTECTED AND PROTECTED ACTIVITIES (1) The following two listings set forth the in-state activities that are presently treated as "unprotected activities" or "protected activities." The mere inclusion of an activity on the listing of "protected activities" is not a statement or admission that the activity is afforded any protection under P.L. 86-272.

(2) The following in-state activities are considered unprotected activities (assuming they are not of a de minimis level), are not considered as either solicitation of orders, or contributory to, or otherwise protected under P.L. 86-272, and will cause otherwise protected sales to lose their

protection under P.L. 86-272:

(a) making repairs or providing maintenance or service to the property sold or to be sold;

(b) collecting current or delinquent accounts, whether directly or by third parties, through assignment or otherwise;

(c) investigating credit worthiness;

(d) installing or supervising installation at or after shipment or delivery;

(e) conducting training courses, seminars, or lectures for personnel other than personnel involved only in solicitation;

(f) providing any kind of technical assistance or service including, but not limited to, engineering assistance or design service, when one of the purposes thereof is other than the facilitation of the solicitation of orders;

(g) investigating, handling, or otherwise assisting in resolving customer complaints, other than mediating direct customer complaints when the sole purpose of such mediation is to gain influence for the sales personnel with the customer;

(h) approving or accepting orders;

(i) repossessing property;

(j) securing deposits on sales;

(k) picking up or replacing damaged or returned property;

(l) hiring, training, or supervising personnel other than personnel involved only in solicitation;

(m) using agency stock checks or any other instrument or process by which sales are made within Montana by sales personnel;

(n) maintaining a sample or display room for a period greater than two weeks (14 days) at any one location within Montana during the tax year;

(o) carrying samples for sale, exchange, or distribution in any manner for consideration or other value;

(p) owning, leasing, using, or maintaining any of the following facilities or properties in-state:

(i) repair shop;

(ii) parts department;

(iii) any kind of office other than an in-home office as described and permitted under (2)(r) and (3)(b);

(iv) warehouse;

(v) meeting place for directors, officers, or employees;

(vi) stock of goods other than samples for sales personnel or those used entirely ancillary to solicitation;

(vii) telephone answering service that is publicly attributed to the company or to employees or agents of the company in their representative capacity;

(viii) mobile stores; i.e., vehicles with drivers who are sales personnel making sales from the vehicles; and

(ix) real property or fixtures to real property of any kind;

(q) consigning for sale stock of goods or other tangible personal property to any person, including an independent contractor;

(r) maintaining, by any employee or other representative, an office or place of business of any kind (other than an in-home office located within the residence of the employee or representative) that:

(i) is not publicly attributed to the company or to the employee or representative of the company in an employee or representative capacity, and so long as the use of such office is limited to soliciting and receiving orders from customers, for transmitting such orders outside the state for acceptance or rejection by the company, or for such other activities that are protected under P.L. 86-272 or under (3);

(ii) lists a telephone number or other public listing within the state for the company or for an employee or representative of the company in such capacity or other indications through advertising or business literature that the company or its employee or representative can be contacted at a specific address within the state, (such a listing shall normally be determined as the company maintaining within Montana an office or place of business attributable to the company or to its employee or representative in a representative capacity). However, the normal distribution and use of business cards and stationery identifying the employee's or representative's name, address, telephone and fax numbers, and affiliation with the company shall not, by itself, be considered as advertising or otherwise publicly attributing an office to the company or its employee or representative; and

(iii) the maintenance of any office or other place of business in Montana that does not strictly qualify as an "in-home" office as described above shall, by itself, cause the loss of protection under this rule. For the purpose of this subsection, it is not relevant whether the company pays directly, indirectly, or not at all, for the cost of maintaining such in-home office;

(s) entering into franchising or licensing agreements, selling or otherwise disposing of franchises and licenses, or selling or otherwise transferring tangible personal property pursuant to such franchise or license by the franchisor or licensor to its franchisee or licensee within the state;

(t) shipping or delivering goods into Montana by means of:

(i) private vehicle;

(ii) rail;

(iii) air; or

(iv) other carrier, irrespective of whether a shipment or delivery fee or other charge is imposed, directly or indirectly, upon the purchaser; or

(u) conducting any activity not listed in (3) which is not entirely connected to requests for orders, even if such activity helps to increase purchases.

(3) The following in-state activities will not cause the loss of protection for otherwise protected sales:

(a) soliciting orders for sales by any type of advertising;

(b) soliciting of orders by a Montana resident employee or representative of the company, so long as such person does not maintain or use any office or other place of business in Montana other than an "in-home" office as described in (2)(r);

(c) carrying samples and promotional materials only for display or distribution without charge or other consideration;

(d) furnishing and setting up display racks and advising customers on the display of the company's products without charge or other consideration;

(e) providing automobiles to sales personnel for their use in conducting protected activities;

(f) passing orders, inquiries, and complaints on to the home office;

(g) missionary sales activities, e.g., the solicitation of indirect customers for the company's goods. For example, a manufacturer's solicitation of retailers to buy the manufacturer's goods from the manufacturer's wholesale customers would be protected if such solicitation activities were otherwise immune;

(h) coordinating shipment or delivery without payment or other consideration and providing related information either prior or subsequent to the placement of an order;

(i) checking of customers' inventories without a charge (for re-order, but not for other purposes such as quality control);

(j) maintaining a sample or display room for two weeks (14 days) or less at any one location within Montana during the tax year;

(k) recruiting, training, or evaluating sales personnel, including occasionally using homes, hotels, or similar places for meetings with sales personnel;

(l) mediating direct customer complaints when the purpose is solely for supporting the sales personnel with the customer and facilitating requests for orders; or

(m) owning, leasing, using, or maintaining personal property for use in the employee or representative's "in-home" office or automobile that is solely limited to conducting protected activities. The use of personal property such as a cellular telephone, facsimile machine, duplicating equipment, personal computer and computer software that is limited to conducting protected solicitation and activity entirely ancillary to such solicitation or permitted by this rule shall not, by itself, remove the protection under this rule.

AUTH: Sec. 15-1-201 and 15-31-313, 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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule V to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax Commission.

NEW RULE VI INDEPENDENT CONTRACTORS (1) P.L. 86-272

provides protection to certain in-state activities if conducted by an independent contractor that would not be afforded if performed by the company or its employees or other representatives. Independent contractors may engage in the following limited activities in Montana without the company's loss of immunity:

(a) soliciting sales;

(b) making sales; and

(c) maintaining an office.

(2) Sales representatives who represent a single principal are not considered to be independent contractors and are subject to the same limitations as those provided under P.L. 86-272 and the rules found in this sub-chapter. Maintenance of a stock of goods in Montana by the independent contractor under consignment or any other type of arrangement with the company, except for purposes of display and solicitation, shall remove the protection.

AUTH: Sec. 15-1-201 and 15-31-313, 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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule VI to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax Commission.

NEW RULE VII APPLICATION OF DESTINATION STATE LAW IN CASE OF CONFLICT (1) When it appears that two or more signatory states have included, or will include, the same receipts from a sale in their respective sales factor numerators, at the written request of the company, these states shall in good faith confer with one another to determine which state should be assigned the receipts. Such conference shall identify what law, rule, or written guideline, if any, has been adopted in the state of destination with respect to the issue. The state of destination shall be that location at which the purchaser or its designee actually receives the property, regardless of the f.o.b. point or other conditions of sale. In determining which state is to receive the assignment of the receipts at issue, preference shall be given to any clearly applicable law, regulation, or written guideline that has been adopted in the state of destination.

(2) The state of Montana is not required by this rule to follow any other state's law, rule, or written guideline should Montana determine that to do so:

(a) would conflict with its own laws, rules, or written guidelines; and

(b) would not clearly reflect the income-producing activity of the company within Montana.

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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule VII to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax Commission.

NEW RULE VIII APPLICATION OF STATEMENT OF FOREIGN COMMERCE (1) P.L. 86-272 specifically applies, by its terms, to "interstate commerce" and does not directly apply to foreign commerce. Montana will apply the provisions of P.L. 86-272 and the rules found in this sub-chapter to business activities conducted in foreign commerce. Therefore, whether business activities are conducted by:

(a) a foreign or domestic company selling tangible personal property into a country outside of the United States from a point within Montana; or

(b) either company selling such property into Montana from a point outside of the United States, the principles under this statement apply equally to determine whether the sales transactions are protected and the company immune from taxation in either Montana or in the foreign country, as the case might be, and whether, if applicable, Montana will apply its throwback provisions.

AUTH: Sec. 15-1-201 and 15-31-313, 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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule VIII to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax Commission.

NEW RULE IX REGISTRATION OR QUALIFICATION TO DO BUSINESS (1) A company that registers or otherwise formally qualifies to do business within Montana does not, by that fact alone, lose its protection under P.L. 86-272. Where separate from or ancillary to such registration or qualification, the company receives and seeks to use or protect any additional benefit or protection from Montana through activity not otherwise protected under P.L. 86-272, such protection shall be removed.

AUTH: Sec. 15-1-201 and 15-31-313, 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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule IX to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax Commission.

NEW RULE X LOSS OF PROTECTION FOR CONDUCTING UNPROTECTED

ACTIVITY DURING PART OF THE TAX YEAR (1) The protection afforded under P.L. 86-272 and the provisions of this rule shall be determined on a tax year by tax year basis. Therefore, if at any time during a tax year the company conducts activities that are not protected under P.L. 86-272 or this rule, no sales in Montana or income earned by the company attributed to Montana during any part of the applicable tax year shall be protected from taxation under P.L. 86-272 or this rule.

AUTH: Sec. 15-1-201 and 15-31-313, 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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule X to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax Commission.

NEW RULE XI APPLICATION OF THE JOYCE RULE (1) In determining whether the activities of any company have been conducted within Montana beyond the protection of P.L. 86-272, the principle established in the Appeal of Joyce, Inc., Cal. St. Bd. of Equalization (11/23/66), commonly known as the "Joyce Rule," shall apply. Therefore, only those in-state activities that are conducted by or on behalf of a company shall be considered for this purpose. Activities that are conducted by any other person or business entity, whether or not the person or business entity is affiliated with the company at issue, shall not be considered attributable to that company, unless the other person or business entity was acting in a representative capacity on behalf of that company.

AUTH: Sec. 15-1-201 and 15-31-313, 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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule XI to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax Commission.

4. The following new rules do not replace or modify any section currently found in the Administrative Rules of Montana. The proposed new rules that follow will be placed in Title 42, chapter 24, new sub-chapter 10, titled "Publishing Companies - Apportionment," and provide as follows:

NEW RULE XII DEFINITIONS The following definitions are applicable to the terms contained in this sub-chapter, unless the context clearly requires otherwise.

(1) "Outer-jurisdictional property" means certain types of tangible personal property, such as orbiting satellites, undersea transmission cables and the like, that are owned or

rented by the taxpayer and used in the business of publishing, licensing, selling, or otherwise distributing printed material, but which are not physically located in any particular state.

(2) "Print or printed material" includes, without limitation, the physical embodiment or printed version of any thought or expression including, without limitation, a play, story, article, column, or other literary, commercial, educational, artistic, or other written or printed work. The determination of whether an item is or consists of print or printed material shall be made without regard to its content. Printed material may take the form of a book, newspaper, magazine, periodical, trade journal, or any other form of printed matter, and may be contained on any medium or property.

(3) "Purchaser" and "subscriber" mean the individual, residence, business or other outlet, which is the ultimate or final recipient of the print or printed material. Neither term shall mean or include a wholesaler or other distributor of print or printed material.

(4) "Terrestrial facility" shall include any telephone line, cable, fiber optic, microwave, earth station, satellite dish, antennae, or other relay system or device that is used to receive, transmit, relay, or carry any data, voice, image, or other information that is transmitted from or by any outer-jurisdictional property to the ultimate recipient of such device.

AUTH: Sec. 15-1-201 and 15-31-313, 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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule XII to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax Commission.

NEW RULE XIII GENERAL RULE (1) Except as specifically modified by this rule, when a person in the business of publishing, selling, licensing, or distributing newspapers, magazines, periodicals, trade journals, or other printed material has income from sources both within and outside of Montana, the amount of business income from sources within Montana from such business activity shall be determined pursuant to Title 15, chapter 31, part 3, MCA, and the supporting administrative rules.

AUTH: Sec. 15-1-201 and 15-31-313, 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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule XIII to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax

Commission.

NEW RULE XIV APPORTIONMENT OF BUSINESS INCOME (1) For purposes of this sub-chapter, the property factor will be determined as outlined in (2) and (3).

(2) All real and tangible personal property, including outer-jurisdictional property, whether owned or rented, which is used in the business shall be included in the denominator of the property factor.

(3) The property factor numerator will be established by following the requirements in (4) through (8).

(4) All real and tangible personal property owned or rented by the taxpayer and used in Montana during the tax period shall be included in the numerator of the property factor.

(5) Outer-jurisdictional property owned or rented by the taxpayer and used in Montana during the tax period shall be included in the numerator of the property factor in the ratio which the value of such property that is attributable to its use by the taxpayer in business activities in Montana bears to the total value of such property that is attributable to its use in the taxpayer's business activities everywhere.

(6) The value of outer-jurisdictional property to be attributed to the numerator of the property factor of Montana shall be determined by the ratio that the number of uplinks and downlinks (sometimes referred to as "half-circuits") that were used during the tax period to transmit from Montana and to receive in Montana any data, voice, image, or other information bears to the total number of uplinks and downlinks or half-circuits that the taxpayer used for transmissions everywhere. Should information regarding such uplink and downlink or half-circuit usage not be available or should such measurement of activity not be applicable to the type of outer-jurisdictional property used by the taxpayer, the value of such property to be attributed to the numerator of the property factor of Montana shall be determined by the ratio that the amount of time (in terms of hours and minutes of use) or such other measurement of use of outer-jurisdictional property that was used during the tax period to transmit from Montana and to receive in Montana any data, voice, image, or other information bears to the total amount of time or other measurement of use that was used for transmissions everywhere.

(7) Outer-jurisdictional property shall be considered to have been used by the taxpayer in its business activities within Montana when such property, wherever located, has been employed by the taxpayer in any manner in the publishing, selling, licensing, or other distribution of books, newspapers, magazines, or other printed material and any data, voice, image, or other information is transmitted to or from Montana either through an earth station or terrestrial facility located in Montana.

(a) One example of the use of outer-jurisdictional property is where the taxpayer either owns its own communications satellite or leases the use of uplinks,

downlinks, or circuits or time on a communications satellite for the purpose of sending messages to its newspaper printing facilities or employees in a state. The state or states in which any printing facility that receives the satellite communications is located and the state from which the communications were sent would, under this rule, apportion the cost of the owned or rented satellite to their respective property factors based upon the ratio of the in-state use of the satellite to its total usage everywhere.

(i) Assume that ABC newspaper co. owns a total of $400,000,000 of property everywhere and that, in addition, it owns and operates a communication satellite for the purpose of sending news articles to its printing plant in Montana, as well as for communicating with its printing plants and facilities or news bureaus, employees and agents located in other states and throughout the world.

(ii) Assume also that the total value of its real and tangible personal property that was permanently located in Montana for the entire income year was valued at $3,000,000.

(iii) Assume further that the total original cost of the satellite is $100,000,000 for the tax period and that of the 10,000 uplinks and downlinks of satellite transmissions used by the taxpayer during the tax period, 200 or 2% are attributable to its satellite communications received in and sent from Montana.

(iv) Assume still further that the company's mobile property that was used partially within Montana, consisting of 40 delivery trucks, were determined to have an original cost of $4,000,000 and such mobile property was used in Montana for 95 days. The total value of property to be attributed to Montana would be determined as follows:

Value of property permanently in state:	$3,000,000
Value of mobile property: 95/365 or (.260274) x $4,000,000:	$1,041,096
Value of leased satellite property used in-state: (.02) x $100,000,000:	$2,000,000
Total value of property attributable to state:	$6,041,096
Total property factor %: $6,041,096/($500,000,000):	1.2082%

(8) The payroll factor shall be determined in accordance with 15-31-308, MCA, and the supporting administrative rules.

(9) For purposes of this sub-chapter, the sales factor will be determined as follows:

(a) The denominator of the sales factor shall include the total gross receipts derived by the taxpayer from transactions and activity in the regular course of its trade or business, except receipts that may be excluded under ARM 42.26.251, 42.26.252, 42.26.253, 42.26.254, 42.26.255,

42.26.256, 42.26.257, 42.26.259, 42.26.261, 42.26.262, and 42.26.263.

(b) The numerator of the sales factor shall include all gross receipts of the taxpayer from sources within Montana including, but not limited to, the following:

(i) gross receipts derived from the sale of tangible personal property including printed materials, delivered or shipped to a purchaser or a subscriber in Montana;

(ii) except as provided in (9)(b)(iii), gross receipts derived from advertising and the sale, rental, or other use of the taxpayer's customer lists or any portion thereof shall be attributed to Montana as determined by the taxpayer's circulation factor during the tax period. The circulation factor shall be determined for each individual publication by the taxpayer of printed material containing advertising and shall be equal to the ratio that the taxpayer's in-state circulation to purchasers and subscribers of its printed material bears to its total circulation to purchasers and subscribers everywhere. The circulation factor for an individual publication shall be determined by reference to the rating statistics as reflected in such sources as Audit Bureau of Circulations or other comparable sources, provided that the source selected is consistently used from year to year for such purpose. If none of the foregoing sources are available, or, if available, none is in form or content sufficient for such purposes, then the circulation factor shall be determined from the taxpayer's books and records.

(iii) When specific items of advertisements can be shown, upon clear and convincing evidence, to have been distributed solely to a limited regional or local geographic area in which Montana is located, the taxpayer may petition, or the department may require, that a portion of such receipts be attributed to the sales factor numerator of Montana on the basis of a regional or local geographic area circulation factor and not upon the basis of the circulation factor provided by (9)(b)(ii). Such attribution shall be based upon the ratio that the taxpayer's circulation to purchasers and subscribers located in Montana of the printed material containing such specific items of advertising bears to its total circulation of such printed material to purchasers and subscribers located within such regional or local geographic area. This alternative attribution method shall be permitted only upon the condition that such receipts are not double-counted or otherwise included in the numerator of any other state.

(iv) In the event that the purchaser or subscriber is the United States government or that the taxpayer is not taxable in a state, the gross receipts from all sources, including the receipts from the sale of printed material, advertising, and the sale, rental, or other use of the taxpayer's customer's lists, or any portion thereof that would have been attributed by the circulation factor to the numerator of the sales factor for such state, shall be included in the numerator of the sales factor of Montana if

the printed material or other property is shipped from an office, store, warehouse, factory, or other place of storage or business in Montana.

AUTH: Sec. 15-1-201 and 15-31-313, 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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule XIV to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax Commission.

5. The following new rules do not replace or modify any section currently found in the Administrative Rules of Montana. The proposed new rules that follow will be placed in Title 42, chapter 24, new sub-chapter 11, titled "Television and Radio Broadcasting," and provide as follows:

NEW RULE XV DEFINITIONS The following definitions are applicable to the terms contained in this sub-chapter, unless the context clearly requires otherwise.

(1) "Film" or "film programming" means any and all performances, events, or productions telecast on television including, but not limited to, news, sporting events, plays, stories or other literary, commercial, educational or artistic works, through the use of video tape, disc, or any other type of format or medium. Each episode of a series of films produced for television shall constitute a separate "film" notwithstanding that the series relates to the same principal subject and is produced during one or more tax periods.

(2) "Outer-jurisdictional property" means certain types of tangible personal property, such as orbiting satellites, undersea transmission cables and the like, that are owned or rented by the taxpayer and used in the business of telecasting or broadcasting, but which are not physically located in any particular state.

(3) "Radio" or "radio programming" means any and all performances, events, or productions broadcast on radio including, but not limited to, news, sporting events, plays, stories or other literary, commercial, educational, or artistic works, through the use of an audio tape, disc, or any other format or medium. Each episode of a series of radio programming produced for radio broadcast shall constitute a separate "radio programming" notwithstanding that the series relates to the same principal subject and is produced during one or more tax periods.

(4) "Release" or "in release" means placing film or radio programming into service. A film or radio program is placed into service when it is first broadcast to the primary audience for which the program was created. Thus, for example, a film is placed in service when it is first publicly telecast for entertainment, educational, commercial, artistic, or other purposes. Each episode of a television or radio

series is placed in service when it is first broadcast. A program is not placed in service merely because it is completed and therefore in a condition or state of readiness and availability for broadcast or merely because it is previewed to prospective sponsors or purchasers.

(5) "Rent" shall include license fees or other payments or consideration provided in exchange for the broadcast or other use of television or radio programming.

(6) A "subscriber" to a cable television system is the individual residence or other outlet which is the ultimate recipient of the transmission.

(7) "Telecast" or "broadcast" (sometimes used interchangeably with respect to television) means the transmission of television or radio programming, respectively, by an electronic or other signal conducted by radio waves or microwaves or by wires, lines, coaxial cables, wave guides, fiber optics, satellite transmissions directly or indirectly to viewers and listeners or by any other means of communication.

AUTH: Sec. 15-1-201 and 15-31-313, 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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule XV to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax Commission.

NEW RULE XVI GENERAL RULE (1) When a person in the business of broadcasting film or radio programming, whether through the public airwaves, by cable, direct or indirect satellite transmission or any other means of communication, either through a network (including owned and affiliated stations) or through an affiliated, unaffiliated, or independent television or radio broadcasting station, has income from sources both within and outside Montana, the amount of business income from sources within Montana shall be determined pursuant to Title 15, chapter 31, part 3, MCA, and the supporting Administrative Rules of Montana, except as modified by this rule.

AUTH: Sec. 15-1-201 and 15-31-313, 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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule XVI to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax Commission.

NEW RULE XVII APPORTIONMENT OF BUSINESS INCOME (1) The property factor shall be determined in accordance with 15-31-306, MCA, the payroll factor in accordance with 15-31-308,

MCA, and the sales factor in accordance with 15-31-310, MCA, except as modified by this rule.

(2) For purposes of this sub-chapter, the property factor will be determined as follows:

(a) In the case of rented studios, the net annual rental rate shall include only the amount of the basic or flat rental charge by the studio for the use of a stage or other permanent equipment such as sound recording equipment and the like, except that additional equipment rented from other sources or from the studio not covered in the basic or flat rental charge and used for one week or longer (even though rented on a day-to-day basis) shall be included. Lump-sum net rental payments for a period that encompasses more than a single income year shall be assigned ratably over the rental period.

(b) No value or cost attributable to any outer-jurisdictional, film, or radio programming property shall be included in the property factor at any time.

(3) The property factor denominator will be determined as follows:

(a) All real property and tangible personal property (other than outer-jurisdictional and film or radio programming property), whether owned or rented, which is used in the business, shall be included in the denominator of the property factor.

(b) Audio or video cassettes, discs, or similar media containing film or radio programming and intended for sale or rental by the taxpayer for home viewing or listening, shall be included in the property factor at their original cost. To the extent that the taxpayer licenses or otherwise permits others to manufacture or distribute such cassettes, discs, or other media containing film or radio programming for home viewing or listening, the value of said cassettes, discs, or other media shall include the license, royalty, or other fees received by the taxpayer capitalized at a rate of eight times the gross receipts derived therefrom during the income year.

(c) Outer-jurisdictional film and radio programming property shall be excluded from the denominator of the property factor.

(d) With the exception of outer-jurisdictional film and radio programming property, all real and tangible personal property owned or rented by the taxpayer and used in Montana during the tax period shall be included in the numerator of the property factor as provided in 15-31-306, MCA.

(e) Outer-jurisdictional film and radio programming property shall be excluded from the numerator of the property factor.

(i) For example, XYZ television co. has a total value of all of its property everywhere of $500,000,000, including a satellite valued at $50,000,000 that was used to telecast programming into Montana and $150,000,000 in film property of which $1,000,000 was located in Montana the entire year. The total value of real and tangible personal property, other than film programming property, located in Montana for the entire income year was valued at $2,000,000. The movable and mobile

property described above was determined to be of a value of $4,000,000 and was used in Montana for 100 days. The total value of property to be attributed to Montana would be determined as follows:

Value of property permanently in Montana:	$2,000,000
Value of mobile and movable property: (100/365 or .2739 x $4,000,000):	1,095,600
Total value of property to be included in Montana's property factor numerator (outer-jurisdictional and film property excluded):	$3,095,600
Total value of property to be used in the denominator ($500,000,000-$200,000,000):	$300,000,000
Total property factor ($3,095,600/$300,000,000):	1.03%

(4) For purposes of this sub-chapter, the payroll factor will be determined as follows:

(a) The payroll factor denominator shall include all compensation, including residual and profit participation payments, paid to employees during the income year, including that paid to directors, actors, newscasters, and other talent in their status as employees.

(b) The payroll factor numerator (compensation for all employees) shall be attributed to the state or states as may determined by the application of the provisions of 15-31-308, MCA.

(5) For purposes of this sub-chapter, the sales factor will be determined as follows:

(a) The sales factor denominator shall include the total gross receipts derived by the taxpayer from transactions and activity in the regular course of its trade or business, except receipts excluded under ARM 42.26.263.

(b) The numerator of the sales factor shall include all gross receipts of the taxpayer from sources within Montana including, but not limited to, the following:

(i) Gross receipts, including advertising revenue, from television film or radio programming in release to or by television and radio stations located in Montana;

(ii) Gross receipts, including advertising revenue, from television film or radio programming in release to or by a television station (independent or unaffiliated) or network of stations for broadcast shall be attributed to Montana in the ratio ("audience factor") that the audience for such station (or owned and affiliated stations in the case of networks) located in Montana bears to the total audience for such station (or owned and affiliated stations in the case of networks). The audience factor for television or radio programming shall be determined by the ratio that the taxpayer's in-state viewing (listening) audience bears to its total viewing (listening) audience. Such audience factor

shall be determined either by reference to the books and records of the taxpayer or by reference to published rating statistics, provided the method used by the taxpayer is consistently used from year to year for such purpose and fairly represents the taxpayer's activity in Montana;

(iii) Gross receipts from film programming in release to or by a cable television system shall be attributed to Montana in the ratio ("audience factor") that the subscribers for such cable television system located in Montana bears to the total subscribers of such cable television system. If the number of subscribers cannot be accurately determined from the books and records maintained by the taxpayer, such audience factor shall be determined on the basis of the applicable year's subscription statistics located in published surveys, provided that the source selected is consistently used from year to year for that purpose; and

(iv) Receipts from the sale, rental, licensing or other disposition of audio or video cassettes, discs, or similar media intended for home viewing or listening shall be included in the sales factor as provided in ARM 42.26.257.

AUTH: Sec. 15-1-201 and 15-31-313, 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, and 15-31-312, MCA

REASONABLE NECESSITY: There is reasonable necessity to adopt New Rule XVII to bring Montana's rules into conformity with the rules and guidelines adopted by the Multi-state Tax Commission.

6. The department proposes to repeal the following rule:

42.24.214 DETERMINATION OF ELIGIBLE TAXING JURISDICTION which can be found on page 42-2421 of the Administrative Rules of Montana.

AUTH: Sec. 15-31-501, MCA
IMP: Sec. 15-31-702, MCA

REASONABLE NECESSITY: The department is proposing to repeal ARM 42.24.214 because Sec. 253, Ch. 574, L. 2001 repealed the law that supports this rule.

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

Cleo Anderson
Department of Revenue
Director's Office
P.O. Box 1712
Helena, Montana 59604-1712

and must be received no later than March 26, 2004.

8. Cleo Anderson, Department of Revenue, Director's

Office, has been designated to preside over and conduct the hearing.

9. 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 7 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.

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

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Linda M. Francis
LINDA M. FRANCIS
Director of Revenue

Certified to Secretary of State January 5, 2004

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the proposed amendment of ARM 42.26.302, 42.26.303, 42.26.306, and 42.26.311 relating to the water's-edge election for multinational corporations	))))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On March 24, 2004, at 1:30 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 42.26.302, 42.26.303, 42.26.306, and 42.26.311 relating to the water's-edge election for multinational corporations.

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., March 1, 2004, 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 1712, Helena, Montana 59604-1712; telephone (406) 459-2646; 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:

42.26.302 PROCEDURE (1) remains the same.

(2) ~~Each~~ With the exception of ARM 42.26.303(2), each election is binding for a three-year renewable period and may only be revoked upon express written permission of the department.

(3) remains the same.

AUTH: Sec. 15-31-501, MCA
IMP: Sec. 15-31-324, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.26.302, in conjunction with the amendments to ARM 42.26.303, to conform the requirements of the rule to the amendments made to 15-31-322 and 15-31-324, MCA, which were enacted by the 2003 legislature. Those amendments require the inclusion of corporations incorporated in tax haven countries in the water's-edge group.

42.26.303 REVOCATION OR NON-RENEWAL OF WATER'S-EDGE

ELECTIONS (1) remains the same.

(2) A taxpayer, with a unitary subsidiary that is incorporated in a tax haven, as shown in 15-31-322, MCA, who has a water's-edge election that is in effect for tax periods beginning both before and after December 31, 2003, may rescind the election for any tax period beginning after December 31, 2003. A letter requesting the revocation of the election must be received by the department within the first 90 days of the first taxable period affected by this change in statute.

AUTH: Sec. 15-31-501, MCA
IMP: Sec. 15-31-324, MCA

REASONABLE NECESSITY: The department is proposing to add new (2) to ARM 42.26.303, in conjunction with the amendments to ARM 42.26.302, in order to clarify that the taxpayer's three-year election is not binding due to the recent change in law which requires the inclusion of corporations incorporated in tax haven countries in the water's-edge group. This amendment also clarifies the timeframe in which the election must be rescinded due to this change in 15-26-324, MCA.

42.26.306 APPLICABILITY (1) Water's-edge combinations, as provided for in 15-31-322, MCA, are available to qualifying corporations for years beginning on or after January 1, 1988. For years beginning after December 31, 2003, a water's-edge combination must include a corporation that is in a unitary relationship with the taxpayer and that is incorporated in a tax haven.

AUTH: Sec. 15-31-501, MCA
IMP: Sec. 15-31-322, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.26.306 to address the applicability date enacted by the 2003 legislature, which requires the inclusion of corporations incorporated in tax haven countries in the water's-edge group.

42.26.311 CERTAIN CORPORATIONS INCLUDABLE IN A WATER'S-EDGE COMBINED RETURN (1) and (2) remain the same.

(3) A corporation that is in a unitary relationship with the taxpayer and that is incorporated in a tax haven are included in a water's-edge return.

AUTH: Sec. 15-31-501, MCA
IMP: Sec. 15-31-322, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.26.311 to add new section (3) to set forth the corporations that are includable in a water's-edge combined group. Due to new section (1)(f) in 15-311-322, MCA, this rule was broadened to address the inclusion of corporations that are in a unitary relationship with the taxpayer and that are incorporated in a tax haven.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing.

Written data, views, or arguments may also be submitted to:

Cleo Anderson
Department of Revenue
Director's Office
P.O. Box 1712
Helena, Montana 59604-1712

and must be received no later than March 26, 2004.

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

6. An electronic copy of this Notice of Public Hearing is available through the Department's site on the World Wide Web at http://www.discoveringmontana.com/revenue, under "for your reference;" "DOR administrative rules;" and "upcoming events and proposed rule changes." The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

7. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding particular subject matter or matters. Such written request may be mailed or delivered to the person in 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

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

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Linda M. Francis
LINDA M. FRANCIS
Director of Revenue

Certified to Secretary of State January 5, 2004

BEFORE THE STATE AUDITOR AND COMMISSIONER OF INSURANCE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 6.6.3504 pertaining to contents of an annual audited financial report) NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On November 26, 2003, the State Auditor and Commissioner of Insurance published MAR Notice No. 6-147 regarding a public hearing on the proposed amendment of the above-stated rule at page 2578 of the 2003 Montana Administrative Register, Issue No. 22.

2. The Department has amended ARM 6.6.3504 as proposed, but with the following changes, stricken matter interlined, new matter underlined:

6.6.3504 CONTENTS OF ANNUAL AUDITED FINANCIAL REPORT

(1) through (2)(e) remain as proposed.

(f) notes to financial statements. These notes shall be those required by the appropriate ~~2004~~ 2003 NAIC annual statement instructions and the March ~~2004~~ 2003, NAIC Accounting Practices and Procedures Manual, which are adopted and incorporated by reference, and may be obtained by writing to the NAIC Executive Headquarters, 2301 McGee Street, Suite 800, Kansas City, MO 64108-2662. The notes shall include a reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed pursuant to 33-2-701, 33-4-313, 33-7-118, 33-30-107, and 33-31-211, MCA, with a written description of the nature of these differences.

(3) remains as proposed.

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

COMMENT 1: Blue Cross Blue Shield of Montana commented that the rule should refer to the most recent NAIC Accounting Practices and Procedures Manual rather than limited to the dates of 2004 and March 2004 so as to alleviate the need for future amendments.

RESPONSE 1: The requirements for drafting the Administrative Rules of Montana prevent the Department from using the phrase "most recent" to refer to the NAIC Accounting Practices and Procedures Manual.

In addition, the Auditor's Office realized that the references to 2004 in (2)(f) were in error and should have referred to 2003. This has been corrected as shown above.

4. This rule will be applied retroactively to January 1, 2004.

JOHN MORRISON, State Auditor
and Commissioner of Insurance

By: /s/ Alicia Pichette
Alicia Pichette
Deputy Insurance Commissioner

By: /s/ Christina L. Goe
Christina L. Goe
Rules Reviewer

Certified to the Secretary of State on January 5, 2004.

BEFORE THE BOARD OF PHYSICAL THERAPY EXAMINERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM 8.42.404, 8.42.405, 8.42.406, and 8.42.416 pertaining to temporary, out-of-state and renewal licenses, foreign-trained applicants and continuing education	)))))))	CORRECTED NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On May 22, 2003, the Board of Physical Therapy Examiners published MAR Notice No. 8-42-24 regarding the proposed amendment of the above stated rules relating to temporary, out-of-state and renewal licenses, foreign-trained applicants and continuing education at page 1027, 2003 Montana Administrative Register, issue no. 10.

2. On October 16, 2003, the Board of Physical Therapy Examiners published a Notice of Amendment for ARM 8.42.404, 8.42.405, 8.42.406, 8.42.416 and other rules at page 2292, 2003 Montana Administrative Register, issue no. 19.

3. During preparation of replacement pages, the rule reviewer noticed errors in the AUTH and IMP citations for ARM 8.42.404, 8.42.405, 8.42.406, and 8.42.416. These rules are amended as proposed, but with the following changes to correct the errors in the citations, stricken matter interlined, new matter underlined:

8.42.404 RENEWAL OF LICENSE (1) through (3) remain as proposed.

AUTH: 37-1-131, 37-11-201, ~~37-11-308,~~ MCA
IMP: 37-11-308, MCA

8.42.405 TEMPORARY LICENSES (1) through (3) remain as proposed.

AUTH: 37-1-131, ~~37-1-305,~~ 37-1-319, 37-11-201, MCA
IMP: 37-1-305, 37-11-309, MCA

8.42.406 LICENSURE OF OUT-OF-STATE APPLICANTS (1) through (4) remain as proposed.

AUTH: ~~37-1-304,~~ 37-1-319, 37-11-201, MCA
IMP: 37-1-304, 37-11-307, MCA

8.42.416 CONTINUING EDUCATION (1) through (4) remain as proposed.

AUTH: ~~37-1-306,~~ 37-1-319, 37-11-201, MCA
IMP: 37-1-306, 37-11-201, MCA

4. Replacement pages for the corrected notice of amendment were submitted to the Secretary of State on December 31, 2003.

BOARD OF PHYSICAL THERAPY EXAMINERS
Brenda Mahlum, President

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

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State January 5, 2004.

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

In the matter of the amendment) CORRECTED NOTICE OF AMENDMENT
of ARM 24.16.7506, relating to)
wage claims and mediation)

TO: All Concerned Persons

1. On September 11, 2003, the Department of Labor and Industry published MAR Notice No. 24-16-175 regarding the proposed amendment of the above stated rule at page 1944, 2003 Montana Administrative Register, issue number 17.

2. On October 30, 2003, the Department of Labor and Industry published notice regarding the amendment of the above stated rule at page 2433, 2003 Montana Administrative Register, issue number 20.

3. During preparation of replacement pages for the fourth quarter of 2003, the Department noticed that it erroneously did not identify that the last section of ARM 24.16.7506, section 13, was to remain the same but be renumbered as (14) in the Notice of Public Hearing. As a consequence, the Department amends ARM 24.16.7506 as proposed with the following changes, deleted material interlined, added material underlined:

24.16.7506 DEFINITIONS (1) through (11) remain the same.
(11) ~~and (12)~~ through (13) remain the same but are renumbered (12) ~~and (13)~~ through (14).

AUTH: 39-3-202, 39-3-403, MCA
IMP: 39-3-202, 39-3-216, 39-3-403, MCA

4. Replacement pages for the corrected notice of amendment were submitted to the Secretary of State on December 31, 2003.

/s/ MARK CADWALLADER
Mark Cadwallader,
Alternate Rule Reviewer

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

Certified to the Secretary of State January 5, 2004

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

In the matter of the amendment of ARM 24.29.3802 relating to hourly attorney fee rates	))))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On October 30, 2003, the Department of Labor and Industry published MAR Notice No. 24-29-177 regarding a public hearing on the proposed amendment of the above stated rule at page 2374, 2003 Montana Administrative Register, issue number 20.

2. A public hearing was held in Helena on November 20, 2003. No members of the public commented at the public hearing. One written comment was received prior to the closing of the comment period on November 28, 2003.

3. After consideration of the comment, the Department has amended ARM 24.29.3802 exactly as proposed.

4. The Department has thoroughly considered the comment made. The comment received and the Department's response are as follows:

Comment 1: One commenter suggested that the proposed fee increase was too low and suggested that the increase in the consumer price index would justify an increase to $125.00 per hour.

Response 1: The Department thanks the commenter for the commenter's remarks, but notes that the amended rule as proposed provides for a 33% increase over the current hourly fee amount. The Department notes that if the fee was to be raised to the amount suggested by the commenter, additional notice requirements pursuant to the Montana Administrative Procedure Act would likely be necessary to effectuate the suggested change. The Department acknowledges the increase in the cost of living and will continue to examine the hourly fee to see if future adjustments need to be made.

/s/ KEVIN BRAUN
Kevin Braun,
Rule Reviewer

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

Certified to the Secretary of State January 5, 2004

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

In the matter of the amendment of ARM 24.207.401, and the adoption of NEW RULES I and II, pertaining to trainee and mentor requirements	)))))	NOTICE OF AMENDMENT AND ADOPTION

TO: All Concerned Persons

1. On September 25, 2003, the Board of Real Estate Appraisers published MAR Notice No. 24-207-20 regarding the public hearing on the proposed amendment and adoption of the above stated rules relating to trainee and mentor requirements at page 2035 of the 2003 Montana Administrative Register, issue no. 18.

2. On October 21, 2003, a public hearing on the proposed amendment and new rules was conducted in Helena, Montana, and members of the public spoke at the public hearing. In addition, written comments were received prior to the closing of the comment period on October 28, 2003.

3. The Board of Real Estate Appraisers (Board) has thoroughly considered all of the comments made. A summary of the comments received (grouped by rule) and the Board's responses are as follows:

24.207.401 FEES

COMMENT 1: Two comments were received stating that the proposed fees seemed excessive.

RESPONSE 1: The Board notes it is required by 37-1-134, MCA, to set fees that are commensurate with costs. The Board believes that proposed fees are commensurate with the costs of trainee licensing and oversight. To lower the fees paid by trainees would result in a portion of the cost of implementing Chapter 341, Laws of 2003 (Senate Bill 432) being subsidized by licensed real estate appraisers, which the Board concludes is not allowed by 37-1-134, MCA.

NEW RULE I (24.207.517) TRAINEE REQUIREMENTS

COMMENT 2: Several commenters were in general agreement with the proposed rule change but felt the limitation in section 10 of NEW RULE I [limiting trainees to working within 100 miles of the mentor's business address] was inappropriate because electronic media access makes it unnecessary to geographically limit experience.

RESPONSE 2: The Board states that it was the Board's original intent to require a 100 mile radius (within Montana) for residential appraisers but to allow anywhere in Montana for certified general appraisers because of differences in the degrees of knowledge between the licenses. The Board has amended NEW RULE I accordingly.

COMMENT 3: One commenter stated that "there is no requirement of education for the trainee and I would be more in support of a person having maybe two years college if not a college degree."

RESPONSE 3: The Board notes that NEW RULE I(3) provides that a trainee have completed at least 40 hours of approved qualifying instruction in the principles of real estate appraisal before being granted a license as a trainee. Additional formal education (50 hours) is also required (after having been granted a trainee license). The Board believes that the minimum of 40 hours of approved education in the specific field of real estate appraisal principles provides a greater level of assurance of knowledge than two years of unspecified (and perhaps totally inapplicable) college education. Additional education is a subject that may be addressed in the future.

COMMENT 4: One commenter suggested that a setting similar to an internship or clerkship be developed for individuals interested in this occupation. "The trainees could enroll in a class and the trainer could take them to a site and have them work up an appraisal."

RESPONSE 4: The Board believes that the trainee-mentor relationship is designed to provide a training experience similar to an internship or clerkship, and the two NEW RULES implement that relationship.

COMMENT 5: Two commenters wrote to express their concern about hours already accumulated and the possibility they would lose those existing hours if the new rules go into effect.

RESPONSE 5: The Board notes that NEW RULE I does, in fact, allow for current training experience to be counted.

NEW RULE II (24.207.518) MENTOR REQUIREMENTS

COMMENT 6: One commenter stated "it should be discretionary on the part of the mentor as to how many trainees the mentor could have" with a suggested cap of no more than four or five trainees. The commenter also suggested that it might be appropriate for a 'discount rate' for more than three trainees.

RESPONSE 6: The Board considered this comment and believes that a high level of professionalism is required and, done

properly, being a mentor will be very time intensive. For that reason the Board has determined that two is the proper number of trainees to be mentored at any particular time by a single licensed appraiser. The Board also stated that under section 37-1-134, MCA, fees must be commensurate with costs. Given the amount of time spent processing each trainee's application and reviewing submitted appraisal reports, the Board believes the cost for each additional trainee will be the same for the additional trainee as it would be for only one trainee. For that reason, the Board believes there should be no discount rate for additional trainees.

4. During preparation of this Notice, staff noticed that NEW RULE I(1)(c) contained a typographic error. The rule subsection erroneously refers to real estate appraisal "principals" instead of real estate appraisal "principles". The correction is noted in paragraph 6, below.

5. The Board has amended ARM 24.207.401 and adopted NEW RULE II (24.207.518) exactly as proposed.

6. After considering the comments, and because clarification is needed, the Board of Real Estate Appraisers adopted NEW RULE I (24.207.517) with the following changes, deleted matter interlined, new matter underlined:

NEW RULE I (24.207.517) TRAINEE REQUIREMENTS

(1) through (1)(b) remain as proposed.

(c) have completed 40 hours of approved qualifying education in the ~~principals~~ principles of real estate appraisal prior to making application; and

(d) through (9) remain as proposed.

(10) A trainee shall perform qualifying experience within Montana and within a 100 mile~~s~~ radius of the mentor's business address for residential appraisals. A trainee is not geographically limited for non-residential assignments in Montana.

(11) remains as proposed.

AUTH: 37-1-131, 37-54-105, MCA
IMP: 37-1-131, 37-54-105, 37-54-201, 37-54-202, 37-54-303, 37-54-403, MCA

BOARD OF REAL ESTATE APPRAISERS
TIMOTHY MOORE, CHAIRMAN

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

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

Certified to the Secretary of State January 5, 2004.

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

In the matter of the amendment of ARM 37.40.1415, 37.86.1802, 37.86.1806 and 37.86.1807 pertaining to medicaid reimbursement for durable medical equipment, prosthetics, orthotics and medical supplies	)))))))	CORRECTED NOTICE OF AMENDMENT

TO: All Interested Persons

1. On October 30, 2003, the Department of Public Health and Human Services published MAR Notice No. 37-303 regarding a public hearing on the proposed amendment of the above-stated rules at page 2383 of the 2003 Montana Administrative Register, issue number 20, and on December 24, 2003 published notice of the amendment on page 2882 of the 2003 Montana Administrative Register, issue number 24.

2. This corrected notice is being filed to include information that was inadvertently left out of the notice of amendment stating that the amendment of ARM 37.40.1415, 37.86.1802, 37.86.1806 and 37.86.1807 would be effective January 1, 2004 as stated in the proposal notice published October 30, 2003.

3. Replacement pages for the corrected notice of amendment were submitted to the Secretary of State on December 31, 2003.

4. All other rule changes remain the same.

Russ Cater
Rule Reviewer

John Chappuis for
Director, Public Health and Human Services

Certified to the Secretary of State December 31, 2003.

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

In the matter of the adoption of new rule I (37.86.2234) and the amendment of ARM 37.86.2207 and 37.86.2230 pertaining to early and periodic screening, diagnostic and treatment services (EPSDT), school based transportation and health related services	)))))))))	CORRECTED NOTICE OF ADOPTION AND AMENDMENT

TO: All Interested Persons

1. On November 13, 2003, the Department of Public Health and Human Services published MAR Notice No. 37-306 regarding a public hearing on the proposed adoption and amendment of the above-stated rules at page 2498 of the 2003 Montana Administrative Register, issue number 21, and on December 24, 2003 published notice of the adoption and amendment on page 2884 of the 2003 Montana Administrative Register, issue number 24.

2. This corrected notice is being filed to include information that was inadvertently left out of the notice of adoption and amendment stating that the adoption of rule I and amendment of ARM 37.86.2207 and 37.86.2230 would be effective January 1, 2004 as stated in the proposal notice published October 30, 2003.

3. Replacement pages for the corrected notice of adoption and amendment were submitted to the Secretary of State on December 31, 2003.

4. All other rule changes remain the same.

Russ Cater
Rule Reviewer

John Chappuis for
Director, Public Health and Human Services

Certified to the Secretary of State December 31, 2003.

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

In the matter of the amendment of ARM 37.86.3501, 37.86.3502, 37.88.101, 37.88.901, 37.88.907 and 37.89.103 pertaining to adult mental health services	))))))	CORRECTED NOTICE OF AMENDMENT

TO: All Interested Persons

1. On October 30, 2003, the Department of Public Health and Human Services published MAR Notice No. 37-304 regarding a public hearing on the proposed amendment of the above-stated rules at page 2395 of the 2003 Montana Administrative Register, issue number 20, and on December 24, 2003 published notice of the amendment on page 2886 of the 2003 Montana Administrative Register, issue number 24.

2. This corrected notice is being filed to include information that was inadvertently left out of the notice of amendment stating that the amendment of ARM 37.86.3501, 37.86.3502, 37.88.101, 37.88.901, 37.88.907 and 37.89.103 would be effective January 1, 2004 as stated in the proposal notice published October 30, 2003.

3. Replacement pages for the corrected notice of amendment were submitted to the Secretary of State on December 31, 2003.

4. All other rule changes remain the same.

Russ Cater
Rule Reviewer

John Chappuis for
Director, Public Health and Human Services

Certified to the Secretary of State December 31, 2003.

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

In the matter of the adoption of New Rules I through VI pertaining to Inter-carrier Compensation	))))	NOTICE OF ADOPTION

TO: All Concerned Persons

1. On September 25, 2003, the Department of Public Service Regulation, Public Service Commission (PSC) published MAR Notice No. 38-2-172 regarding a public hearing on the proposed adoption of new rules I through VI pertaining to inter-carrier compensation at page 2054 of the 2003 Montana Administrative Register, issue number 18.

2. The PSC has adopted New Rules III (38.5.3103) and VI (38.5.3106) exactly as proposed.

3. The PSC adopts the remaining rules, New Rules I (38.5.3101), II (38.5.3102), IV (38.5.3104), and V (38.5.3105), with the following changes, stricken matter interlined, new matter underlined:

RULE I (38.5.3101) TYPES OF RECORDS TO BE MADE AVAILABLE

(1) through (1)(b) remain as proposed.

(2) To the extent the information has been transmitted by the originating carrier to the transiting carrier, transit records shall enable terminating carriers to identify originating carriers and other call information by means of a Category 11 or Category 11 type format record as defined in the EMR Bellcore Practice BR010-200-010, or a successor record adopted by the OBF, which enables a terminating carrier to identify each originating carrier's operating company number (OCN) or carrier identification code (CIC), or other call detail information necessary to identify, measure and appropriately charge for traffic that terminates on terminating carriers' networks.

(3) To the extent the information has been transmitted by the originating carrier to the transiting carrier, Category 11 or Category 11 type format records must provide terminating carriers with necessary call identification data such as ~~the~~:

(a) the calling party number, including area code and number prefix;

(b) the called party number, including area code and number prefix;

(c) the date, time and duration of the call;

(d) the billed to number, including area code and number prefix;

(e) and (f) remain as proposed.

(4) Any transiting carrier shall deliver telecommunications traffic to a terminating carrier by means

of facilities that enable the terminating carrier~~s~~ to receive from the originating carrier any and all information that the originating carrier or the interlocal access transport area carrier or intralocal access transport area toll provider of nonlocal telecommunications traffic transmits that enables the terminating carrier to identify, measure, and appropriately charge the originating carrier or the interlocal access transport area carrier or intralocal access transport area toll provider of nonlocal telecommunications traffic for the termination of its telecommunications traffic.

AUTH: 69-3-803, 69-3-815, MCA
IMP: 69-3-815, MCA

RULE II (38.5.3102) COST OF THE TRANSIT RECORDS

(1) remains as proposed.

(2) Nothing in this rule precludes two carriers from mutually agreeing in writing to any other arrangement pertaining to recovery of costs associated with acquiring transit or billing records from the transiting carrier or from the originating carrier.

AUTH: 69-3-803, 69-3-815, MCA
IMP: 69-3-815, MCA

RULE IV (38.5.3104) AUDITS AND VERIFICATION (1) No more than twice a year, a ~~A~~ transiting carrier required to provide transit records to a terminating carrier upon request shall permit ~~ensure that~~ the terminating carrier to ~~can~~ independently verify through an audit that the records provided by the transiting carrier to the terminating carrier reasonably account for all the information the transiting carrier has received from the originating carrier and ~~transit traffic as defined in [HB 641, section 1, subsection 16]~~ that the transiting carrier delivers to the terminating carrier.

(2) No more than twice a year, an originating carrier shall permit a terminating carrier to independently verify through an audit that the information provided by the originating carrier to the terminating carrier reasonably accounts for all the traffic the originating carrier delivers to the terminating carrier.

AUTH: 69-3-803, 69-3-815, MCA
IMP: 69-3-815, MCA

RULE V (38.5.3105) RESPONSIBILITIES OF ORIGINATING CARRIER (1) An originating carrier shall transmit to the terminating carrier or to the transiting ~~terminating~~ carrier as part of the call transaction, information that permits the terminating carrier to:

(a) through (2)(a) remain as proposed.

(b) the calling party number (CPN), including area code and number prefix;

(c) the called party number, including area code and number prefix;

(d) remains as proposed.

(e) the billed to number, including area code and number prefix;

~~(f) the area code and number prefix;~~

(g) and (h) remain the same but are renumbered (f) and (g).

AUTH: 69-3-803, 69-3-815, MCA
IMP: 69-3-815, MCA

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

At the public hearing the PSC received written comments from Montana Telecommunications Association (MTA), Qwest Corporation, Verizon Wireless, Western Wireless Corporation, AT&T Communications of the Mountain States, Inc. (AT&T), and Ronan Telephone Company, all of whom appeared through representatives at the public hearing. MTA submitted written comments raising objections to proposed New Rules I, III, and V. Qwest submitted written comments raising objections to proposed New Rules I, II, IV, V, and VI. Verizon Wireless submitted written comments objecting generally to the validity of the underlying statute and thereby to the authority of the commission to implement inter-carrier compensation rules. Western Wireless Corporation submitted written comments objecting generally to the need for a rulemaking process in this area, and specifically proposed a New Rule VII. AT&T submitted written comments objecting to proposed New Rule V. Ronan Telephone Company submitted written comments objecting generally to the validity of the underlying statute and consequently to the need for implementing rules.

COMMENT 1: Proposed rules are not necessary because the underlying legislation is legally flawed. Comments indicated that the need for implementing rules in this area is unnecessary because the underlying legislation is invalid. Comments also indicated that there are federal and state substantive and procedural requirements in place that govern interconnection agreements between telecommunications carriers, and rulemaking in the area of inter-carrier compensation is unnecessary.

RESPONSE: The statute is authoritative and was passed into law by the Montana legislature, and directs the PSC to adopt rules to implement the statute. Carriers objecting to the legitimacy of the statute had an opportunity to do so during the legislative session; the legislature having passed the statute into law, it is the Commission’s obligation to implement it through a rulemaking proceeding. With regard to the concern that there are other more appropriate mechanisms by which carriers can resolve interconnection disputes, the

PSC concludes that alternative resolutions are still available and the implementing rules function as an additional, rather than an alternative, mechanism for enforcement of interconnection disputes.

COMMENT 2: Concern about the requirement that records be made available to the extent they have been transmitted. Comments received indicated that the types of records to be made available should not be limited to the extent the information has been transmitted by the originating carrier to the transiting carrier, because: a carrier could interpret the language to mean that it is relieved from the obligation to transmit information necessary with originating traffic; the language is not in the appropriate paragraph; and the rule may inadvertently enable unaccounted for traffic information to end up on a terminating carrier's network for various reasons.

RESPONSE: The PSC considered the language of this rule as drafted extensively at two industry roundtables, and the carriers are required by the rule to pass on traffic information that they have in their possession. The PSC does not consider it appropriate to require a carrier to pass on information that it does not or may not have in its possession, and therefore the limiting language in Rule I is appropriate.

COMMENT 3: Request to delete area code and number prefix from call identification requirements. Qwest proposes deleting Rule I(3)(e) because Qwest claims the requirement to include the NPA NXX, which are the area code and number prefix, in the call detail information is confusing when the rule does not specify whose area code and prefix must be transmitted, the called party's or the calling party's or the billed to party's.

RESPONSE: The PSC agrees that the rule should be clarified and has amended the rule to clearly indicate that the area code and number prefix are required to be included with the called party's number, the calling party's number and the billed to party's number.

COMMENT 4: Request that proposed Rule I(4) either be deleted or quote the statute verbatim. Qwest commented that proposed Rule I should either be deleted or simply recite the statute.

RESPONSE: The PSC considers the language in Rule I(4) to be necessary to clarify that originating carriers are required to include inter and intralata traffic in transmittals. The PSC considers the Rule to be consistent with the statute and a necessary clarification of the requirements of the statute, and appropriately the basis for rulemaking.

COMMENT 5: Minor wording changes. MTA suggested inserting an additional word to Rule I(4), the word "transmits."

RESPONSE: The PSC agrees that this word was necessary for meaning and has adopted the proposed change.

COMMENT 6: Capitalization of Qwest Corporation. Comments from Qwest and MTA suggested that Qwest Corporation should be capitalized in Rule II(1).

RESPONSE: Per ARM Title 1 requirements, Qwest Corporation cannot be capitalized within rule text.

COMMENT 7: Alternative agreements between carriers for acquiring transit or billing records. Qwest proposed replacing the term "billing records" in Rule II(2) with the term "transit records" to reflect the title of this rule.

RESPONSE: The PSC agrees the rule should reference transit records as well as billing records and has amended the rule accordingly. The PSC disagrees with Qwest's suggestion that the rule reference transit records only as this does not reflect the language in the statute.

COMMENT 8: Proposal of language applicable to network transit traffic usage data. MTA commented that Rule III should be rewritten to require network transit traffic usage data rather than information in the signaling stream as the information that must be passed to the terminating carrier.

RESPONSE: The PSC considers MTA's comment to be a significant substantive change to the Rule. This Rule was proposed after extensive discussion at the two industry roundtables, and the PSC declines to amend it now as MTA requests. If experience and complaints demonstrate that the information the transiting carrier receives in the signaling stream from the originating carrier and then passes along to the terminating carrier is not sufficient to allow the terminating carrier to identify and bill the originating carrier, the PSC may revisit this issue.

COMMENT 9: Financial responsibility for obtaining records. Western Wireless commented that the carrier obtaining the records and using them for financial gain should be responsible for payment of the records.

RESPONSE: The PSC agrees and Rule III remains as drafted to reflect the allocation of payment to the carrier requesting the records.

COMMENT 10: Limiting the number of audits per year. Qwest suggested that while audits may be appropriate, the

number of times per year a carrier may request an audit should be limited to two.

RESPONSE: The PSC agrees that it is reasonable to allow each carrier a maximum of two audits per year, and adopts the proposed language in Rule IV limiting audits to two per year per carrier.

COMMENT 11: Proposed revision to Rule IV to provide a terminating carrier with access to necessary information in order to conduct audits of a transit carrier and to require audits of originating carriers. Qwest proposed revisions to Rule IV to: (1) change the requirement in Rule IV(1) that a transiting carrier ensure that a terminating carrier can verify that transit records it receives reasonably account for all information received by the transit carrier from the originating carrier to a requirement that the transiting carrier must permit the terminating carrier to verify through an audit that the transit records reasonably account for that information; (2) replace the term "transit traffic as defined in [HB 641, section 1, subsection 16] that the transiting carrier delivers to the terminating carrier" with "information the transiting carrier has received from the originating carrier and that the transiting carrier delivers to the terminating carrier"; and (3) add a new subsection to require originating carriers to be subject to audit as well as transiting carriers.

RESPONSE: The revisions proposed by Qwest improve the substance and clarity of the rule and the PSC has amended the rule to reflect Qwest’s comments.

COMMENT 12: Responsibilities of originating carrier. MTA and Qwest commented that the originating carrier is obligated to transmit traffic to the terminating carrier or to the transiting carrier, and suggests a change to what appears to be a typographical error.

RESPONSE: The PSC agrees with this comment, and the language is changed to amend a typographical error, and the second "terminating carrier" in Rule V(1) is changed to read "transiting carrier."

COMMENT 13: Call transaction information requirements. Qwest recommends revising Rule V(2) to delete from the list of required call transaction information the billed to number at (2)(e) and the area code and number prefix at (2)(f).

RESPONSE: The PSC does not agree that the billed to number should be deleted from the list of required call transaction information because this language was the subject of discussion at two industry roundtables prior to formal rulemaking and this was not raised, and because the billed to number is included in Rule I(3) list of call identification

data which mirror the list in this rule. The PSC disagrees with the suggestion that area code and number prefixes are not necessary, but amends the call transaction requirement in Rule V(2) to delete (2)(f) and to revise (2)(b), (c) and (e) to clarify that the calling party number, the called party number and the billed to number all include the area code and number prefix.

COMMENT 14: Addition of "local telecommunications service" to responsibilities of originating carrier. AT&T commented that the responsibilities of originating carriers should be limited by adding the prepositional phrase "of local telecommunications service" in the first sentence of Rule V.

RESPONSE: The PSC does not agree with this proposed change. The limitation suggested by AT&T is inconsistent with Rule I(4) and was not raised by AT&T during the two days of industry roundtables, and consequently was not discussed. Because the change limits the proposed rules and is inconsistent with other rules and the statute, the PSC rejects the addition of this proposed language.

COMMENT 15: Expedited Resolution of Complaints. Qwest commented that the language of this rule should be changed to refer to complaints alleged to be filed under HB 641.

RESPONSE: The PSC considers this additional language unnecessary and therefore does not include it in the rule. The reference to this rule rather than to HB 641 is not substantive and the PSC considers the original language sufficiently clear.

COMMENT 16: Establishing minimum responsibility for terminating carrier. Western Wireless suggests that terminating carriers be required to maintain minimum requirements, set by the commission, to have the capability to send and receive call record data in a common format.

RESPONSE: The PSC does not agree that terminating carriers should be required to implement minimum requirements to interpret call record data. If the terminating carriers wish to implement such technology, to enable them to read information coming from originating and transiting carriers, they are free to do so without a rule. In addition, this requirement would go beyond the bounds of the authorizing statute and is therefore inappropriate. Also, carriers may negotiate any terms they wish under the rules. This comment attempts to change the intent of the statute to imply that the terminating carrier must be obligated to read the information that is passed through to it, regardless of what form it comes in. However, the statute requires originating and transiting carriers to make available information to terminating and transiting carriers, and the rules reflect the statutory language. The PSC therefore does not adopt the proposed rule

submitted by Western Wireless, and follows the mandate of the statute in implementing the rules as originally proposed.

/s/ Bob Rowe
Bob Rowe, Chairman

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

Certified to the Secretary of State on January 5, 2004.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption of new rules I through XXXIX pertaining to elections and repeal of ARM 44.3.1401 and 44.3.1501 through 44.3.1509 pertaining to overseas and military electors	)))))))	NOTICE OF ADOPTION AND REPEAL

TO: All Concerned Persons

1. On November 13, 2003, the Office of the Secretary of State published MAR Notice No. 44-2-123 regarding the public hearing on the proposed adoption and repeal of the above-stated rules at page 2526 of the 2003 Montana Administrative Register, issue number 21.

2. The Secretary of State has adopted new rules I (44.3.2001), III (44.3.2003), IV (44.3.2004), VII (44.3.2011), IX (44.3.2013), X (44.3.2401), XI (44.3.2101), XIII (44.3.2103), XIV (44.3.2104), XVI (44.3.2111), XVII (44.3.2112), XVIII (44.3.2113), XXI (44.3.2201), XXII (44.3.2202), XXIII (44.3.2203), XXIV (44.3.2301), XXVI (44.3.2303), XXIX (44.3.2402), XXXI (44.3.2404), XXXII (44.3.2405), XXXIII (44.3.2406), XXXIV (44.3.2501), XXXV (44.3.2502), XXXVI (44.3.2503), XXXVII (44.3.2504), XXXVIII (44.3.2505) and XXXIX (44.3.2601) exactly as proposed. The Secretary of State has repealed ARM 44.3.1401, 44.3.1501, 44.3.1502, 44.3.1503, 44.3.1504, 44.3.1505, 44.3.1506, 44.3.1507, 44.3.1508, and 44.3.1509 exactly as proposed. The Secretary of State has adopted new rules II (44.3.2002), V (44.3.2005), VI (44.3.2010), VIII (44.3.2012), XII (44.3.2102), XV (44.3.2110), XIX (44.3.2114), XX (44.3.2115), XXV (44.3.2302), XXVII (44.3.2304), XXVIII (44.3.2305), and XXX (44.3.2403) as proposed, but with the following changes, matter to be added is underlined, matter to be deleted is interlined:

II (44.3.2002) DEFINITIONS As used in this subchapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Current address" means ~~Montana~~ residence address or mailing address. For the purposes of this subchapter, an address is presumed to be current unless proved otherwise.

(2) through (6)(b) remain as proposed.

(c) For the purposes of this subchapter, identification is presumed to be current and valid unless proved otherwise. A driver's license or identification card is presumed to be current and valid if it is issued by any motor vehicle agency, regardless of its status. Any other photo identification is sufficient if it includes the name and photo of the individual.

(7) "Notice by the most expedient method available" means notification that shall occur by any of the following, at the discretion of the election administrator:

(a) through (e) remain as proposed.

V (44.3.2005) VOTER REGISTRATION CARD INFORMATION REQUIREMENTS (1) through (2)(c) remain as proposed.

(3) An applicant for voter registration who does not provide the applicant's driver's license number, the last four digits of the applicant's social security number, or a form of identification required in [New Rule II~~(4)~~(6)], shall be registered as a provisionally registered elector pending receipt and verification of one of the required numbers or receipt of a form of identification required.

(4) remains as proposed.

VI (44.3.2010) APPLICANTS INELIGIBLE DUE TO AGE OR RESIDENCE REQUIREMENTS (1) An applicant for voter registration who is not eligible to register because of residence or age requirements, but who will be eligible on or before election day, may apply for voter registration pursuant to 13-2-110, MCA. An election official shall register the applicant as a provisionally registered elector.

(2) The election administrator shall change the status of a provisionally registered elector under this rule to the status of a legally registered elector at the time when the elector becomes eligible, without requiring any additional information from the elector.

VIII (44.3.2012) VERIFICATION OF VOTER REGISTRATION INFORMATION (1) remains as proposed.

(2) Throughout the election process, an election administrator shall, as necessary, work in conjunction with the office of the secretary of state, the motor vehicle~~s~~ division, ~~and~~ the social security administration and any additional agencies ~~necessary~~ to ensure the verification of the accuracy of the information provided in [New Rule VII].

XII (44.3.2102) DEFINITIONS As used in this subchapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Current address" means ~~Montana~~ residence address, ~~or~~ mailing address~~.~~, or the precinct number that is preprinted on the voter confirmation notice issued pursuant to 13-2-207, MCA. For the purposes of this subchapter, an address is presumed to be current unless proved otherwise.

(2) through (6)(b) remain as proposed.

(c) For the purposes of this subchapter, identification is presumed to be current and valid unless proved otherwise. A driver's license or identification card is presumed to be current and valid if it is issued by any motor vehicle agency, regardless of its status. Any other photo identification is sufficient if it includes the name and photo of the individual.

(7) "Notice by the most expedient method available" means notification that shall occur by any of the following, at the discretion of the election administrator:

(a) through (8) remain as proposed.

(a) requires an elector to provide the elector's current Montana residential address, current mailing address, signature, date of birth, and date;

(b) requires an elector to provide the elector's Montana driver's license number or Montana state identification number or, only if verification is available, the last four digits of the elector's social security number; and

(c) through (9)(a) remain as proposed.

XV (44.3.2110) PROCEDURES AT THE POLLING PLACE FOR DETERMINING THE SUFFICIENCY OF IDENTIFICATION – PRIOR TO CASTING A BALLOT (1) through (3)(c) remain as proposed.

(4) Consistent with 13-13-114(3) and (4), MCA, if the elector is not able to sign the elector's name to the precinct register, a fingerprint or other identifying mark may be used. If the elector fails or refuses to sign the elector's name or, if unable to write, fails to provide a fingerprint or other identifying mark, the elector may cast a provisional ballot as provided in 13-13-601, MCA, and these rules.

XIX (44.3.2114) PROVISIONAL VOTING PROCEDURES ON ELECTION DAY AFTER THE CLOSE OF POLLS - THE SIXTH DAY AFTER ELECTION DAY

(1) through (6)(b) remain as proposed.

(c) remove the provisional ballot secrecy envelope, which must be opened to remove the provisional ballot ~~secrecy envelope, which must not be opened until the ballot is counted~~, and which must then be grouped with other ballots in a manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other ballot under (7); and

(d) through (8) remain as proposed.

(9) After the completion of the count of provisional ballots, election officials must ~~ensure that the reasons for counting or not counting provisional ballots are not released without a court order and that the names of electors who cast provisional ballots are not released without a court order if there are 10 or less electors who cast provisional ballots which were counted in a precinct~~ assure the secrecy of the ballots. An election administrator shall not release any information regarding any ballot, including provisionally cast ballots, if that information will result in any person being able to determine how an elector voted on any race or issue on the ballot.

XX (44.3.2115) PROVISIONAL VOTING PROCEDURES – AFTER FINAL DETERMINATION WHETHER OR NOT TO COUNT PROVISIONAL BALLOTS

(1) remains as proposed.

(a) open the verified provisional ballot container, record on the provisional ballot outer envelope the reason(s) for counting the verified provisional ballots, and seal the verified

provisional ballot container, which shall not be opened without a court order; and

(b) open the unverified provisional ballot container, and mark on each provisional ballot outer envelope that the elector's vote was not counted, and the reason why not, and all other applicable information~~.~~, and seal the unverified provisional ballot container, which shall not be opened without a court order.

~~(c)~~(2) ~~election~~ Election officials or election workers shall notify each elector who cast a provisional ballot, by the most expedient means possible, whether or not the elector's vote was counted, and the reason(s) why or why not~~; and~~.

~~(d) seal the unverified provisional ballot container, which shall not be opened without a court order.~~

XXV (44.3.2302) DEFINITIONS As used in this subchapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) remains as proposed.

(a) includes the elector's preprinted name and preprinted address;

(b) ~~requires~~ asks but does not require an elector to provide the elector's Montana driver's license number or Montana state identification number or the last four digits of the elector's social security number, and states that if the elector does not have any of the above, the elector may enclose in the outer return envelope a copy of the elector's photo identification showing the elector's name, including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification, and that if the elector does not enclose a photo identification, the elector may enclose a copy of a current utility bill, bank statement, paycheck, notice of confirmation of voter registration, government check, or other government document that shows ~~your~~ the elector's name and current address; and

~~(b)~~(c) if sufficient, is permitted to be used by an absentee or mail ballot elector as a government document meeting the requirements of identification under ~~(6);~~(7).

~~(c) may be the same as the voter registration confirmation notice specified under 13-2-207, MCA, with the addition of the requirement under (1)(a).~~

(2) "Current address" means ~~Montana~~ residence address~~,~~ ~~or~~ mailing address~~.~~, or the precinct number that is preprinted on the voter confirmation notice issued pursuant to 13-2-207, MCA. For the purposes of this subchapter, an address is presumed to be current unless proved otherwise.

(3) "Driver's license number" means a number provided by the Montana motor vehicle division on either a Montana motor vehicle division driver's license or a Montana motor vehicle division identification card.

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

(a) and (b) remain as proposed.

(c) For the purposes of this subchapter, identification is presumed to be current and valid unless proved otherwise. A driver's license or identification card is presumed to be current and valid if it is issued by any motor vehicle agency, regardless of its status. Any other photo identification is sufficient if it includes the name and photo of the individual.

~~(7)~~(8) "Notice by the most expedient method available" means notification that shall occur by any of the following, at the discretion of the election administrator:

(a) through (e) remain as proposed.

XXVII (44.3.2304) PROCEDURES FOR ABSENTEE AND MAIL BALLOT VOTING – DETERMINING THE SUFFICIENCY OF IDENTIFICATION

(1) After completion of the signature verification procedures in 13-13-241~~,~~ or 13-19-309, MCA, as applicable, the election administrator shall determine prior to an election whether an absentee or mail ballot elector has provided sufficient identification defined in [New Rule XXV~~(6)~~(7)] to allow a ballot to be counted:

(a) through (a)(v) remain as proposed.

(b) Upon receipt of the absentee or mail ballot elector identification form, the election administrator shall accept as sufficient this properly completed form as one of the forms of required identification defined in [New Rule XXV~~(6)~~(7)].

(c) If the absentee or mail ballot elector identification form or other form of identification provided in [New Rule XXV~~(6)~~(7)] is sufficient, an election official or election worker shall mark on the absentee or mail ballot outer return envelope that sufficient identification was provided by the elector.

(d) remains as proposed.

XXVIII (44.3.2305) PROCEDURES FOR ABSENTEE AND MAIL BALLOT VOTING – PRINTING ERROR OR BALLOT DESTROYED – FAILURE TO RECEIVE BALLOT (1) Consistent with 13-13-204(2), MCA, if an elector does not receive an absentee ballot or if the absentee ballot was destroyed, the elector may appear at the appropriate polling place on election day and vote in person after signing an affidavit, in the form prescribed by the secretary of state, swearing that the elector's ballot has not been received or was destroyed, and must provide a form of identification defined in [New Rule XXV~~(6)~~(7)]. The ballot must be handled as a provisional ballot under 13-15-107, MCA, and these rules, ~~subject to determination whether the ballot was voted wrongfully or illegally.~~ and will be counted unless the election administrator determines that the elector has already voted.

(2) remains as proposed.

(3) An election administrator shall follow 13-19-305 and 13-19-313, MCA, in regard to replacement ballots, signature verification, and procedural mistakes for mail ballot voting, and shall require that the elector provide a form of identification defined in [New Rule XXV~~(6)~~(7)]. The ballot must be handled as a provisional ballot under 13-15-107, MCA, and

these rules, subject to a determination of whether the elector ~~attempted to vote more than once.~~ has already voted.

(4) remains as proposed.

XXX (44.3.2403) DETERMINING A VALID WRITE-IN VOTE IN MANUALLY COUNTING AND RECOUNTING PAPER AND OPTI-SCAN BALLOTS

(1) and (1)(a) remain as proposed.

(b) a printed candidate is selected by marking of the designated voting area, and no name is written in, but the designated write-in voting area is marked. The election official shall count this as ~~an overvote~~ a vote for the printed candidate;

(c) a printed candidate is selected by marking of the designated voting area, ~~and~~ any name~~, including, but not limited to, that candidate,~~ is written in and the designated write-in voting area is marked. ~~The election official shall count this as an overvote;~~ If the name written in is different from the name of the printed candidate selected, the election official shall count this as an overvote. If the name written in is the same as the name of the printed candidate selected, the election official shall count this as a vote for the printed candidate selected.

(d) and (e) remain as proposed.

~~(f) the designated voting area for a printed candidate is marked, a comment is written in, and the corresponding designated write-in voting area is marked. The election official shall count this as an overvote;~~

~~(g)~~(f) the designated voting area for a printed candidate is marked, a comment is written in, and the corresponding designated write-in voting area is or is not marked. The election official shall count this as a vote ~~for the marked designated voting area~~ for the printed candidate, unless the comment creates uncertainty about who the choice is or directs the election official not to count the vote for the printed candidate selected. In the latter case, the election official shall count this as an undervote.

3. The Secretary of State has thoroughly considered all of the comments received. The following comments were received and appear with the Secretary of State's responses:

New Rule II(7)

Comment No. 1: A commentor suggested that in the definition stating that "'notice by the most expedient method available' means notification by any of the following, at the discretion of the election administrator," the phrase "at the discretion of the election administrator" should be removed and replaced with "in any of the following methods which are technologically compatible with the local election office" followed by a list of those methods.

Response: The commentor appeared to be concerned about the possibility that the phrase "at the discretion of the election administrator" in the Voter Registration section of the rules

could be interpreted to indicate that the election administrator had the option to not send notice. Since the rule is meant to be read so that only the method of providing the notice is at the discretion of the election administrator, the rule has been amended to reflect this clarification.

New Rule V(2)(b)

Comment No. 2: A commentor suggested that the use of the word "shall" is unnecessary since it is mentioned in Rule V(2).

Response: The commentor may have been referring to an earlier draft of the rules, since within Rule V(2) and its subsections there is only one use of the word "shall." Therefore, this rule has not been amended.

New Rule V(3)

Comment No. 3: A commentor suggested that there is an incorrect reference to a portion of the law that needs to be corrected.

Response: This rule has been changed to reflect that the reference to "[New Rule II(4)]" should be a reference to "[New Rule II(6)]."

New Rule VI

Comment No. 4: A commentor expressed concern that this rule is not clear that people who are not 18 at the time of registration, but who will be 18 on election day, will be registered provisionally until the time they turn 18 and will automatically at that time become legally registered without any additional action.

Response: This rule was intended to be read so that the election administrator will automatically legally register these provisionally registered electors as long as they are 18 by election day. This rule has been rewritten to more clearly reflect this intention.

New Rule VIII(2)

Comment No. 5: A commentor stated that due to the difficulty of verifying the numbers on the polling place elector identification form on election day, the commentor would suggest that the county obtain an electronic version of the Motor Vehicle Division lists for use within the county.

Response: This rule is intended to provide a basic framework for the process by which election administrators will verify accuracy of information provided on the voter registration card. At this time, agreements are pending between the agencies mentioned in the rule. As the methods and systems are developed for verification, these may as necessary be placed into rule form.

Minor amendments to this rule have been made to reflect the correct name of the Motor Vehicle Division and to clarify that

election administrators may work with additional agencies as necessary.

New Rule XII

Comment No. 6: Many commentors expressed support for the polling place elector identification form. No comments expressed a lack of support for the form.

Response: This rule was implemented based on input from election administrators, the general public, and staff from interested organizations, and is consistent with legislative intent.

The Social Security Administration has informed states that verification of the Social Security number will not be available until at least August 2004, and the Department of Justice will not have this information integrated into their system. Therefore, electors will likely not, until elections at least after August 2004, have the option to provide the last four digits of this number on the polling place elector identification form. The rules as amended reflect that an elector will be allowed to provide the elector's Social Security number on the polling place elector identification form only if verification is available.

New Rule XII(3)

Comment No. 7: A commentor stated that the use of the term "election official" could be confusing and that the term "election administrator" as defined in Title 13, MCA, should be included in the rules.

Response: The Secretary of State declines to include the definition. The rules were not intended to restate the laws except to clarify processes within the laws. The term "election administrator" is already defined in statute.

New Rule XII(7)

Comment No. 8: A commentor suggested that in the definition stating that "'notice by the most expedient method available' means notification by any of the following, at the discretion of the election administrator," the phrase "at the discretion of the election administrator" should be removed and replaced with "in any of the following methods which are technologically compatible with the local election office" followed by a list of those methods.

Response: The commentor appeared to be concerned about the possibility that the phrase "at the discretion of the election administrator" in the Voter Identification and Provisional Voting section of the rules could be interpreted to indicate that the election administrator had the option to not send notice. Since this rule is meant to be read so that only the method of providing the notice is at the discretion of the election administrator, the rule has been amended to reflect this clarification.

New Rule XII(8)

Comment No. 9: One commentor from the Motor Vehicle Division expressed that it would be easier to return a matching record if electors were to provide their date of birth in addition to the other items on the polling place elector identification form.

Response: The Office does not see the date of birth as a burdensome requirement on an elector, especially if it is helpful in ensuring that the other number given by the elector is more clearly matched. This rule has been amended to reflect this additional requirement.

New Rule XVI(3)

Comment No. 10: A commentor mentioned that this section, which refers to how to handle an elector's inability to sign a precinct register, should also apply to XV(3)(c), which includes a reference to an elector signing the precinct register.

Response: The Office does not see this as a problem since it would ensure consistency. Rule XV(4) has been added to include this subsection on inability to sign a precinct register.

New Rule XIX(2)

Comment No. 11: Commentors wrote to oppose this rule which states that "All information regarding electors who have chosen to cast provisional ballots shall remain private at all times prior to and during the counting of provisional ballots and shall not be released prior to and during the counting period without a court order." Commentors stated that while the contents of the ballot must be kept confidential, the records of the names of electors and the means they used to vote have long been treated as public documents. Knowing these names, in a timely fashion, would assist these voters in having their ballots counted and in preventing fraud. One commentor stated that the names of electors are already announced and the poll books are available so it would not be difficult to determine which electors vote provisionally.

Response: The Montana Constitution, Article II, Section 10, states that "the right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest." More specifically, Article IV, Section 1 states that "All elections by the people shall be by secret ballot."

The release of information about electors who vote provisionally, during the period between when provisional ballots are being voted and the date, six days after the election, of the determination whether or not to count these ballots, could result in the loss of the secrecy of those electors' ballots.

For instance, if there are five provisional ballots voted in a precinct, the election administrator will not know until

the sixth day after the election whether those ballots are counted. If all five of them are counted, and the totals go up by five for any candidate or issue, the prior release of the names of those electors who voted provisionally will result in the loss of the secrecy of their ballots on that candidate or issue.

Since there is no way to determine, until the sixth day following the election, whether electors who voted provisionally will have their ballots counted, there is no way to guarantee the secrecy of their ballots if their names and provisional ballot information are released before the determination is made whether or not to count the ballots.

The rule has therefore not been amended.

New Rule XIX(6)(c)

Comment No. 12: A commentor mentioned that the second use of the term "provisional ballot secrecy envelope" should refer instead to the "provisional ballot".

Response: This is a valid suggestion and the rule has been amended to reflect this change.

New Rule XIX(9)

Comment No. 13: A number of commentors stated that the need for public scrutiny of the provisional ballot process should result in the reasons for counting or not counting provisional ballots being made public. Several commentors indicated that the names of provisional electors should also be made public. Knowing this information would help organizations to find these individuals and assist them in ensuring their provisional ballots are counted. One commentor stated that the names of electors are already announced and the poll books are available so it would not be difficult to determine which electors vote provisionally.

Response: After considering the comments, the Office has amended the rule in such a manner that should assure the secrecy of the ballots cast, while not prohibiting the release of provisional voting information in all instances. The rule will now reflect the following:

"After the completion of the count of provisional ballots, election officials must assure the secrecy of the ballots. An election administrator shall not release any information regarding any ballot, including provisionally cast ballots, if that information will result in any person being able to determine how an elector voted on any race or issue on the ballot."

New Rule XX(1)

Comment No. 14: A commentor mentioned that there is a reference to duties of election officials, but that the reference is changed in (1)(c) to "election officials or election workers" in such a way that does not fit with the

language of (1). The commentor suggested either removing the reference to "election officials or election workers" or clarifying that the duties of these individuals are meant to be separate by placing (1)(c) in a separate section (2).

Response: This is a valid suggestion and the applicable rule has been amended with a separate section (2) to reflect this change.

New Rule XXIII

Comment No. 15: A number of commentors expressed support for the ability of third parties to adapt the state's standard absentee ballot application for their own mailings. They hoped that the rule was written in such a way as to allow for these adapted applications, and expressed concern about the use of the sentence in the rule requiring that an elector "may apply for an absentee ballot, using only a standardized form." One commentor expressed concern that the rule could be read so that an elector would be required to write out the entire text of the application for an absentee ballot.

Response: Section 13-13-212(1), MCA, states that an elector "may apply for an absentee ballot, using only a standardized form. . . ." Rule XXIII(1) includes the wording of this law to show that the rule is consistent with the law, but Rule XXIII(2) indicates that the standardized form includes certain minimum required items, and that as long as these required items are included, the application is sufficient and should be accepted. The rule has not been amended.

New Rule XXV

Comment No. 16: Many commentors expressed support for the absentee/mail ballot elector identification form. No comments expressed a lack of support for the form. One commentor expressed concern that in the definitions section there was no definition of a driver's license number, despite the definition appearing in other sections of the rules.

Response: This rule was implemented based on input from election administrators, the general public, and staff from interested organizations, and is consistent with legislative intent. The rule has been amended to include the definition of a driver's license number.

The rule on the absentee/mail ballot elector identification form has been clarified to specify that since the absentee and mail ballot elector identification forms will include the elector's preprinted name and current address, thus making them a government document with the elector's name and current address, these forms will continue to ask the elector to provide the last four digits of the elector's Social Security number, as well as the elector's driver's license number or state identification number as defined in the rules, but neither number will be required and the election administrator will not be required to verify either number as a condition of accepting the form as required identification. The number provided will

be used in the creation of the statewide voter database or as a means to verify an elector's identity.

New Rule XXV

Comment No. 17: A commentor suggested that in the definition stating that "'notice by the most expedient method available' means notification by any of the following, at the discretion of the election administrator," the phrase "at the discretion of the election administrator" should be removed and replaced with "in any of the following methods which are technologically compatible with the local election office" followed by a list of those methods.

Response: The commentor appeared to be concerned about the possibility that the phrase "at the discretion of the election administrator" in the Voter Identification and Provisional Voting by Absentee and Mail Ballot section of the rules could be interpreted to indicate that the election administrator had the option to not send notice. Since the rule is meant to be read so that only the method of providing the notice is at the discretion of the election administrator, the rule has been amended to reflect this clarification.

New Rule XXVIII

Comment No. 18: A commentor expressed concern about this rule regarding an elector signing an affidavit stating that the elector's absentee ballot was lost or destroyed. The concern is that the rule is not clear that the obligation to verify eligibility to vote should rest with the elections office, since the elector would find it difficult to prove that a document was lost or destroyed.

Response: The rule has been rewritten to specify that the ballot will be counted unless the election administrator determines that the elector has already voted.

New Rule XXX

Comment No. 19: Two commentors stated that they were concerned with the following: Rule XXX(1)(b) provides an example in which: "A printed candidate is selected by marking of the designated voting area, and no name is written in, but the designated write-in voting area is marked. The election official shall count this as an overvote," and Rule XXX(1)(c), which provides an example in which "A printed candidate is selected by marking of the designated voting area, and any name, including, but not limited to, that candidate, is written in and the designated write-in voting area is marked. The election official shall count this as an overvote." The concern is that in these instances the voter's intent was clear, so to count their vote as an overvote would ignore their choice.

Response: In response to these comments, the office has amended Rule XXX(1)(b) and (c), removed (f), and amended (g). Rule XXX(1)(b) has been amended to state that in the example

provided the election official shall count a vote for the printed candidate.

Rule XXX(1)(c) has been amended to state that "a printed candidate is selected by marking of the designated voting area, any name is written in and the designated write-in voting area is marked. If the name written in is different from the name of the printed candidate selected, the election official shall count this as an overvote. If the name written in is the same as the name of the printed candidate selected, the election official shall count this as a vote for the printed candidate selected."

Consistent with these amendments and with Rule XXX(1)(g), (1)(f) has been removed and (1)(g) has been renumbered as (f) and amended to state that "the designated voting area for a printed candidate is marked, a comment is written in, and the corresponding designated write-in voting area is or is not marked. The election official shall count this as a vote for the printed candidate, unless the comment creates uncertainty about who the choice is or directs the election official not to count the vote for the printed candidate selected. In the latter case, the election official shall count this as an undervote."

New Rule XXXIV(1)(c)

Comment No. 20: A number of comments were received noting that while the United States Electors section of the rules states that these electors should receive absentee ballots as soon as they are available, there is no such provision indicating that election administrators should attempt to provide them to all electors prior to the thirty-day deadline, if available.

Response: Since the law, under Section 13-13-214, MCA, already specifies that the absentee ballots of regular electors shall be mailed "immediately" as soon as they are printed, it is not necessary to provide a separate section of the rules to indicate this. To do so would be to unnecessarily rewrite the laws into the rules. The rules have therefore not been amended.

Miscellaneous Comments

Comment No. 21: A number of commentors requested that the state change the voter registration card to list, possibly on the back of the card, the acceptable forms of identification for electors if they do not have a driver's license number or Social Security number. They indicated that this would further assist electors in determining what they would need to provide. They also asked that third parties be permitted to adapt the card for use in their own mailings.

Response: The suggestion to list acceptable identification will be implemented with the next printing of the voter registration cards by the office of the Secretary of State, and election administrators will be notified of the change. The rules do not currently prohibit this suggested change, or the

modification of the cards by third parties and therefore the rules have not been amended.

Comment No. 22: A number of commentors requested that the Secretary of State provide data about the numbers and locations of provisionally registered electors, the reasons for registering them provisionally, and the ultimate disposition of provisionally registered applicants, the numbers of individuals who did not have sufficient identification and who left the polling place without voting, the numbers and locations of people submitting either the polling place identification form or the absentee ballot elector identification form, individuals who voted provisionally, the number of votes counted and not counted, races decided by verified provisional votes, comments and complaints filed with the Secretary of State's office and local election officials, comparative evidence about the number of absentee ballot requests in past elections as compared to in 2004, anecdotal information about compliance with the new laws, and other details about the election. One commentor requested that election administrators monitor and summarize the use of absentee ballots: total numbers and locations of electors voting by mail, types of identification provided, numbers of absentee voters casting provisional ballots, and disposition of the provisionally cast ballots.

Response: While the law does not require the collection of this information, the Office believes it is appropriate to collect information from county election administrators regarding the conduct of elections. The Secretary of State's office intends to collect information that will provide a statewide perspective.

Comment No. 23: A commentor stated that the rules do not address the status of currently registered voters. Although the commentor's understanding is that the election administrator would try to contact the Motor Vehicle Division and/or Social Security Administration to obtain the electors' unique identifier numbers, this is not addressed in the rules.

Response: Until the agreements are adopted between the Department of Justice and the Social Security Administration, as well as between the Office of the Secretary of State and the Department of Justice, and a vendor is selected for the voter registration database, the confirmation of currently registered electors cannot occur. Therefore, pending these agreements and vendor selection, the status of these electors will not be affected due to the lack of confirmation capability. As the agreements are reached and the vendor is selected, additional rules will address the issue of currently registered electors. All efforts will be made at that time to ensure that confirmations of currently registered electors are accurate.

Comment No. 24: A commentor stated that the rules refer to "current" identification and "current address" but the lack of a definition of "current" could lead to differing interpretations by election officials. Another commentor indicated that a

reasonable standard might be to define "current" in the rules as current within 60 days. This commentor also indicated that the use of "valid" in the rules in reference to driver's licenses should be defined carefully since an elector could have a driver's license that is suspended and therefore in a sense not valid, but which would still be useful as a photo identification under the rules.

Response: The rules have been amended to state that any materials provided under the rules are presumed to be current and valid unless proved otherwise, and that a driver's license or state identification card will be presumed current and valid if issued by any motor vehicle agency, regardless of its status. Any other photo identification is sufficient if it includes the name and photo of the individual.

Also, the rules have been amended to reflect that when a voter registration confirmation notice is used as identification, the preprinted precinct number that appears on the card will be sufficient to meet the "current address" requirement for identification.

Comment No. 25: A commentor suggested that the rules be written to allow the voter registration card signature on file in the election administrator's office to serve as a final means of confirming the identity of an elector, since the registration card is a government document.

Response: At several places in the rules, a person who wishes to vote but who is unable to produce the specified forms of identification is given the opportunity to provide identification in the form of a government issued document showing the elector's name and current address. The commentor suggests that the voter registration card serve as such a government issued document and that election administrators be allowed to use the signature on these cards as a means of confirming a person's identity.

An allowance this specific has not been mandated by the Legislature. While the form may be printed by the government, the information on the card, especially the signature, is created by the person seeking registration. There would be no independent confirmation process as is contemplated by the law.

The voter registration card is similar to a letter from the applicant for voter registration to the election administrator, a letter that does not necessarily become a government document just because it is received by the election administrator. The rules have, therefore, not been amended to include this option.

Comment No. 26: A commentor noted that the rules allow the use of a Montana driver's license number or Montana state identification number or the last four digits of the elector's Social Security number on the elector identification form. The rules do not address which of these three numbers must be used by the elector to confirm the elector's identity. Voters who provided a certain number at the time of registration may not remember which number they used, if and when they fill out an elector identification form.

Response: The number used on the polling place elector identification form does not have to match the number on the voter registration card; the election administrator will verify the Motor Vehicle Division number or the Social Security number (if able to verified by the Social Security Administration) through a match with either agency, and not necessarily from the number provided by the elector on the voter registration card.

Significantly, Social Security Administration officials have indicated that they will not have the matching capability available to states until at the earliest August 2004. The rules on the absentee/mail ballot elector identification form have therefore been clarified to specify that since the absentee and mail ballot elector identification forms will include the elector's preprinted name and current address, thus making them a government document with the elector's current name and address, these forms will continue to ask the elector to provide the last four digits of the elector's Social Security number, as well as the elector's driver's license number as defined in the rules, but neither number will be required and the election administrator will not be required to verify either number as a condition of accepting the form as required identification.

Comment No. 27: One commentor stated that the rules do not address safeguards for the use of Direct Recording Electronic (DRE) systems. Rules should require a paper ballot receipt to be used in recounts.

Response: DRE use is not addressed in these rules due to the wide variety of DRE systems available. Until a single system is selected through the state's procurement process, rules cannot sufficiently address all of the possibilities for the system that is eventually chosen by the state for implementation in the counties. When a system is selected, rules can be written regarding the DRE requirements. The Office is aware of the security concerns about the use of DREs and will select a secure system. Federal law does not require the use of DREs until 2006 and state law is silent on the use of these machines.

Comment No. 28: A commentor suggested that election administrators be allowed to verify Social Security numbers by searching the records in their offices.

Response: Since this could lead to disparate results from county to county based on the availability and reliability of the Social Security numbers on file in each county, the rules will not specifically allow for this option.

SECRETARY OF STATE

/s/ Bob Brown
BOB BROWN
Secretary of State

/s/ Janice Doggett
JANICE DOGGETT
Rule Reviewer

Certified to the Secretary of State, January 5, 2004.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee:

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

Education and Local Government Interim Committee:

- State Board of Education;
- Board of Public Education;
- Board of Regents of Higher Education; and
- Office of Public Instruction.

Children, Families, Health, and Human Services Interim Committee:

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration, and Veterans' Affairs Interim Committee:

- Department of Administration;
- Department of Military Affairs; and
- Office of the Secretary of State.

Environmental Quality Council:

- Department of Environmental Quality;
- Department of Fish, Wildlife, and Parks; and
- Department of Natural Resources and Conservation.

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is PO Box 201706, Helena, MT 59620-1706.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions: Administrative Rules of Montana (ARM) is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR) is a soft back, bound publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the attorney general (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding register.

Use of the Administrative Rules of Montana (ARM):

Known Subject	1. Consult ARM topical index. Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued.
Statute Number and Department	2. Go to cross reference table at end of each title which lists MCA section numbers and corresponding ARM rule numbers.

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through September 30, 2003. This table includes those rules adopted during the period October 1, 2003 through December 31, 2003 and any proposed rule action that was pending during the past six-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through September 30, 2003, 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 2002 and 2003 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.

GENERAL PROVISIONS, Title 1

1.2.419 Scheduled Dates for the Montana Administrative Register, p. 2267, 2632

ADMINISTRATION, Department of, Title 2

I & II Do-Not-Call List, p. 2015, 2847
I-VII State of Montana Voluntary Employees' Beneficiary Association Health Benefit Plan, p. 1703
2.4.406 Roster of Independent Auditors Authorized to Conduct Audits of Local Government Entities, p. 1572, 2076
2.12.101 and other rules - Implementation of the Montana Information Technology Act, p. 1821, 2417
2.21.3603 and other rules - Veterans' Employment Preference Policy, p. 1699, 2077
2.21.3704 and other rules - Recruitment and Selection - Reduction in Work Force, p. 859, 1531
2.59.307 and other rule - Examination Fees for Consumer Loan Businesses - Dollar Amounts to Which Consumer Loan Rates are to be Applied, p. 1147, 1802

(Public Employees' Retirement Board)
2.43.404 and other rules - Membership Options for Officials Elected to Positions Covered by the Public Employees' Retirement System and the Reporting of Those Officials by Their Employers, p. 1420, 1981

6.6.1610 and other rules - Collection in Advance of Fees for a Public Adjuster's License and Examination - Certification Requirements for Licensees and Limit on Credit for Courses Repeated - Extensions of Time for Course Completions, p. 2488, 2849
6.6.2203 Rebates and Inducements, p. 1435, 2752
6.6.3504 Contents of an Annual Audited Financial Report, p. 2578
6.10.126 Unethical Practices by Broker-Dealers and Salesmen Defined, p. 273, 1078
6.10.140 and other rules - Minimum Financial Requirements for Investment Advisers - Bonding Requirements for Certain Investment Advisers - Custody of Client Funds or Securities by Investment Advisers - Custody of Notice Filings for Offerings of Federal Covered Securities, p. 1427, 2850

COMMERCE, Department of, Title 8

8.2.102 and other rules - Model Rules Exceptions of the Board of Milk Control and State Banking Board, p. 2673
8.99.401 and other rules - Definitions Concerning Microbusiness Development Corporations - Job Investment Act - Science and Technology Development, p. 2792

(Community Development Division)
I Administration of the 2004-2005 Federal Community Development Block Grant (CDBG) Program, p. 2158, 2852
I Submission and Review of Applications to the Treasure State Endowment Program (TSEP), p. 1713, 2422
I Administration of Projects Funded by the Treasure State Endowment Program (TSEP), p. 1581, 2270

(Business Resources Division)
I-VI Certified Regional Development Corporation Program (CRDC), p. 1829, 2425

EDUCATION, Title 10

(Office of Public Instruction)
10.13.307 and other rule - Traffic Education, p. 1152, 1627

(Board of Public Education)
10.55.602 Definition of Combined School District, p. 1715, 2080
10.57.420 Reinstatement and Renewal of Class 4 Career and Vocational/Technical Educator Licenses, p. 1717, 2081

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

12.10.103 and other rules - Shooting Range Development Grants, p. 1217, 1986

(Fish, Wildlife, and Parks Commission)
I Emergency Adoption - Closing Placid Lake, p. 1874, 1877
I Emergency Adoption - Closing Nevada Lake, p. 1878, 1881
I Emergency Adoption - Painted Rocks Reservoir Closure, p. 1189, 1534
I Variable Priced Outfitter Sponsored B-10 and B-11 Licenses, p. 686, 1628
12.9.203 Abandonment of the Green Meadow Game Preserve, p. 1224, 2082
12.11.501 and other rules - No Wake Zone Adjacent to Yellow Bay on Flathead Lake, p. 2676
12.11.501 and other rules - Recreational Water Use, p. 1583, 2622, 2854
12.11.640 No Wake Zone on the Swan River, p. 2348, 2679

(Department of Fish, Wildlife, and Parks and the Fish, Wildlife, and Parks Commission)
12.9.211 Teton-Spring Creek Bird Preserve, p. 1592

GOVERNOR, Title 14

(Office of Economic Development)
I-VI Grant Review Committee - Primary Sector Business Workforce Training Act, p. 2161, 2855

ENVIRONMENTAL QUALITY, Department of, Title 17

17.36.340 Subdivisions - Minimum Lot Size Requirements for Subdivisions, p. 1257, 1804
17.50.802 and other rules - Septage Cleaning and Disposal - Cesspool, Septic Tank and Privy Cleaners, p. 2350
17.56.101 and other rules - Underground Storage Tanks - Issuance of Compliance Tags and Certificates, p. 2167, 2759
17.56.101 and other rules - Underground Storage Tanks - Petroleum Storage Tank Release Compensation, p. 513, 1079
17.74.401 and other rules - Asbestos - Fees for Asbestos Project Permits - Accreditation and Renewal of Accreditation in an Asbestos-Related Occupation - Approval of Training Courses Offered for Accreditation - Audits of Training Courses and Refresher Courses - Penalties, p. 1595, 2624

(Board of Environmental Review)

17.8.102 and other rules - Air Quality - Incorporation by Reference of Current Federal Regulations and Other Materials into Air Quality Rules, p. 2801

17.8.501 and other rules - Air Quality - Definitions - Permit Application Fees - Operation Fees - Application/ Operation Fee Assessment Appeal Procedures - Open Burning Fees, p. 1242, 2271

17.8.749 and other rules - Air Quality - Conditions for Issuance or Denial of Permits - Review of Permit Applications - Revocation of Permits - Administrative Amendment to Permits, p. 1252, 2272

17.8.1213 Air Quality - Requirements for Air Quality Operating Permit Content Relating to Compliance, p. 2187, 2856

17.24.201 and other rules - Opencut Mining, p. 2190

17.30.502 and other rules - Water Quality - Water Use Classifications - Department Circular WQB-7, p. 2808

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 - Informational Requirements for Nondegradation Significance/Authorization Review - Nonsignificance Criteria, p. 2269, 3489, 779, 1274

17.30.716 Water Quality - Categories of Activities that Cause Non-significant Changes in Water Quality, p. 1233, 2274

17.38.101 and other rules - Public Water Supply and Wastewater System Requirements - Ground Water under the Direct Influence of Surface Water Determinations, p. 622, 1279, 1630

17.38.602 and other rule - Public Water and Sewage System Requirements - Definitions - Enforcement Procedures, p. 1227, 2291

17.50.401 and other rules - Solid Waste Fees, p. 1720, 2857

CORRECTIONS, Department of, Title 20

I-V Collection of Restitution from Felony Offenders, p. 1737, 2432

JUSTICE, Department of, Title 23

23.5.101 and other rules - Incorporate Amendments to Federal Regulations Pertaining to Motor Vehicle Standards Previously Incorporated by Reference in Current Rules - General Revisions to Clarify Scope of Rules, p. 2816

23.6.101 and other rules - Definitions - Classification of Tow Truck Equipment - Establishment of the Tow Truck Complaint Resolution Committee - Establishment of the Procedures Governing the Committee - Clarification of the Rules Governing the State Rotation System, p. 2019, 2628

23.16.102 and other rules - Multi-Game Video Gambling Machine Approval - Software Specifications for Video Multi-Game Machines - Automated Accounting and Reporting System - Video Gambling Machine Hardware and Software Specifications - Daily Pot Raffles - Definitions - Requirements for Permitting and Fees - Software Specifications for Multi-Game Video Gambling Machines - Fingerprinting Requirements, p. 1601, 1989

23.16.120 and other rules - Determination of Annual Permit Surcharge - Change in Designation of Number of Machines for Annual Permit Surcharge - Implementation of the Video Gambling Machine Permit Fee Surcharge - Regulation of Gambling, p. 874, 1282

LABOR AND INDUSTRY, Department of, Title 24

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

I Interpreting Legislative Changes to Statutes that Regulate Local Building Code Enforcement Programs, p. 1449, 1991

24.16.7506 and other rule - Wage Claims Mediation, p. 1944, 2433

24.17.127 Prevailing Wage Rates - Non-construction Services - Heavy and Highway Construction Services, p. 2371, 2867

24.17.127 Adoption of Standard Prevailing Wage Rates - Building Construction Services, p. 1155, 1631

24.17.144 and other rule - Obligations of Public Contracting Agencies, Employers, and Contractors, p. 2367, 2869

24.29.902 and other rules - Workers' Compensation Assessments, p. 2681

24.29.1526 Disallowed Medical Procedures for Workers' Compensation Purposes, p. 1617, 2870

24.29.2831 Collection of Payments and Penalties from Uninsured Employers, p. 1838, 2296

24.29.3802 Hourly Attorney Fee Rates, p. 2374

24.29.4301 and other rules - Reporting of Workers' Compensation Data, p. 1768, 2297

24.30.102 and other rule - Recording and Reporting Occupational Injuries and Illness, p. 1445, 1884

24.35.111 and other rules - Independent Contractor Exemptions - Status Determinations, p. 2028, 2550

24.301.131 and other rules - Building Codes - Boilers - Pressure Vessels, p. 2695

24.301.201 and other rules - Building Codes, p. 1783, 2299, 2763

(Board of Alternative Health Care)

24.111.502 and other rules - Licensing by Examination - Direct-Entry Midwife Apprenticeship Requirements - Vaginal Birth After Cesarean (VBAC) Deliveries -

Naturopathic Physician Continuing Education Requirements - Midwives Continuing Education Requirements - Scope of Practice for Naturopaths, p. 1620, 2873

(Board of Barbers)
I Rules Applicable to Barbers, Cosmetologists, Electrologists, Manicurists and Estheticians, p. 1776, 2630

(Board of Barbers and Cosmetologists)
I Rules Applicable to Barbers, Cosmetologists, Electrologists, Manicurists and Estheticians, p. 1776, 2630

(Board of Chiropractors)
8.12.101 and other rules - Transfer from the Department of Commerce, p. 2761
8.12.607 and other rules - Unprofessional Conduct - Fee Schedule - Advertising - Purpose of the Board, p. 1021

(Board of Clinical Laboratory Science Practitioners)
24.129.401 Fees, p. 360, 1195

(Board of Cosmetologists)
I Rules Applicable to Barbers, Cosmetologists, Electrologists, Manicurists and Estheticians, p. 1776, 2630

(Board of Dentistry)
8.16.401 and other rules - Dentistry - Dental Hygiene - Denturitry, p. 1742, 2435

(State Electrical Board)
I Master Electrician License Qualifications, p. 2377

(Board of Hearing Aid Dispensers)
24.150.501 and other rules - Examination - Continuing Education - Unprofessional Conduct, p. 1779

(Board of Medical Examiners)
I Medical Assistants, p. 2380
24.156.606 Examination, p. 1158, 1636
24.156.625 and other rules - Unprofessional Conduct - Emergency Medical Technician Licensure, p. 1841

(Board of Nursing)
8.32.302 and other rule - Re-certification of Nurse Midwives - Authorized Signatures on Nurses' Licenses, p. 1835, 2861
8.32.416 and other rules - Licensure - Fees - Prescriptive Authority - Psychiatric-Mental Health Practitioner Practice, p. 1439, 2863

8.32.801 and other rules - Nursing Education Programs - Approval Requirements, p. 3207, 1080, 1192
8.32.1118 and other rule - Nursing Education Accrediting Bodies - Nurse's Role in Cosmetic Procedures, p. 2359

(Board of Optometry)
8.36.101 and other rules - Transfer from the Department of Commerce, p. 2083

(Board of Outfitters)
8.39.804 and other rule - Net Client Hunter Use, p. 356, 1193

(Board of Physical Therapy Examiners)
8.42.404 and other rules - Temporary, Out-of-State and Renewal Licenses - Foreign-trained Applicants - Continuing Education, p. 1027, 2292, 2549

(Board of Radiologic Technologists)
I-IV Radiologist Assistants - Scope of Practice - Supervision - Code of Ethics, p. 2362, 2491
8.56.409 and other rules - Fee Schedule - Temporary Permits - Permits - Practice Limitations - Course Requirements for Limited Permit Applicants - Permit Examinations - Permit Fees - Fee Abatements, p. 1033, 1882

(Board of Real Estate Appraisers)
24.207.401 and other rules - Trainee and Mentor Requirements, p. 2035
24.207.402 Adoption of USPAP by Reference, p. 2830

(Board of Respiratory Care Practitioners)
8.59.101 and other rules - Transferred from the Department of Commerce, p. 1286
24.213.301 and other rules - Definitions - Fee Schedule - Guidelines for Conscious Sedation - Abatement of Fees - Qualifications to Perform Certain Procedures, p. 2492

(Board of Social Work Examiners and Professional Counselors)
I Ethics Code, p. 1613, 2294

(Board of Speech-Language Pathologists and Audiologists)
I Ethics Code, p. 1617

(Board of Veterinary Medicine)
8.64.501 and other rule - Application Requirements - Licensure by Endorsement, p. 2825
8.64.501 and other rule - Application Requirements - Continuing Education, p. 166, 1288

LIVESTOCK, Department of, Title 32

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

(Board of Land Commissioners and the Department of Natural Resources and Conservation)

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

CROSS REFERENCE INDEX

Montana Code Annotated to Administrative Rules of Montana

July 2003 - December 2003

MCA	Rule or A.G.'s Opinion No.	Register Page No.
2-3-103	8.99.602, 122.205	2792
2-4-201	Rules I - V (DPHHS)	2725
2-4-201	Rules II - XII, XV - XVIII (DPHHS)	2580
2-4-201	8.99.601, 122.102, 204	2792
2-4-201	24.35.206, 207, 210	2028
2-4-201	37.2.101	1951
2-4-201	37.40.406, 86.2801, 3411	2580
2-4-201	44.5.141	1892
2-4-201, 202	8.2.102 - 106	2673
2-4-202	37.2.102	1951
2-4-307	24.17.127	1631
2-4-307	24.17.127	2371
2-4-307	42.11.245	2059
2-4-312	1.2.419	2267
2-4-501	37.2.102	1951
2-4-603	Rule I (Labor & Industry)	1944
2-4-603	24.16.7536	2433
2-4-611	24.35.210, 212, 213	2028
2-4-623	24.35.212, 213	2028
2-4-631	6.6.4207	2488
T. 2, Ch. 7, Pt. 5	Opinion No. 3	2553
2-7-501, 501(7)(a), 501(7)(b), 501(7)(b)(vii)	Opinion No. 3	2553
2-7-502, 502(2)(b), 502(2)(d)	Opinion No. 3	2553
2-7-503, 503(2), 503(3)(a)	Opinion No. 3	2553
2-7-504	2.4.406	1572
2-7-506	2.4.406	1572
2-15-102	2.12.101	1821
2-15-1001	Rule II (Administration)	1821
2-15-1021	Rule II (Administration)	1821
2-17-301	2.12.102	1821
2-17-506	Rule II (Administration)	1821
2-17-506	2.12.202	2417
2-17-512	2.12.101	1821
2-17-512	2.12.101, 205, 206	2417

MCA	Rule or A.G.'s Opinion No.	Register Page No.
2-17-515	Rules V, VI (Administration)	1821
2-17-515	2.12.207	2417
2-17-518	Rules I, IV, VII (Administration)	1821
2-17-518	2.12.101, 202, 203, 205 - 207	2417
2-17-524	Rules III, VII (Administration)	1821
2-17-524	2.12.203, 207	2417
2-17-1103	2.12.101	1821
2-17-1103	2.12.101	2417
2-17-5158	Rule VII (Administration)	1821
2-18-102	2.21.3704	1531
2-18-1201	2.21.3704	1531
2-18-1301	Rules I - VI (Administration)	1703
2-18-1302	Rule II (Administration)	1703
2-18-1303	Rule III (Administration)	1703
2-18-1304	Rule IV (Administration)	1703
2-18-1305	Rules I - VI (Administration)	1703
2-18-1309	Rule IV (Administration)	1703
2-18-1310	Rule V (Administration)	1703
2-18-1311	Rule VI (Administration)	1703
2-18-1313	Rule VII (Administration)	1703
7-8-2307	42.20.102	1516
7-32-4132	Opinion No. 2	1538
7-32-4136	Opinion No. 2	1538
13-1-202	Rule XXXIX (Secretary of State)	2526
13-2-109	Rules I - IX (Secretary of State)	2526
13-2-110	Rules II - IX (Secretary of State)	2526
13-12-202	Rule X (Secretary of State)	2526
13-13-112	Rule XIII (Secretary of State)	2526
13-13-114	Rules XII, XV, XVI, XVIII, XXVII (Secretary of State)	2526
13-13-201	Rule XXV (Secretary of State)	2526
13-13-204	Rule XXVIII (Secretary of State)	2526
13-13-211	Rule XXIII (Secretary of State)	2526
13-13-212	Rules XXI - XXIII (Secretary of State)	2526
13-13-213	Rule XXIII (Secretary of State)	2526
13-13-214	Rule XXV (Secretary of State)	2526
13-13-214	44.3.1401	2526
13-13-241	Rules XXV, XXVII (Secretary of State)	2526
13-13-277, 278	44.3.1501 - 1509	2526
13-13-301	Rule XVII (Secretary of State)	2526
13-13-601	Rules XII, XVIII (Secretary of State)	2526
13-13-602	Rule XXV (Secretary of State)	2526
13-13-603	Rules XI - XX, XXIV - XXVIII (Secretary of State)	2526
13-15-107	Rules XI, XVIII - XX, XXV, XXVIII (Secretary of State)	2526
13-15-206	Rules XXIX - XXXIII (Secretary of State)	2526
13-19-309	Rule XXVII (Secretary of State)	2526
13-19-313	Rule XXVIII (Secretary of State)	2526

MCA	Rule or A.G.'s Opinion No.	Register Page No.
13-21-104	Rules XXXIV - XXXVIII (Secretary of State)	2526
13-21-201	Rule XXXIV (Secretary of State)	2526
13-21-205	Rule XXXII (Secretary of State)	2526
13-21-207	Rules XXXV - XXXVIII (Secretary of State)	2526
15-1-101	Rules I, II (Revenue)	1464
15-1-141	Rule I (Revenue)	1513
15-1-201	Rules I - IV (Revenue)	1516
15-1-201	42.18.127	1886
15-1-201	42.19.501, 506, 20.102, 105	1516
15-1-201	42.20.134, 135, 139 - 142, 144 - 155, 157, 159, 165 - 170, 302, 303, 605, 615, 620, 625, 630, 635, 640, 645, 650, 655, 660, 665, 675, 680, 710, 720, 725, 730, 735, 740	1464
15-1-201	42.21.113, 115, 123, 131, 137 - 140, 151, 153, 155, 22.1311	2245
15-1-201	42.35.101 - 104, 201 - 204, 211 - 214, 221, 222, 231, 241 - 244, 301, 302, 311, 312, 316, 317, 321 - 323, 331 - 337, 341 - 343, 401, 501 - 520, 36.101 - 105, 201 - 205, 211, 212, 301, 311 - 315, 401 - 408, 501, 502, 601 - 603	2233
15-1-231	Rule I (Revenue)	2411
15-1-231	42.5.201	2411
15-1-231	42.5.202	2897
15-1-503	42.31.131	1527
15-1-503	42.31.131	1890
15-1-801	42.5.201	2411
15-1-801	42.5.202	2897
15-1-801 - 803	Rule I (Revenue)	2411
15-1-802	42.5.201, 213	2411
15-1-803	42.5.201	2411
15-1-803	42.5.202	2897
15-6-101	42.20.302, 303	1464
15-6-133	Rule I (Revenue)	1464
15-6-133	42.20.135, 139, 141, 150 - 153, 303, 605, 615, 625, 640, 650	1464
15-6-134	Rule IV (Revenue)	1464
15-6-134	42.20.134, 135, 150, 154, 155, 625, 655	1464
15-6-135, 136	42.21.113, 123, 131, 137 - 140, 151, 153, 155	2245
15-6-138	42.21.113, 115, 123, 131, 137 - 140, 151, 153, 155, 22.1311	2245

MCA	Rule or A.G.'s Opinion No.	Register Page No.
15-6-139	42.21.155	2245
15-6-140	42.21.131, 151	2245
15-6-143	42.20.135	1464
15-6-144	42.20.139, 615	1464
15-6-148	42.20.302, 303	1464
15-6-151	Rule IV (Revenue)	1516
15-6-151	42.19.501	1516
15-6-153	42.20.302, 303	1464
15-6-156	42.22.1312	2245
15-6-193	Rules I, II (Revenue)	1516
15-6-201	42.19.506, 20.102	1516
15-6-203	42.19.506, 20.102	1516
15-6-207	42.21.113, 123, 131, 137 - 140, 151, 153, 155	2245
15-6-209	42.19.506, 20.102	1516
15-6-211	Rule IV (Revenue)	1516
15-6-211	42.19.501	1516
15-7-102	42.20.102	1516
15-7-103	Rules III, IV (Revenue)	1464
15-7-103	42.20.105	1516
15-7-103	42.20.134, 135, 141, 142, 144 - 146, 605, 655, 660, 665, 675, 680	1464
15-7-111	Rules I, III (Revenue)	1464
15-7-139	Rules III (Revenue)	1516
15-7-139	42.18.127	1886
15-7-201	Rules I, III, IV (Revenue)	1464
15-7-201	42.20.134, 135, 140, 142, 144 - 153, 159, 620, 625, 630, 635, 640, 645, 650, 655, 660, 665, 675, 680	1464
15-7-202	Rules I, IV (Revenue)	1464
15-7-202	42.20.134, 135, 139, 140, 147 - 153, 157, 159, 615, 620, 625, 630, 635, 640, 645, 650, 655	1464
15-7-203	42.20.140, 147 - 149, 157, 159, 620, 630, 635, 645	1464
15-7-206	Rule III (Revenue)	1464
15-7-206	42.20.140, 147 - 149, 154, 155, 157, 159, 620, 630, 635, 645	1464
15-7-207 - 210	42.20.140, 147 - 149, 157, 159, 620, 630, 635, 645	1464
15-7-212	42.20.140, 147 - 149, 157, 159, 620, 630, 635, 645	1464
15-7-221	42.20.142, 144 - 146, 660, 665, 675, 680	1464
15-8-111	Rule IV (Revenue)	1464
15-8-111	42.20.134, 135, 302, 303, 655	1464
15-8-111	42.22.1311, 1312	2245
15-8-511	42.20.105	1516
15-23-108	42.21.113	2245

MCA	Rule or A.G.'s Opinion No.	Register Page No.
15-24-921, 922	42.21.113, 123, 131, 137 - 140, 151, 153, 155	2245
15-24-925	42.21.113, 123, 131, 137 - 140, 151, 153, 155	2245
15-24-1208	42.19.506	1516
15-30-101	Rule I (Revenue)	1516
15-30-142	Rule I (Revenue)	2411
15-30-142	42.5.202	2897
15-30-204	42.5.210, 15.317	2411
15-30-207	42.5.210, 15.317	2411
15-30-210	42.5.212, 213	2411
15-30-211	42.5.211	2411
15-30-305	Rule I (Revenue)	2411
15-30-305	42.5.202	2897
15-30-305	42.5.211 - 213	2411
15-44-101 - 103	Rule II (Revenue)	1464
15-44-101, 102	42.20.160 - 169, 705, 710, 715, 720, 725, 730, 735, 740	1464
15-44-103	42.20.160 - 162, 165 - 170, 705, 710, 720, 725, 730, 735, 740	1464
15-44-104	42.20.165 - 169, 720, 725, 730, 735, 740	1464
15-44-105	Rules II, IV (Revenue)	1464
15-44-105	42.20.160 - 170, 705, 710, 715, 720, 725, 730, 735, 740	1464
15-53-202	8.99.701, 702	2792
15-53-203	8.99.701 - 705	2792
16-1-103	Rule I (Revenue)	2059
16-1-103	42.11.104, 201, 205, 211, 212, 217, 243, 245, 251, 401, 402, 405 - 407, 409, 421 - 425	2059
16-1-103	42.11.401, 406, 422	2899
16-1-104	42.11.401, 402, 405 - 407, 409, 421 - 425	2059
16-1-104	42.11.401, 406, 422	2899
16-1-106	42.11.104	2059
16-1-106	42.12.106	1870
16-1-302	42.11.104, 401, 402, 405 - 407, 409, 421 - 425	2059
16-1-302	42.11.401, 406, 422	2899
16-1-302	42.12.111	1870
16-1-302, 303	Rule I (Revenue)	2059
16-1-303	42.11.104, 201, 205, 211, 212, 217, 243, 245, 251, 401, 402, 405 - 407, 409, 421 - 425	2059
16-1-303	42.11.401, 406, 422	2899
16-1-303	42.12.101, 106, 111	1870
16-1-303	42.12.132	2305
16-1-401	Rule I (Revenue)	2059
16-1-401	42.11.104	2059

MCA	Rule or A.G.'s Opinion No.	Register Page No.
16-1-404	Rule I (Revenue)	2059
16-1-404	42.11.104	2059
16-1-411	Rule I (Revenue)	2059
16-1-411	42.11.104	2059
16-2-201	Rule I (Revenue)	2059
16-2-301	Rule I (Revenue)	2059
16-2-301	42.11.104	2059
16-3-101	42.12.132	2305
16-3-103	42.11.201, 205, 212, 243, 245, 251	2059
16-3-107	42.11.201, 205, 211, 212, 217	2059
16-3-311	42.12.106	1870
16-4-105	42.12.101, 106	1870
16-4-201	42.12.101	1870
16-4-204	42.12.101	1870
16-4-205	42.12.106	1870
16-4-207	42.12.106	1870
16-4-220	42.12.101	1870
16-4-301	42.12.106	1870
16-4-402	42.12.101, 106	1870
16-4-404	42.12.106	1870
16-4-404	42.12.132	2305
16-4-413	42.12.106	1870
16-4-414	23.16.102, 103, 117, 401, 502, 1245, 1716, 1914 - 1916, 2001	1601
16-4-414	42.12.101, 111	1870
16-4-420	42.12.106, 111	1870
16-4-423	42.12.106	1870
16-4-502	42.12.101	1870
16-11-103	42.31.131	1890
16-11-103	42.31.131, 202, 221	1527
16-11-112	42.31.131	1527
16-11-112	42.31.131	1890
16-11-156	42.31.131	1527
16-11-156	42.31.131	1890
16-11-203	42.31.202	1527
16-11-206	42.31.221	1527
17-2-302, 303	Rule II (Labor & Industry - Respiratory Care Practitioners)	2492
17-4-104	37.2.301	1951
17-4-110	37.2.301	1951
17-5-2001	Rule I (Revenue)	1513
17-6-406	8.99.401, 403	2792
17-6-408	8.99.401	2792
17-6-411	8.99.403	2792
17-6-502	8.99.601, 603, 606	2792
17-6-504	8.99.604	2792
17-6-505	8.99.601 - 613	2792
17-6-510	8.99.605, 613	2792
18-2-401	24.17.144, 147	2367
18-2-401 - 403	24.17.127	1631
18-2-401 - 403	24.17.127	2371

MCA	Rule or A.G.'s Opinion No.	Register Page No.
18-2-403	24.17.144, 147	2367
18-2-406	24.17.127	1631
18-2-406	24.17.127	2371
18-2-409	24.17.127	1631
18-2-409	24.17.127	2371
18-2-409	24.17.144, 147	2367
18-2-411, 412	24.17.127	1631
18-2-411, 412	24.17.127	2371
18-2-421, 422	24.17.144	2367
18-2-422	24.17.127	1631
18-2-422	24.17.127	2371
18-2-431	24.17.127	1631
18-2-431	24.17.127	2371
18-2-431	24.17.144, 147	2367
19-2-403	Rule I (Administration - PERB)	1414
19-2-403	Rule I (Administration - PERB)	1707
19-2-403	2.43.404, 418, 506	1420
19-2-403	2.43.421	2480
19-2-403	2.43.422, 423, 428	1414
19-2-403	2.43.436, 437	2484
19-2-403	2.43.442	1982
19-2-506	2.43.404	1420
19-2-701, 702	2.43.418	1420
19-2-707	2.43.421	2480
19-2-715	2.43.422, 423, 428	1414
19-3-315, 316	2.43.404	1420
19-3-412	2.43.404, 418	1420
19-3-503	2.43.422, 423, 428	1414
19-3-503	2.43.437	2484
19-3-504	2.43.422	1414
19-3-505	2.43.422, 423, 428	1414
19-3-510	2.43.422, 423, 428	1414
19-3-512	2.43.422, 423, 428	1414
19-3-513	2.43.422	1414
19-3-515	Rule I (Administration - PERB)	1414
19-3-515	Rule I (Administration - PERB)	1707
19-3-515	2.43.422, 423, 428	1414
19-3-515	2.43.442	1982
19-3-1104	2.43.506	1420
19-3-1106	2.43.404, 418, 506	1420
19-3-2104	2.43.404	1420
19-5-301	2.43.418	1420
19-5-409	2.43.422	1414
19-5-410	2.43.437	2484
19-6-801	2.43.422, 423, 428	1414
19-6-801	2.43.437	2484
19-6-803	2.43.422, 423, 428	1414
19-6-804	2.43.422	1414
19-6-810	2.43.422	1414
19-7-301	2.43.418	1420
19-7-803	2.43.422, 423, 428	1414
19-7-803	2.43.436, 437	2484

MCA	Rule or A.G.'s Opinion No.	Register Page No.
19-7-804	2.43.422	1414
19-7-810	2.43.422	1414
19-7-1101	2.43.404, 506	1420
19-8-901	2.43.422, 423, 428	1414
19-8-901	2.43.437	2484
19-8-903	2.43.422, 423, 428	1414
19-8-904, 905	2.43.422	1414
19-9-207	Opinion No. 2	1538
19-9-403	2.43.422, 423, 428	1414
19-9-403	2.43.437	2484
19-9-411	2.43.422	1414
19-13-403	2.43.422, 423, 428	1414
19-13-403	2.43.436, 437	2484
19-13-405	2.43.422	1414
19-20-101	Rule I (Administration - Teachers' Retirement System)	1401
19-20-201	Rule I (Administration - Teachers' Retirement System)	1401
19-20-201	2.44.301A, 307, 308, 401, 412, 413, 511, 513, 515, 517A, 518, 522 - 524, 527	1401
19-20-204	2.44.301A	1401
19-20-208	2.44.515	1401
19-20-302	2.44.307, 308, 511	1401
19-20-305	2.44.522, 523	1401
19-20-401 - 411	2.44.401, 413	1401
19-20-416	2.44.413	1401
19-20-417	2.44.401, 413	1401
19-20-715	2.44.518	1401
19-20-716	2.44.517A	1401
19-20-801	2.44.412, 527	1401
19-20-804	Rule I (Administration - Teachers' Retirement System)	1401
19-20-804	2.44.511	1401
19-20-901	2.44.412, 527	1401
19-20-904, 905	2.44.524	1401
19-20-1001	2.44.412, 527	1401
19-20-1104	2.44.513	1401
20-2-114	10.55.602	1715
20-2-121	10.55.602	1715
20-3-106	10.55.602	1715
20-4-102	10.57.420 - 423	1717
20-4-106	10.57.420 - 423	1717
20-4-108	10.57.420 - 423	1717
20-7-101	10.55.602	1715
23-1-106	Rule I (FWP Commission)	2676
23-1-106	Rules I - XIV (FWP Commission)	1583
23-1-106	12.11.501, 2205	2676
23-1-106	12.11.501, 3435, 3455, 3460	1583
23-1-106	12.11.640	2348
23-1-106	12.11.1408	2854

MCA	Rule or A.G.'s Opinion No.	Register Page No.
23-5-111, 112	23.16.1802, 1906	1601
23-5-112	Rule IV (Justice)	1601
23-5-115	Rules I - IV (Justice)	1601
23-5-115	23.16.102, 103, 117, 401, 502, 508, 1245, 1716, 1802, 1803, 1807, 1901, 1906, 1914 - 1916, 2001	1601
23-5-118	23.16.103, 502	1601
23-5-128	23.16.1914	1601
23-5-129	23.16.1915	1601
23-5-136	23.16.1901	1601
23-5-151	23.16.1802, 1906	1601
23-5-152	23.16.2001	1601
23-5-176	23.16.117, 502, 508	1601
23-5-177	23.16.102, 502, 508	1601
23-5-308	23.16.401	1601
23-5-324	23.16.1245	1601
23-5-413	Rule IV (Justice)	1601
23-5-503	23.16.1716	1601
23-5-602	23.16.1802, 1803, 1901, 1906	1601
23-5-603	Rules II, III (Justice)	1601
23-5-603	23.16.1802, 1807, 1906	1601
23-5-605	23.16.1802, 1803, 1807, 1901, 1906, 1907, 1916	1601
23-5-606	23.16.1901, 1906, 1907	1601
23-5-607	23.16.1802, 1906, 1907	1601
23-5-609	23.16.1802, 1803, 1901, 1906	1601
23-5-610	23.16.1802, 1901	1601
23-5-611	23.16.1802, 1807, 2001	1601
23-5-612	Rule I (Justice)	1601
23-5-612	23.16.1802, 1803, 1807	1601
23-5-614	23.16.2001	1601
23-5-621	Rules I - III (Justice)	1601
23-5-621	23.16.1802, 1803, 1807, 1901, 1906, 1907, 2001	1601
23-5-625	23.16.1916, 2001	1601
23-5-631	Rules II, III (Justice)	1601
23-5-631	23.16.2001	1601
23-5-637	Rules I - III (Justice)	1601
23-5-637	23.16.1802, 1803, 1807, 1901, 1906	1601
23-6-605	23.16.1916	1601
30-9A-501	44.6.102	1894
30-9A-502	44.6.101, 107, 110, 113	1894
30-9A-525	44.6.101, 102, 107	1894
30-9A-526	44.6.101, 102, 107, 110, 113	1894
30-10-107	Rules I, II (State Auditor)	1427
30-10-107	6.10.140, 141	1427
30-10-201	Rules I, II (State Auditor)	1427
30-10-201	6.10.140, 141	1427
30-13-311	44.5.141	1892
30-14-1603	Rules I, II (Administration)	2015

MCA	Rule or A.G.'s Opinion No.	Register Page No.
31-13-331	44.5.141	1892
33-1-313	Rules I, II (State Auditor)	2125
33-1-313	6.6.503 - 511, 517, 519, 521, 522	2125
33-1-313	6.6.1610, 4206, 4207	2488
33-1-313	6.6.2203	1435
33-1-313	6.6.2203	2752
33-1-313	6.6.3504	2578
33-2-708	6.6.1610	2488
33-2-1517	6.6.3504	2578
33-5-413	6.6.3504	2578
33-15-303	6.6.505 - 508, 509 - 511, 517, 519, 521	2125
33-15-903	6.6.522	2125
33-17-301	6.6.1610	2488
33-17-1203 - 1205	6.6.4206	2488
33-17-1206	6.6.4206, 4207	2488
33-18-202	6.6.519	2125
33-18-204	6.6.519	2125
33-18-210	6.6.2203	1435
33-18-210	6.6.2203	2752
33-18-235	6.6.519	2125
33-22-901	6.6.505, 511	2125
33-22-902	Rules I, II (State Auditor)	2125
33-22-902	6.6.504 - 508, 509, 511, 517, 607	2125
33-22-903	6.6.504, 505, 511, 607	2125
33-22-904	6.6.503 - 511, 517, 519, 521, 522, 607	2125
33-22-905	6.6.505 - 507C, 508A, 511, 607	2125
33-22-906	6.6.505, 508, 508A, 511, 517	2125
33-22-907	6.6.505, 509 - 511, 519, 521	2125
33-22-908	6.6.505, 511, 519	2125
33-22-909	6.6.505, 511	2125
33-22-910, 911	6.6.505, 511	2125
33-22-921 - 924	6.6.505, 510, 511, 519, 522, 607	2125
33-25-202	6.6.2203	1435
33-25-202	6.6.2203	2752
33-25-401	6.6.2203	1435
33-25-401	6.6.2203	2752
33-37-102	37.108.310	1662
33-37-105	37.108.310	1662
37-1-101	Rule I (Labor & Industry - Respiratory Care Practitioners)	2492
37-1-104	Rule IV (Labor & Industry - Medical Examiners)	1841
37-1-131	Rule I (Labor & Industry - Alternative Health Care)	1620
37-1-131	Rule I (Labor & Industry - Barbers & Cosmetologists)	1776

MCA	Rule or A.G.'s Opinion No.	Register Page No.
37-1-131	Rule I (Labor & Industry - State Electrical Board)	2377
37-1-131	Rule I (Labor & Industry - Medical Examiners)	2380
37-1-131	Rules I, II (Labor & Industry - Real Estate Appraisers)	2035
37-1-131	Rules I - III (Labor & Industry - Respiratory Care Practitioners)	2492
37-1-131	Rules I - IV (Labor & Industry - Dentistry)	1742
37-1-131	Rules I - IV (Labor & Industry - Radiologic Technologists)	2362
37-1-131	Rules II, IV - VI, XI - XIII, XV, XVI (Labor & Industry - Medical Examiners)	1841
37-1-131	8.16.401, 409, 412, 601, 605A, 607 - 609, 701 - 703, 705, 706, 708, 709, 720, 723, 901 - 909, 17.702, 24.138.401, 403 - 405, 408 - 413, 501, 505, 506, 518, 3103, 3201 - 3209	1742
37-1-131	8.16.605A, 907, 24.138.506, 3207	2435
37-1-131	8.32.302	2861
37-1-131	8.32.302, 409	1835
37-1-131	8.32.416	1439
37-1-131	8.42.409	2549
37-1-131	8.64.509	2825
37-1-131	24.150.2301	1779
37-1-131	24.156.625, 1801 - 1807, 1901 - 1905, 2001 - 2004, 2014	1841
37-1-131	24.207.401	2035
37-1-131	24.213.301	2492
37-1-134	Rule II (Labor & Industry - Respiratory Care Practitioners)	2492
37-1-134	Rule III (Labor & Industry - Dentistry)	1742
37-1-134	Rule VIII (Labor & Industry - Medical Examiners)	1841
37-1-134	8.16.405, 606, 909, 17.501, 24.138.3209	1742
37-1-134	8.32.425	1439
37-1-134	24.213.401	2492
37-1-136	8.16.807, 17.801, 24.138.515, 2302	1742
37-1-137	8.16.807, 24.138.515	1742
37-1-141	Rule VII (Labor & Industry - Medical Examiners)	1841

MCA	Rule or A.G.'s Opinion No.	Register Page No.
37-1-304	Rule V (Labor & Industry - Medical Examiners)	1841
37-1-304	8.16.412, 605A, 24.138.505, 506	1742
37-1-304	8.16.605A, 24.138.506	2435
37-1-304	8.32.416	1439
37-1-304	8.64.509	2825
37-1-306	Rule VI (Labor & Industry - Medical Examiners)	1841
37-1-306	8.16.1001, 1003, 1005, 17.705 - 708, 24.138.2101, 2103, 2104, 2106	1742
37-1-306	24.111.2102, 2103	1620
37-1-306	24.150.2201	1779
37-1-307	8.16.411, 17.812, 24.138.2402	1742
37-1-308	8.16.410, 610, 708, 17.811, 24.138.404, 2401	1742
37-1-309	8.16.410, 610, 17.811, 24.138.2401	1742
37-1-316	8.16.722, 17.801, 24.138.2301, 2302	1742
37-1-319	8.16.408, 607, 722, 1001, 1003, 1005, 17.705 - 709, 801, 24.138.514, 2101, 2103, 2104, 2106, 2301, 2302	1742
37-1-319	8.32.425	1439
37-1-319	24.111.2102, 2103	1620
37-1-319	24.150.2201, 2301	1779
37-1-319	24.156.625	1841
37-2-102	Rule I (Labor & Industry - Nursing)	2359
37-3-104	Rule I (Labor & Industry - Medical Examiners)	2380
37-3-202	24.156.625	1841
37-3-203	Rule I (Labor & Industry - Medical Examiners)	2380
37-3-203	Rules I, III - V, VII (Labor & Industry - Medical Examiners)	1841
37-3-203	24.156.625	1841
37-3-305	24.156.625	1841
37-3-309	24.156.625	1841
37-3-323	24.156.625	1841
37-4-101	Rule I (Labor & Industry - Dentistry)	1742
37-4-101	8.16.511, 601, 609, 705, 706, 24.138.301, 401, 411, 412	1742
37-4-205	Rules I - IV (Labor & Industry - Dentistry)	1742

MCA	Rule or A.G.'s Opinion No.	Register Page No.
37-4-205	8.16.401, 405, 408 - 412, 511, 513 - 515, 601, 605A - 610, 701 - 703, 705, 706, 707A, 708, 709, 719, 720, 722, 723, 901 - 909, 1001, 1003, 1005, 17.702, 811, 812, 24.138.301, 401, 403 - 406, 408 - 413, 501, 505, 506, 514, 518, 2101, 2104, 2106, 2301, 2401, 2402, 3002, 3003, 3101 - 3103, 3201 - 3209	1742
37-4-205	8.16.605A, 707A, 907, 24.138.406, 506, 3207	2435
37-4-301	Rule III (Labor & Industry - Dentistry	1742
37-4-301	8.16.405, 719, 807, 24.138.515, 3101	1742
37-4-302	8.16.401, 24.138.501	1742
37-4-303	Rule III (Labor & Industry - Dentistry)	1742
37-4-303	8.16.405	1742
37-4-307	Rules II, III (Labor & Industry - Dentistry)	1742
37-4-307	8.16.405, 408, 409, 17.702, 24.138.403, 514, 518	1742
37-4-326	Rule IV (Labor & Industry - Dentistry)	1742
37-4-401	Rule I (Labor & Industry - Dentistry)	1742
37-4-402	Rules II, III (Labor & Industry - Dentistry)	1742
37-4-402	8.16.605A, 606, 807, 24.138.506, 515	1742
37-4-402	8.16.605A, 24.138.506	2435
37-4-403	8.16.606	1742
37-4-405	8.16.722, 24.138.2301	1742
37-4-406	Rules II, III (Labor & Industry - Dentistry)	1742
37-4-406	8.16.408, 409, 606 - 608, 17.702, 24.138.403, 514, 518	1742
37-4-408	8.16.707A, 722, 24.138.406, 2301	1742
37-4-408	8.16.707A, 24.138.406	2435
37-4-511	8.16.901 - 909, 24.138.3201 - 3209	1742
37-4-511	8.16.907, 24.138.3207	2435
37-8-202	Rule I (Labor & Industry - Nursing)	1439

MCA	Rule or A.G.'s Opinion No.	Register Page No.
37-8-202	Rule I (Labor & Industry - Nursing)	2359
37-8-202	8.32.302	2861
37-8-202	8.32.302, 409	1835
37-8-202	8.32.416, 425, 1501	1439
37-8-202	8.32.1118	2359
37-8-301	8.32.1118	2359
37-8-401	8.32.409	1835
37-8-409	8.32.302	1835
37-8-409	8.32.302	2861
37-8-431	8.32.425	1439
37-11-105	8.42.409	2549
37-11-201	8.42.409	2549
37-13-301	Rule II (Labor & Industry - Radiologic Technologists)	2362
37-14-102	Rule III (Labor & Industry - Radiologic Technologists)	2362
37-14-202	Rules I - IV (Labor & Industry - Radiologic Technologists)	2362
37-14-202	8.56.602A, 602C	1882
37-14-301	8.56.602A	1882
37-14-306	8.56.602A, 602C	1882
37-14-313	Rules I - IV (Labor & Industry - Radiologic Technologists)	2362
37-16-202	24.150.501, 2201, 2301	1779
37-16-403	24.150.501	1779
37-16-405, 406	24.150.501	1779
37-16-411	24.150.2301	1779
37-18-202	8.64.501, 509	2825
37-18-302	8.64.501	2825
37-22-101	Rule I (Labor & Industry - Social Work Examiners & Professional Counselors)	1613
37-22-201	Rule I (Labor & Industry - Social Work Examiners & Professional Counselors)	1613
37-23-101	Rule I (Labor & Industry - Social Work Examiners & Professional Counselors)	1613
37-23-103	Rule I (Labor & Industry - Social Work Examiners & Professional Counselors)	1613
37-26-201	Rule I (Labor & Industry - Alternative Health Care)	1620
37-26-201	24.111.502, 2102	1620
37-26-402, 403	24.111.502	1620
37-27-105	24.111.602, 612, 2103	1620
37-27-201	24.111.602	1620
37-27-205	24.111.602	1620
37-27-321	24.111.602	1620
37-28-101	Rule I (Labor & Industry - Respiratory Care Practitioners)	2492
37-28-101, 102	24.213.301	2492
37-28-102	Rules I, III (Labor & Industry - Respiratory Care Practitioners)	2492
37-28-104	Rules I, III (Labor & Industry - Respiratory Care Practitioners)	2492
37-28-104	24.213.301, 401	2492

MCA	Rule or A.G.'s Opinion No.	Register Page No.
37-28-202, 203	24.213.401	2492
37-29-102	8.16.601, 24.138.401	1742
37-29-201	Rule IV (Labor & Industry - Dentistry)	1742
37-29-201	8.16.408 - 411, 511, 601, 701 - 703, 708, 723, 807, 1001, 1003, 1005, 17.501, 702, 704 - 709, 801, 802, 24.138.301, 401, 403 - 405, 408 - 410, 514, 515, 518, 2101, 2103, 2104, 2106, 2302, 2401, 2402	1742
37-29-304	Rule III (Labor & Industry - Dentistry)	1742
37-29-304	8.17.501	1742
37-29-306	8.16.1001, 1003, 1005, 17.702, 704 - 708, 24.138.518, 2101, 2103, 2104, 2106	1742
37-29-311	8.17.802	1742
37-29-401	8.16.409, 17.802, 24.138.403	1742
37-29-402, 403	8.17.801, 24.138.2302	1742
37-31-203	Rule I (Labor & Industry - Barbers & Cosmetologists)	1776
37-51-102(7), (8)	Petition for Declaratory Ruling (Labor & Industry - Realty Regulation)	2557
37-51-102(16)	Petition for Declaratory Ruling (Labor & Industry - Realty Regulation)	2557
37-51-102(20) - (24)	Petition for Declaratory Ruling (Labor & Industry - Realty Regulation)	2557
37-51-314	Petition for Declaratory Ruling (Labor & Industry - Realty Regulation)	2557
37-54-105	Rules I, II (Labor & Industry - Real Estate Appraisers)	2035
37-54-105	24.207.401	2035
37-54-105	24.207.402	2830
37-54-112	24.207.401	2035
37-54-201, 202	Rules I, II (Labor & Industry - Real Estate Appraisers)	2035
37-54-201, 202	24.207.401	2035
37-54-210 - 212	24.207.401	2035
37-54-301	Rule II (Labor & Industry - Real Estate Appraisers)	2035
37-54-302	24.207.401	2035
37-54-303	Rule I (Labor & Industry - Real Estate Appraisers)	2035
37-54-310	24.207.401	2035

MCA	Rule or A.G.'s Opinion No.	Register Page No.
37-54-403	Rules I, II (Labor & Industry - Real Estate Appraisers)	2035
37-54-403	24.207.401	2035
37-54-403	24.207.402	2830
37-54-411	Rule II (Labor & Industry - Real Estate Appraisers)	2035
37-54-416	Rule II (Labor & Industry - Real Estate Appraisers)	2035
37-68-201	Rule I (Labor & Industry - State Electrical Board)	2377
37-68-301	Rule I (Labor & Industry - State Electrical Board)	2377
37-68-304	Rule I (Labor & Industry - State Electrical Board)	2377
39-3-201	24.35.301, 303	2028
39-3-202	Rule I (Labor & Industry)	1944
39-3-202	24.16.7506, 7537	1944
39-3-202	24.16.7536	2433
39-3-202	24.17.127	1631
39-3-202	24.17.127	2371
39-3-202	24.35.201, 205 - 207, 210, 212, 213, 301, 303	2028
39-3-208 - 210	24.35.201	2028
39-3-212	24.35.205	2028
39-3-216	Rule I (Labor & Industry)	1944
39-3-216	24.16.7506, 7537	1944
39-3-216	24.35.206, 207, 210, 213	2028
39-3-216	24.16.7536	2433
39-3-403	24.16.7506, 7537	1944
39-3-403	24.35.201, 205 - 207, 210, 212, 213, 303, 303	2028
39-11-201	Rules I - VI (Governor's Office - Office of Economic Development)	2161
39-11-202	Rules III - VI (Governor's Office - Office of Economic Development)	2161
39-29-101	2.21.3603, 3607, 3616	1699
39-29-101, 102	2.21.3603, 3607	2077
39-29-103	2.21.3603, 3616	2077
39-29-104, 105	2.21.3603	2077
39-29-111	2.21.3603	2077
39-29-111	2.21.3623	1669
39-29-112	2.21.3603, 3607, 3616, 3623	1699
39-29-112	2.21.3603, 3607, 3616	2077
39-51-201	24.35.201, 301, 303	2028
39-51-203	24.35.201	2028
39-51-204	24.35.301, 303	2028
39-51-301, 302	24.35.201, 205 - 207, 210, 212, 213, 301, 303	2028
39-51-1109	24.35.205 - 207, 210, 212, 213	2028
39-71-105	Opinion No. 2	1538
39-71-120	24.35.111, 121, 201, 205, 301, 303	2028

MCA	Rule or A.G.'s Opinion No.	Register Page No.
39-71-201	Rules I, III (Labor & Industry)	2681
39-71-201	24.29.902, 905, 921 - 929, 951, 954 - 956, 971	2681
39-71-203	Rules I - III (Labor & Industry)	2681
39-71-203	24.29.902, 905, 921 - 929, 951, 954 - 956, 961, 966, 971	2681
39-71-203	24.29.1526	1617
39-71-203	24.29.1526	2870
39-71-203	24.29.2831	1838
39-71-203	24.29.3802	2374
39-71-203	24.29.4301, 4303, 4307, 4311, 4314, 4317, 4321, 4329	1768
39-71-203	24.35.111, 121, 201, 205 - 207, 210, 212, 213, 301, 303	2028
39-71-205	24.29.4311, 4317	1768
39-71-208	24.29.4311	1768
39-71-209	24.29.954	2681
39-71-209	24.29.4317	1768
39-71-224	24.29.4317	1768
39-71-225	24.29.3802	2374
39-71-225	24.29.4301, 4303, 4307, 4311, 4314, 4317, 4321, 4329	1768
39-71-304	24.29.4329	1768
39-71-306	Rule III (Labor & Industry)	2681
39-71-307	24.29.4321	1768
39-71-401	24.35.111, 121, 301, 303	2028
39-71-408	Rule I (Labor & Industry)	2681
39-71-408	24.29.955	2681
39-71-409	24.35.111, 121	2028
39-71-415	24.35.201, 205 - 207, 210, 212, 213	2028
39-71-504	24.29.2831	1838
39-71-504	24.35.213	2028
39-71-532	24.35.213	2028
39-71-613	24.29.3802	2374
39-71-701	Opinion No. 2	1538
39-71-704	24.29.1526	1617
39-71-704	24.29.1526	2870
39-71-705	Opinion No. 2	1538
39-71-915	Rules II, III (Labor & Industry)	2681
39-71-915	24.29.902, 929, 951, 961, 971	2681
39-71-1004	24.29.902, 929, 951, 966, 971	2681
39-71-2311	2.55.320, 323, 409	2321
39-71-2315, 2316	2.55.320, 323, 409	2321
39-71-2330	2.55.323	2321
39-71-2352	24.29.902, 951, 956	2681
39-71-2401	24.35.213	2028
39-71-2503	42.5.210, 15.317	2411
40-1-203, 204	37.12.601, 603	1969
40-1-203, 204	37.12.603	2880
40-1-206	37.12.601, 603	1969
40-1-206	37.12.603	2880

MCA	Rule or A.G.'s Opinion No.	Register Page No.
40-5-806	37.62.1909	1797
40-5-825	37.62.1909	1797
41-3-1103	37.89.103	2395
44-1-1005	23.5.101, 102, 105	2816
46-18-237	Rule IV (Corrections)	1737
46-18-241	Rules I - V (Corrections)	1737
46-18-244	Rules I - V (Corrections)	1737
46-18-245	Rules I, III (Corrections)	1737
50-1-202	Rule I (DPHHS)	2841
50-1-202	37.5.123	2841
50-1-202	37.12.301, 305, 306, 310 - 312, 314 - 316, 320, 324, 326, 337, 338, 341, 345, 346, 401	1969
50-1-202	37.12.401	2045
50-1-202	37.12.401	2551
50-1-202	37.57.102, 106, 110, 111	1637
50-5-103	37.106.313	2750
50-5-103	37.106.1506	2748
50-5-204	37.106.313	2750
50-5-204	37.106.1506	2748
50-5-233	37.106.704	1460
50-5-233	37.106.704	1992
50-5-404	37.106.313	2750
50-5-404	37.106.1506	2748
50-6-203	Rules I - XVI (Labor & Industry - Medical Examiners)	1841
50-6-203	24.156.1801 - 1807, 1901 - 1905, 2001 - 2005, 2011 - 2014	1841
50-6-204	24.156.1803 - 1806, 1901 - 1905, 2004, 2011 - 2014	1841
50-6-205	24.156.1803 - 1806, 2001 - 2005	1841
50-15-102	37.8.105, 106, 127 - 129, 302, 303, 808	1960
50-15-103	37.8.105, 106, 126 - 129, 302, 303	1960
50-15-108, 109	37.8.302	1960
50-15-113	37.8.126	1960
50-15-121	37.8.126 - 129	1960
50-15-122	37.8.126, 128, 129	1960
50-15-123	37.8.129	1960
50-15-204	37.8.106, 303	1960
50-15-221	37.8.302	1960
50-15-223	37.8.106	1960
50-15-405	37.8.808	1960
50-15-703	37.8.1801 - 1803, 1808	1960
50-15-706	37.8.1801 - 1803, 1808	1960
50-19-104	37.12.401	2551
50-19-202, 203	37.57.305	1537
50-60-101	24.301.146	2695
50-60-102	Rules II, III (Labor & Industry)	2695

MCA	Rule or A.G.'s Opinion No.	Register Page No.
50-60-102	24.301.146, 154	2695
50-60-103	Rule I (Labor & Industry)	1449
50-60-103	Rules I - III (Labor & Industry)	2695
50-60-103	24.301.101, 170, 180	2695
50-60-104	24.301.101, 138, 146, 170	2695
50-60-106	Rule I (Labor & Industry)	1449
50-60-106	Rule I (Labor & Industry)	1783
50-60-106	24.301.203, 215	1783
50-60-108, 109	24.301.101	2695
50-60-109	Rules I - III (Labor & Industry)	2695
50-60-117	Rule I (Labor & Industry)	1449
50-60-201	Rules I - III (Labor & Industry)	2695
50-60-201	24.301.101, 146, 154, 170, 180, 301, 901, 903, 904	2695
50-60-202	24.301.201	1783
50-60-202	24.301.201	2695
50-60-203	Rule I (Labor & Industry)	1449
50-60-203	Rules I - III (Labor & Industry)	2695
50-60-203	24.301.101 - 108, 131, 138, 146, 151, 154, 158, 170, 180, 190, 201, 301, 351, 501, 513, 515, 521, 525, 563, 601, 622, 710, 901, 903, 904	2695
50-60-203	24.301.201, 203, 205 - 208, 210 - 214	1783
50-60-203	24.301.206	2299
50-60-205	24.301.146	2695
50-60-213	24.301.904	2695
50-60-214	24.301.903	2695
50-60-301	24.301.190, 201	2695
50-60-301	24.301.201, 202	1783
50-60-301, 302	Rule I (Labor & Industry)	1449
50-60-302	Rule I (Labor & Industry)	1783
50-60-302	24.301.201	2695
50-60-302	24.301.201 - 208, 210, 215	1783
50-60-302	24.301.206	2299
50-60-303	Rules II, III (Labor & Industry)	2695
50-60-401	24.301.180, 501, 513, 515, 521, 525, 563	2695
50-60-402	24.301.180, 513, 525	2695
50-60-504	24.301.201	1783
50-60-504	24.301.201, 301, 351	2695
50-60-508	24.301.170, 301	2695
50-60-603	24.301.201	1783
50-60-603	24.301.201	2695
50-60-701, 702	24.301.601, 622	2695
50-71-311	24.30.102, 107	1445
50-71-312	24.30.102	1445
50-74-101	24.301.710	2695
50-79-101 - 103	37.14.1002, 1003	1863
50-79-104 - 108	37.14.1003	1863
50-79-201	37.14.1002, 1003	1863
50-79-202 - 204	37.14.1003	1863

MCA	Rule or A.G.'s Opinion No.	Register Page No.
52-1-103	37.89.103	2395
52-2-704	37.75.101	2841
53-1-401	37.2.701	1951
53-1-403	37.2.701 - 703, 705 - 707, 720	1951
53-1-405	37.2.702, 703, 705, 707	1951
53-1-406	37.2.706	1951
53-1-407, 408	37.2.720	1951
53-1-601, 602	37.89.103	2395
53-2-108	37.2.301	1951
53-2-201	Rules I - VIII (DPHHS)	2725
53-2-201	Rules I - XXI (DPHHS)	2580
53-2-201	37.2.301, 502, 902, 907	1951
53-2-201	37.40.406, 85.406, 86.2801, 2901, 2905, 3002, 3005, 3009, 3025, 88.205, 305, 605, 906	2580
53-2-201	37.40.1415, 86.1802, 1806, 1807	2383
53-2-201	37.82.101	2741
53-2-201	37.85.406, 86.2905, 3005, 3009, 3016, 3018, 3020, 3025	1652
53-2-201	37.86.2207	2498
53-2-201	37.86.3501, 3502, 88.101, 901, 907, 89.103	2395
53-2-201	37.86.3501, 88.101, 901	2886
53-2-201	37.88.101, 1101, 1106	2725
53-2-606	37.86.3411	2580
53-4-211, 212	37.78.102	2741
53-4-601	37.78.102	2741
53-4-1003	37.79.101, 102, 201, 202, 206, 207, 301 - 303, 308, 309, 316, 317, 321, 322, 326, 501, 503 - 505, 601, 602, 605 - 607, 801	2503
53-4-1004	Rules I, II (DPHHS)	2503
53-4-1004	37.79.101, 201, 202	2503
53-4-1007	37.79.503	2503
53-4-1009	Rules I, II (DPHHS)	2503
53-4-1009	37.79.101, 102, 201, 202, 206, 207, 301 - 303, 308, 309, 316, 317, 321, 322, 326, 501, 503 - 505, 601, 602, 605 - 607, 801	2503
53-6-101	Rule I (DPHHS)	2498
53-6-101	Rules I - IV (DPHHS)	2406
53-6-101	Rules I - VIII (DPHHS)	2725
53-6-101	Rules I - XXI (DPHHS)	2580

MCA	Rule or A.G.'s Opinion No.	Register Page No.
53-6-101	37.40.406, 85.406, 86.2801, 2901, 2905, 3002, 3005, 3009, 3025, 3411, 88.205, 305, 605, 906	2580
53-6-101	37.40.1415, 86.1802, 1806, 1807	2383
53-6-101	37.82.101	2741
53-6-101	37.85.406, 86.2905, 3005, 3009, 3016, 3018, 3020, 3025	1652
53-6-101	37.86.2207, 2230	2498
53-6-101	37.86.2234	2884
53-6-101	37.86.3501, 3502, 88.101, 901, 907, 89.103	2395
53-6-101	37.86.3501, 88.101, 901	2886
53-6-101	37.88.101, 1101, 1106	2725
53-6-111	Rule I (DPHHS)	2498
53-6-111	Rules I - VIII (DPHHS)	2725
53-6-111	Rules I - XXI (DPHHS)	2580
53-6-111	37.40.406, 85.406, 86.2801, 2901, 2905, 3002, 3005, 3009, 3025, 3411, 88.205, 305, 605, 906	2580
53-6-111	37.40.1415, 86.1806, 1807	2383
53-6-111	37.85.406, 86.2905, 3005, 3009, 3016, 3018, 3020, 3025	1652
53-6-111	37.86.2207, 2230	2498
53-6-111	37.86.2234	2884
53-6-111	37.88.101, 901	2395
53-6-111	37.88.101, 901	2886
53-6-111	37.88.101, 1101, 1106	2725
53-6-113	Rule I (DPHHS)	2498
53-6-113	Rules I - IV (DPHHS)	2406
53-6-113	Rules I - VIII (DPHHS)	2725
53-6-113	Rules I - XXI (DPHHS)	2580
53-6-113	37.40.406, 85.406, 86.2801, 2901, 2905, 3002, 3005, 3009, 3025, 3411, 88.205, 305, 605, 906	2580
53-6-113	37.40.1415, 86.1802, 1806, 1807	2383
53-6-113	37.82.101	2741
53-6-113	37.85.406, 86.2905, 3005, 3009, 3016, 3018, 3020, 3025	1652
53-6-113	37.86.2207, 2230	2498

MCA	Rule or A.G.'s Opinion No.	Register Page No.
53-6-113	37.86.2234	2884
53-6-113	37.86.3501, 3502, 88.101, 901, 907, 89.103	2395
53-6-113	37.86.3501, 88.101, 901	2886
53-6-113	37.88.101, 1101, 1106	2725
53-6-116, 117	37.89.103	2395
53-6-131	37.82.101	2741
53-6-131	37.85.406, 86.2905, 3005	1652
53-6-131	37.89.103	2395
53-6-141	37.40.406, 85.406, 86.2801, 2901, 2905, 3002, 3005	2580
53-6-141	37.82.101	2741
53-6-141	37.85.406, 86.2905, 3005	1652
53-6-141	37.86.1802, 1806, 1807	2383
53-6-149	Rules I, XII, XV - XVIII (DPHHS)	2580
53-6-149	Rules I, VIII (DPHHS)	2725
53-6-149	37.86.2901	2580
53-6-149	37.88.1106	2725
53-6-402	37.40.1415	2383
53-6-701	37.89.103	2395
53-6-705	37.89.103	2395
53-10-501	37.2.902	1951
53-10-504	37.2.907	1951
53-18-101 - 105	37.2.502	1951
53-19-305	Rule I (DPHHS)	2833
53-19-305	37.36.101	2833
53-19-307	Rule I (DPHHS)	2833
53-19-307	37.36.101, 401, 402, 406, 603	2833
53-21-139	37.89.103	2395
53-21-202	37.89.103	2395
53-21-701	37.86.3502, 89.103	2395
53-21-703	37.86.3502, 89.103	2395
61-8-903	23.6.101	2019
61-8-903	23.6.101	2628
61-8-905	23.6.103	2019
61-8-906	23.6.108	2019
61-8-907	23.6.109, 110	2019
61-8-908	23.6.105, 106, 113	2019
61-8-911	23.6.101	2628
61-8-911	23.6.101, 103, 108 - 110, 113	2019
61-8-912	23.6.105, 106	2019
69-1-114	Rule II (PSR)	2228
69-3-103	Rules I, II (PSR)	2220
69-3-103	38.5.2101, 2102	2224

MCA	Rule or A.G.'s Opinion No.	Register Page No.
69-3-103	38.5.2401 - 2403, 2405 - 2407	2220
69-3-108	38.5.2101, 2102	2224
69-3-207	38.5.2202, 2302	2224
69-3-803	Rules I - VI (PSR)	2054
69-3-815	Rules I - VI (PSR)	2054
69-3-1301 - 1303	38.5.3802, 3819, 3904	2085
69-3-1304	38.5.3802, 3819, 3904, 4201	2085
69-3-1305	38.5.4201	2085
69-3-1308 - 1311	38.5.4201	2085
69-3-1315, 1316	38.5.4201	2085
69-4-201	38.5.1010, 2101	2224
69-4-601	38.5.2401	2220
69-4-602, 603	Rules I, II (PSR)	2220
69-4-603	38.5.2402 - 2407	2220
69-8-403	Rules I, II (PSR)	2228
69-8-403	38.5.8201, 8202, 8226	2228
69-8-403	38.5.8228	2894
69-8-419	Rule I (PSR)	2228
69-8-419	38.5.8228	2894
69-8-421	Rule II (PSR)	2228
70-23-301	42.20.105	1516
70-23-403	42.20.105	1516
71-3-125	44.6.107, 113	1894
T. 72, Ch. 16	42.35.101 - 103	2233
72-16-201	42.35.101 - 104, 201 - 204, 211 - 214, 221, 222, 231, 241 - 244, 301, 302, 311, 312, 316, 317, 321 - 323, 331 - 337, 341 - 343, 401, 36.101 - 105, 201 - 205, 211, 212, 301, 311 - 315, 401 - 408, 501, 502, 601 - 603	2233
72-16-207	42.36.401 - 408, 502	2233
72-16-301	42.35.201 - 203, 211 - 214	2233
72-16-302	42.35.221, 222	2233
72-16-303	42.35.231	2233
72-16-304	42.35.104, 241 - 244	2233
72-16-306	42.35.302	2233
72-16-307	42.35.301	2233
72-16-308	42.35.101, 311, 312, 316, 321 - 323, 331 - 337, 341 - 343	2233
72-16-312	42.35.204, 36.201, 202, 205	2233
72-16-313	42.35.104, 36.201, 205, 211, 212	2233
72-16-316	42.36.201, 203, 205	2233
72-16-317	42.36.104	2233
72-16-318	42.36.105, 201, 205	2233
72-16-321	42.36.101 - 103	2233
72-16-331	42.35.503, 505 - 509, 513	2233
72-16-333	42.35.501, 504	2233

MCA	Rule or A.G.'s Opinion No.	Register Page No.
72-16-334	42.35.501	2233
72-16-335	42.35.511, 516, 518 - 520	2233
72-16-336	42.35.502, 512, 514, 515, 517	2233
72-16-337	42.35.501 - 520	2233
72-16-338	42.35.503	2233
72-16-401	42.36.401, 502	2233
72-16-417	42.35.317	2233
72-16-431, 432	42.36.301	2233
72-16-433	42.35.104	2233
72-16-438	42.36.301, 311 - 315, 603	2233
72-16-452	42.36.601, 603	2233
72-16-453	42.35.506, 510	2233
72-16-459	42.36.602	2233
72-16-462, 463	42.36.602	2233
72-16-502, 503	42.36.501	2233
72-16-607	42.36.403 - 408	2233
T. 72, Ch. 16, Pt. 7	42.35.104	2233
72-16-801	42.36.204	2233
72-16-902	42.35.401	2233
72-16-904, 905	42.35.401	2233
72-16-909	42.35.401	2233
72-16-1001 - 1006	42.35.405	2233
72-16-1107	42.35.405	2233
T. 75, Ch. 2	17.8.102, 103	2801
75-2-111	17.8.102, 103, 106, 130, 316, 320, 340, 401, 801, 819, 822	2801
75-2-202	17.8.801, 819, 822	2801
75-2-203	17.8.106, 316, 320, 340, 401, 801, 819, 822	2801
75-2-204	17.8.801, 819, 822	2801
75-2-217	17.8.1201, 1204	2801
75-2-217, 218	17.8.1213	2187
75-2-218	17.8.1201	2801
75-2-401	17.8.130	2801
75-2-503	17.74.401 - 405	1595
75-2-504	17.74.401	1595
75-2-514	17.74.405	1595
75-3-201	37.14.1002, 1003	1863
75-3-204	37.14.1003	1863
75-5-201	17.30.619, 1001	2808
75-5-301	17.30.502, 615, 619, 651, 653, 656, 657, 702, 715, 1001, 1006, 1007	2808
75-5-303	17.30.702, 715	2808
75-5-401	17.30.1001	2808
75-6-106	37.12.301, 305, 306, 311, 312, 314 - 316, 320, 324, 326, 337, 338, 341, 345, 346	1969
75-10-115	17.50.401 - 403, 410 - 412, 416	1720
75-10-118	17.50.411	1720
75-10-204	17.50.402, 403, 410 - 412, 416	1720

MCA	Rule or A.G.'s Opinion No.	Register Page No.
75-10-204	17.50.811, 812	2350
75-10-205	17.50.812	2350
75-10-221	17.50.401 - 403, 410 - 412, 416	1720
75-10-1006	8.16.723, 24.138.405	1742
75-10-1006	24.156.1807	1841
75-10-1201	17.50.802	2350
75-10-1202	17.50.802, 803, 809, 811, 813, 815	2350
75-10-1211	17.50.803, 812	2350
75-10-1212	17.50.803	2350
75-10-1220	17.50.812	2350
75-10-1222	17.50.812	2350
75-11-302	17.56.101	2167
75-11-319	17.56.101	2167
75-11-505	Rules I - III (DEQ)	2167
75-11-505	17.56.101, 121, 221, 308, 309, 701, 1001	2167
75-11-509	Rule I (DEQ)	2167
75-11-509	17.56.308, 309, 701	2167
75-11-525	17.56.121	2167
77-5-201	Rules I - VI (DNRC & Board of Land Commissioners)	1453
77-5-208	Rules I - VI (DNRC & Board of Land Commissioners)	1453
77-5-223	Rules I - VI (DNRC & Board of Land Commissioners)	1453
80-2-201	4.4.303	1710
80-2-205	4.4.303	1710
80-3-303	4.12.1427	2789
80-3-315	4.12.1427	2789
80-7-902	4.5.301	2781
80-7-903	4.5.302, 305	2781
80-7-905	4.5.309	2781
80-7-906	4.5.306	2781
80-7-907	4.5.313	2781
80-7-909	4.5.301, 302, 305, 306, 308, 309, 313, 315	2781
80-7-912	4.5.308	2781
80-10-206	4.12.607	1576
80-10-206	4.12.607	2421
80-10-207	4.12.608	1576
80-10-207	4.12.608	2421
80-10-301	4.12.607, 608	2421
80-11-601	Rules I - XV (Agriculture)	2324
80-15-105	17.30.1006	2808
80-15-201	17.30.1006	2808
81-23-103, 104	32.23.301	1948
81-23-202	32.23.301	1948

MCA	Rule or A.G.'s Opinion No.	Register Page No.
82-4-402	Rules I - IV, VI, VII, X (DEQ - Board of Environmental Review)	2190
82-4-402	17.24.212, 214	2190
82-4-403	17.24.202	2190
82-4-405	Rule V (DEQ - Board of Environmental Review)	2190
82-4-422	Rules I - X (DEQ - Board of Environmental Review)	2190
82-4-422	17.24.201 - 207, 212 - 215	2190
82-4-423	Rules III, IV, VI, VII, X (DEQ - Board of Environmental Review)	2190
82-4-423	17.24.206, 212	2190
82-4-431	Rules I - VIII, X (DEQ - Board of Environmental Review)	2190
82-4-431	17.24.201, 202, 212	2190
82-4-432	Rules I, II, IV, V, VII - X (DEQ - Board of Environmental Review)	2190
82-4-432	17.24.202 -207, 212, 213	2190
82-4-433	Rules V, IX (DEQ - Board of Environmental Review)	2190
82-4-433	17.24.203, 213	2190
82-4-434	Rules II - VII, IX (DEQ - Board of Environmental Review)	2190
82-4-434	17.24.202, 204 - 207, 212 - 215	2190
82-4-435	17.24.215	2190
82-4-436	Rule VII (DEQ - Board of Environmental Review)	2190
82-4-436	17.24.213	2190
82-4-441	17.24.215	2190
87-1-268	12.3.180	1628
87-1-276	12.10.104	1986
87-1-277 - 279	12.10.104, 112	1986
87-1-301	12.9.211	1592
87-1-303	Rule I (FWP Commission)	1874
87-1-303	Rule I (FWP Commission)	1878
87-1-303	Rule I (FWP Commission)	2676
87-1-303	Rules I - XIV (FWP Commission)	1583
87-1-303	12.11.345, 501, 3435, 3455, 3460	1583
87-1-303	12.11.501, 2205	2676
87-1-303	12.11.640	2348
87-1-303	12.11.1408	2854
87-1-305	12.9.211	1592
87-1-401	12.9.211	1592
87-5-402	12.9.211	1592
90-1-103	Rule I (Commerce)	2158
90-1-116	Rules I - VI (Commerce)	1829
90-1-116	8.99.302	2425
90-3-204	8.122.205, 206, 601 - 616, 701 - 704	2792
90-3-519	8.122.801 - 805	2792
90-3-520	8.122.805	2792
90-3-521	8.122.204	2792

MCA	Rule or A.G.'s Opinion No.	Register Page No.
90-3-523	8.122.604	2792
90-3-901	8.122.616	2792
90-6-710	Rule I (Commerce)	1581
90-6-710	Rule I (Commerce)	1713
Opinion 44-5	Opinion No. 3	2553
Opinion 42-114	Opinion No. 2	1538
Opinion 42-69	Opinion No. 2	1538
Opinion 37-156	Opinion No. 2	1538
Ch. 443, Sec. 25, L. 2003	Rule I (Labor & Industry)	1449
ARM 8.58.419(3)(q)	Petition for Declaratory Ruling (Labor & Industry - Realty Regulation)	2557
ARM 8.58.714(3)(n)	Petition for Declaratory Ruling (Labor & Industry - Realty Regulation)	2557
Revised Codes of Montana, 1977 92-838	Opinion No. 2	1538
House Bill 2, 1st Special Session, 1981	37.2.902, 907	1951
California Labor Code, Sec. 3202	Opinion No. 2	1538
California Labor Code, Sec. 4850	Opinion No. 2	1538
Public Law 107-252	Rule XXXIX (Secretary of State)	2526