

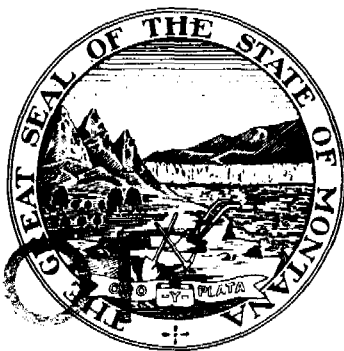
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1999 ISSUE NO. 20
OCTOBER 21, 1999
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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 20

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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Administrative Rules Bureau at (406) 444-2055.

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BEFORE THE PUBLIC EMPLOYEES' RETIREMENT BOARD
OF THE STATE OF MONTANA

In the matter of amendment of ARM)	NOTICE OF PROPOSED
2.43.437 pertaining to purchase of	)	AMENDMENT
military service, by members of the)	
retirement systems administered by)	
the Public Employees' Retirement	)	NO PUBLIC HEARING
Board.	)	CONTEMPLATED
)	

TO: All Concerned Persons

1. On November 20, 1999, the Public Employees' Retirement Board proposes to amend ARM 2.43.437 pertaining to the eligibility date for purchase of Korean or Vietnam military service at a reduced rate for the Public Employees' Retirement System members.

2. The Public Employees' Retirement Board 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 Public Employees' Retirement Board no later than 5:00 p.m. on November 8, 1999, to advise us of the nature of the accommodation that you need. Please contact Lucie Willson; P.O. Box 200131, Helena MT 59620-0131; phone, 406-444-7939; TDD phone, 406-444-1421; FAX, 406-444-5428.

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

2.43.437 MILITARY SERVICE (1) Members who meet the requirements of their retirement systems may purchase military service. The cost will equal the actuarial rate for the respective system times the member's compensation for the immediately preceding 12 months. Each full month of additional service will cost 1/12 the cost of a full year.

(2) Highway patrol officers who did not elect GABA will pay a different cost for military service. The cost will equal the contributions for the year of service the member must complete to purchase the year of military. For example, a member purchasing the first year of military would pay an amount equal to the contributions for the member's 16th year of service. To purchase the 2nd, 3rd, and 4th years, the member would pay an amount equal to the contributions for the 17th, 18th, and 19th years of service, respectively. The member must also pay interest forward from the date the member is eligible to purchase the service to when payment is complete. The interest is the rate set by the board for member accounts.

(3) Members of PERS may purchase Korean or Vietnam military service at a different cost. The cost will equal the contributions for the year of service the member must complete to purchase the year of military. For example, a member purchasing the first year of military would pay an amount equal to the contributions for the member's 11th year of service. To purchase the 2nd, 3rd, and 4th years, the member would pay an amount equal to the contributions for the 12th, 13th, and 14th years of service, respectively. The member must also pay interest forward from the date the member is eligible to purchase the service to when payment is complete. ~~The eligibility date will be the later of July 1, 1999 or when the member completes the 10th year of service.~~ The interest is the rate set by the board for member accounts.

AUTH: 19-2-403, 19-3-304, 19-6-201, 19-7-201, 19-8-201,
19-9-201, 19-13-202, MCA
IMP: 19-3-503, 19-6-304, 19-6-801, 19-7-310, 19-7-803,
19-8-304, 19-8-901, 19-9-403, 19-13-403, MCA

4. The amendment to ARM 2.43.437 is necessary because the current rule is an incorrect interpretation of the statute.

5. Concerned persons may present their data, views, or arguments concerning the proposed amendment in writing no later than November 19, 1999 to:

Mike O'Connor, Executive Director
Public Employees' Retirement Board
P.O. Box 200131
Helena, Montana 59620-0131

A Fax may be sent to: 406-444-5428.

An E-mail message may be sent to the Public Employees' Retirement Board at Perb@state.mt.us.

An electronic message may be sent to the following Internet address:

Lucie Willson
luwillson@state.mt.us

6. If persons who are directly affected by the proposed amendment wish to express their data, views, and arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to the above address. A written request for hearing must be received no later than November 19, 1999.

7. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is

less, of the persons who are directly affected by the proposed 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 3,088 persons based on 1999 payroll reports of active members.

8. The Public Employees' Retirement Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the Board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding public retirement rulemaking actions. Such written request may be mailed or delivered to Lucie Willson, Public Employees' Retirement Board, P.O. Box 200131, Helena MT 59620-0131, faxed to the office at 406-444-5428, or may be made by completing a request form at any rules hearing held by the Public Employees' Retirement Board.

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

/s/ Terry Teichrow

Terry Teichrow, President
Public Employees' Retirement Board

/s/ Kelly Jenkins

Kelly Jenkins, General Counsel and
Rule Reviewer

/s/ Dal Smilie

Dal Smilie, Chief Legal Counsel and
Rule Reviewer

Certified to the Secretary of State on October 12, 1999.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PUBLIC HEARING
amendment of ARM 2.21.3602,	)	ON THE PROPOSED
2.21.3603, 2.21.3607,	)	AMENDMENT OF ARM
2.21.3615 through 2.21.3619	)	2.21.3602, 2.21.3603,
and the repeal of ARM	)	2.21.3607, 2.21.3615
2.21.3608 through 2.21.3610,	)	THROUGH 2.21.3619 AND
in the Veterans' Employment	)	REPEAL OF ARM 2.21.3608
Preference policy	)	THROUGH 2.21.3610 IN THE
	)	VETERANS' EMPLOYMENT
	)	PREFERENCE POLICY

TO: All Concerned Persons

1. On November 15, 1999, at 9:00 a.m., a public hearing will be held in room 136 of the Mitchell Building, 125 N. Roberts St., Helena, Montana to consider the proposed amendment of ARM 2.21.3602, 2.21.3603, 2.21.3607, 2.21.3615 through 2.21.3619, and repeal of ARM 2.21.3608 through 2.21.3610 in the Veterans' Employment Preference policy.

2. The Department of Administration 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. on November 8, 1999, to advise us of the nature of the accommodation that you need. Please contact State Personnel Division, Department of Administration, P.O. Box 200127, Helena, MT 59620-0127; telephone (406) 444-3871; TDD (406) 444-1421; FAX (406) 444-0544.

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

2.21.3602 POLICY AND OBJECTIVES (1) It is the policy of the state of Montana, executive, legislative, and judicial branches, the Montana university system, and covered local governments to provide preference in employment to veterans, eligible disabled veterans, other veterans and certain eligible relatives, when using numerically scored selection procedures, as required in 39-29-101 et seq., MCA.

(2) It is the objective of this policy to establish uniform practices and procedures for the administration of the veterans' public employment preference by all public employers covered by 39-29-101 et seq., MCA.

(3) It is not the intention of this policy to dictate selection procedures to be used but rather to explain how the point preference should be applied. ~~when a scored procedure is used.~~

AUTH: Sec. 39-29-112, MCA
IMP: Sec. 39-29-101 et seq., MCA

REASON: The proposed amendments implement changes to 39-29-102 (2)(b), MCA, that were provided for in Senate Bill 90. Veterans' Employment Preference is no longer limited to eligible veterans, disabled veterans, or eligible relatives who score at least 70% in scored recruitment procedures. Veterans' preference has been expanded to include selection procedures other than scored procedures when eligible persons hold "substantially equal qualifications" over nonpreferred applicants. When scored procedures are used, Senate Bill 90 struck the requirement for a minimum 70% points and implemented a "meets the minimum qualifications for the position" eligibility requirement.

2.21.3603 DEFINITIONS For purposes of this sub-chapter, the following definitions apply:

(1) through (3) remain the same.

(4) "Minimum qualifications" means the basic competencies (knowledge, skills, and behaviors) needed to adequately perform the duties of the position from the first day of employment. The applicant must possess the education and experience that leads to the required competencies.

(5) "Non-numerical scoring" means assessing the applicant's degree of success or failure on a selection device or combination of devices without employing a numerical score, for example, a plus (+) for superior, a check (✓) for satisfactory and a minus (-) for unsatisfactory.

(6) "Position" means, as provided in 39-29-101, MCA, "a position occupied by a permanent, temporary, or seasonal employee as defined in 2-18-101, MCA, for the state or a similar permanent, temporary, or seasonal employee with a public employer other than the state. The term does not include:

(a) a state or local elected office;

(b) appointment by an elected official to a body such as a board, commission, committee, or council;

(c) appointment by an elected official to a public office if the appointment is provided for by law;

(d) a department head appointment by the governor or an executive department head appointment by a mayor, city manager, county commissioner, other chief administrative or executive officer of a local government; or

(e) engagement as an independent contractor or employment as an independent contractor."

(7) "Public employer" means, as provided in 39-29-101, MCA:

(a) "a department, office, board, bureau, commission, agency, or other instrumentality of the executive, legislative, or judicial branches of the government of this state;

(b) a unit of the Montana university system;

(c) a school district or community college; and

(d) a county, city, or town."

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

+5+ (9) "Scored procedure" means, as provided in 39-29-101,

MCA, "a written test, structured oral interview, performance test, or other selection procedure or a combination of these procedures that results in a numerical score to which percentage points may be added," and does not mean non-numerical scoring of procedures. ~~Non-numerical scoring means assessing the applicant's degree of success or failure on a selection device or combination of devices without employing a numerical score, for example, a plus (+) for superior, a check (✓) for satisfactory and a minus (-) for unsatisfactory.~~

(10) "Substantially equal qualifications" means, as provided in 39-30-103, MCA, "the qualifications of two or more persons among whom the public employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons."

(6) remains the same, but is renumbered (11).

AUTH: Sec. 39-29-112, MCA

IMP: Sec. 39-29-101 et seq., MCA

REASON: The proposed amendments create a definition for the new "minimum qualifications" standard for applying preference when scored procedures are used. The amendments also add the definition for the new "substantially equal qualifications" standard for applying veterans' preference when procedures other than scored procedures are used. This definition is the same language found in 39-30-103, MCA, in the Montana Persons With Disabilities Employment Preference Act.

The term "non-numerical scoring" has been added as a separate definition and reference to it was removed from the definition of "scored procedure." This definition further clarifies the differences between scored and non-scored selection procedures.

The proposed amendments also add definitions for "public employer" and "position". ARM 2.21.3610 is proposed to be repealed. These terms were defined in that rule. These terms will be moved to the Definitions. Repealing ARM 2.21.3610 will reduce the number of rules and improve the overall organization of the veterans' preference policy.

2.21.3607 ELIGIBLE VETERAN ELIGIBILITY (1) To be eligible to receive veterans' employment preference, a veteran, disabled veteran, or eligible relative, as defined in 39-29-101, MCA, must:

(a) remains the same.

(b) receive "70 or more percentage points of the total possible points that may be granted in a scored procedure", meet "the minimum qualifications required for the position. If no applicant meets the minimum qualifications and the public employer fills a training position, veterans' preference must be applied."

(c) have been "separated under honorable conditions from active duty in the armed forces", and

(d) have "served more than 180 consecutive days (on active

duty in the armed forces}, other than for training; or

(c) as a member of a reserve component under an order of active duty pursuant to 10 U.S.C. 672 (a), (d), or (g), 10 U.S.C. 673, or 10 U.S.C. 673b, served on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged or released from duty under honorable conditions."

(2) A veteran must have, as provided in 39-29-101, MCA:

(a) been "separated under honorable conditions from active duty in the armed forces after having served more than 180 consecutive days, other than for training; or

(b) as a member of a reserve component under an order of active duty pursuant to 10 U.S.C. 12301(a), (d), or (g), 10 U.S.C. 12302, or 10 U.S.C. 12304, served on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged or released from duty under honorable conditions."

(3) A disabled veteran must have, as provided in 39-29-101, MCA:

(a) been "separated under honorable conditions from active duty in the armed forces; and

(b) established the present existence of a service-connected disability or (be) receiving compensation, disability retirement benefits or pension because of a law administered by the department of veterans affairs or a military department; or

(c) received a purple heart medal."

(4) An eligible relative must be, as provided in 39-29-101, MCA:

(a) the unremarried surviving spouse of a veteran or disabled veteran; or

(b) the spouse of a disabled veteran who is unable to qualify for appointment to a position due to the disability and who is incapable of using the employment preference because the disability prevents the veteran from working; or

(c) the mother of a veteran who died under honorable conditions while serving in the armed forces or the mother of a service-connected permanently and totally disabled veteran if:

(i) the mother's spouse is totally and permanently disabled;

or
(ii) the mother is the unremarried widow of the veteran's father.

AUTH: Sec. 39-29-112, MCA

IMP: Sec. 39-29-101, MCA

REASON: The proposed amendments to ARM 2.21.3607 consolidate the provisions of ARM 2.21.3608 and 2.21.3609 into one rule that describes eligibility for veterans' preference. ARM 2.21.3608 and 2.21.3609 are proposed to be repealed.

The proposed amendment to section (1)(b) repeals the former percentage points requirement and adds the new "meets the minimum qualifications" requirement provided for in Senate Bill 90.

The proposed amendments also improve the overall organization of the veterans' employment preference policy, eliminate duplicative language, and reduce the number of administrative rules.

2.21.3615 APPLYING PREFERENCE (1) As provided in 39-29-102, MCA, "Whenever a public employer uses a scored procedure, an applicant for an initial hiring, as defined in 39-30-103, MCA, must have added to ~~his~~ the applicant's score the following percentage points of the total possible points that may be granted in the scored procedure:

(a) through (2) remain the same.

(3) As provided in 39-29-102, MCA, "Whenever a public employer uses a selection procedure other than a scored procedure, the public employer shall give preference to a disabled veteran, eligible relative, or veteran, in that order, over any nonpreferred applicant holding substantially equal qualifications as defined in 39-30-103, MCA." Substantially equal qualifications does not mean a situation in which two or more applicants are exactly equally qualified. It means a range in which two applicants must be considered to be substantially equal in view of the qualifications set for the job. Qualifications shall include job-related competencies (knowledge, skills, and behaviors).

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

~~(4) 39-29-101, et seq., MCA does not require a public employer to use scored procedures for initial hiring of employees.~~

(5) remains the same.

(6) When individual scored procedures are used, percentage points must be added to each scored procedure if the individual score is used to advance or eliminate applicants. When scored selection procedures are used in combination to reach a total score, percentage points must be added to the total score. An applicant must ~~receive a score of at least 70% of the total possible score to be eligible for the percentage point meet the~~ minimum qualifications of the position to be eligible for preference.

(7) remains the same.

AUTH: Sec. 39-29-112, MCA

IMP: Sec. 39-29-102, MCA

REASON: The proposed amendments in section (3) incorporate the application of the substantially equal qualified preference into the rule. This is consistent with how the standard is applied in ARM 2.21.1423, the Persons With Disabilities Preference policy.

The proposed amendments also implement the provisions of Senate Bill 90 that expanded veterans' employment preference to include non-scored selection procedures.

2.21.3616 CLAIMING PREFERENCE - DOCUMENTATION AND VERIFICATION (1) As provided in 39-29-103, MCA, "a public employer shall, by posting or on the application form, give notice

of the point preference."

(2) As provided in 39-29-103, MCA, "a job applicant who believes ~~he that the applicant~~ is eligible to receive a point preference shall claim the preference in writing before the time for filing applications for the position involved has passed." ~~An~~ A public employer may provide a standard form for claiming employment preference. ~~However, Failure to complete such a form~~ does not negate an applicant's claim for preference, as long as a reasonable and timely claim is made. As provided in 39-29-103, MCA, "Failure to make a timely preference claim for a position is a complete defense to an action instituted by an applicant under 39-29-104, MCA, with regard to that position."

(3) ~~When a scored procedure will be used, At~~ the place where applications are received, the hiring authority or other agency receiving applications shall inform applicants of requirements for documentation of eligibility for preference which the applicant may be required to provide to the hiring authority.

(4) The person claiming eligibility for veterans' employment preference is responsible for providing all information necessary to document the claim.

(5) ~~When a scored procedure is used, the~~ The hiring authority must obtain documentation of eligibility for employment preference from an applicant who claims preference and who is selected for the vacancy and may require documentation from others claiming employment preference.

(6) through (8) remain the same.

(9) A public employer may release general information relating to a successful applicant's eligibility for preference upon request. ~~The information provided should not be specific as to the nature of a disability or other personally identifying information. Examples of general information would be "a disabled veteran" or "an eligible relative".~~

(10) remains the same.

AUTH: Sec. 39-29-112, MCA

IMP: Sec. 39-29-103, MCA

REASON: The proposed amendments implement the provisions of Senate Bill 90 that expand veterans' employment preference to include non-scored selection procedures.

The proposed amendments in section (9) are made to protect the privacy of persons with disabilities when providing information about a selection.

2.21.3617 HIRING DECISION (1) In making a hiring decision, an agency must be prepared to show:

(a) that the appropriate percentage points were added if numerically scored procedures were used; ~~and~~

(b) that the preference was given to an applicant with substantially equal qualifications who claimed veterans' preference if non-numerical scored procedures were used; and

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

(2) through (5) remain the same.

AUTH: Sec. 39-29-112, MCA

IMP: Sec. 39-29-103, MCA

REASON: The proposed amendment implements the provisions of Senate Bill 90 that expanded veterans' preference when procedures other than scored procedures are used.

2.21.3618 INTERNAL PROCEDURES - ENFORCEMENT OF PREFERENCE

(1) As provided in 39-29-104, MCA, "An applicant who believes ~~he~~ that the applicant is entitled to, but has not been given the point preference provided in 39-29-102, MCA, may, within 30 days of receipt of the notice of the hiring decision provided for in 39-29-103, MCA, submit to the public employer a written request for an explanation of the public employer's hiring decision."

(2) through (4) remain the same.

AUTH: Sec. 39-29-112, MCA

IMP: Sec. 39-29-104, MCA

2.21.3619 EXTERNAL PROCEDURES - ENFORCEMENT OF PREFERENCE

(1) As provided in 39-29-104, MCA, "The applicant may, within 90 days after receipt of notice of the hiring decision, file a petition in the district court in the county in which ~~his~~ the application was received by the public employer. The petition must state facts that on their face entitle the applicant to a point preference."

(2) External enforcement of the point veterans' employment preference in district court is provided for in 39-29-104, MCA.

(3) remains the same.

AUTH: Sec. 39-29-112, MCA

IMP: Sec. 39-29-104, MCA

REASON: The proposed amendments to ARM 2.21.3618 and 2.21.3619 implement language changes made by Senate Bill 90 and amend references that veterans' preference is limited to points in a scored procedure.

4. ARM 2.21.3608, 2.21.3609, and 2.21.3610 as proposed to be repealed are on pages 2-1089 and 2-1090 of the Administrative Rules of Montana.

AUTH: Sec. 39-29-112, MCA

IMP: Sec. 39-29-101 and 39-29-102, MCA

REASON: The repeal of ARM 2.21.3608 and 2.21.3609 is proposed because these rules will now appear as part of the amended ARM 2.21.3607, the eligibility for preference rule. Repetitious sections have been combined. Proposed amendments to ARM 2.21.3607 create a single eligibility rule that describes when all veterans, disabled veterans, and eligible relatives are eligible to receive veterans' preference.

The repeal of ARM 2.21.3610 is proposed because these provisions are definitions of terms which have been moved to ARM 2.21.3603, Definitions in their entirety.

The proposed repeal also meets the objectives of reducing the number of administrative rules and improving the overall organization of the veterans' preference policy.

5. Other changes that are not explained in each individual amended rule have been made to comply with formatting and style requirements.

6. 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 State Personnel Division, Department of Administration, P.O. Box 200127, Helena, MT 59620-0127, no later than November 29, 1999.

7. The State Personnel Division, Department of Administration has been designated to preside over and conduct the hearing.

8. The Department of Administration 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 mailing list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding personnel rules. Such written request may be mailed or delivered to Department of Administration, State Personnel Division, P.O. Box 200127, Helena, MT 59620-0127, faxed to the office at (406) 444-0544, or may be made by completing a request form at any rules hearing held by the Department of Administration.

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

Lois Menzies

Lois Menzies, Director
Department of Administration

Dal Smilie

Dal Smilie, Rule Reviewer

Certified to the Secretary of State October 12, 1999

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PUBLIC HEARING
amendment of ARM 2.21.1423	)	ON PROPOSED AMENDMENT OF
and ARM 2.21.1424 in the	)	ARM 2.21.1423 AND
Persons with Disabilities	)	2.21.1424 IN THE PERSONS
Preference Policy	)	WITH DISABILITIES
	)	PREFERENCE POLICY

TO: All Concerned Persons

1. On November 15, 1999, at 9:00 a.m., a public hearing will be held in Room 136 of the Mitchell Building, 125 N. Roberts Street, Helena, Montana to consider the proposed amendment to ARM 2.21.1423 and ARM 2.21.1424 in the Persons with Disabilities Preference Policy.

2. The Department of Administration 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. on November 8, 1999, to advise us of the nature of the accommodation that you need. Please contact State Personnel Division, Department of Administration, P.O. Box 200127, Helena, MT 59620-0127; telephone (406)444-3871; TDD (406)444-1421; FAX (406)444-0544.

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

2.21.1423 APPLYING PREFERENCE (1) through (4) remain the same.

(5) A current employee of an agency who meets eligibility requirements may claim and receive the persons with a disabilities preference when an applicant for an initial hire as defined in this policy.

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

~~46+~~ (7) Substantially equal qualifications does not mean a situation in which two or more applicants are exactly equally qualified. It means a range within which two applicants must be considered to be substantially equal in view of the qualifications set for the job. Qualifications shall include job-related competencies, knowledge, skills, and abilities behaviors.

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

AUTH: Sec. 39-30-106, MCA

IMP: Sec. 39-30-101 et seq., MCA

2.21.1424 CLAIMING PREFERENCE - DOCUMENTATION AND VERIFICATION (1) through (8) remain the same.

(9) A public employer may release general information relating to a successful applicant's eligibility for preference upon request. The information provided should not be specific to the nature of the disability or other personally identifying information. ~~Examples of general information would be "an eligible spouse of a person who is totally disabled," or "a person with a disability."~~

(10) remains the same.

AUTH: Sec. 39-30-106, MCA

IMP: Sec. 39-30-101 et.seq., MCA

REASON: These rule changes are being made to the Persons with Disabilities Employment Preference policy to clarify its use in the initial hiring of an employee who is a current employee of an agency, to include competencies as factors to be considered in determination of substantially equally qualified consistent with current human resources best practices and to protect the confidentiality of persons with disabilities when providing information about a selection. Technical corrections have been made to comply with the model rule format.

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 State Personnel Division, Department of Administration, P.O. Box 200127, Helena, MT 59620-0127, no later than November 29, 1999.

5. The State Personnel Division, Department of Administration has been designated to preside over and conduct the hearing.

6. The Department of Administration 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 mailing list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding personnel rules. Such written request may be mailed or delivered to Department of Administration, State Personnel Division, P.O. Box 200127, Helena, MT 59620-0127, faxed to the office at (406) 444-0544, or may be made by completing a request form at any rules hearing held by the Department of Administration.

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

Lois Menzies

Lois Menzies, Director
Department of Administration

Dal Smilie

Dal Smilie, Rule Reviewer

Certified to the Secretary of State October 12, 1999

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF PUBLIC HEARING
of a new rule and amendment	)	ON PROPOSED ADOPTION OF
of ARM 2.21.306 for disaster	)	A NEW RULE AND AMENDMENT
leave for trained American	)	OF ARM 2.21.306 FOR
red cross volunteers	)	LEAVE FOR TRAINED RED
	)	CROSS VOLUNTEERS

TO: All Concerned Persons

1. On November 15, 1999, at 9:00 a.m., a public hearing will be held in Room 136, Mitchell Building, 125 N. Roberts Street, Helena, Montana to consider the proposed amendment of ARM 2.21.306 and the adoption of a new rule for disaster leave for trained American red cross volunteers.

2. The Department of Administration 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. on November 8, 1999, to advise us of the nature of the accommodation that you need. Please contact State Personnel Division, Department of Administration, P.O. Box 200127, Helena, MT 59620-0127; telephone (406) 444-3871; TDD (406) 444-1421; FAX (406) 444-0544.

3. The rule as proposed to be adopted provides as follows:

RULE I AMERICAN RED CROSS DISASTER SERVICE As used in this subchapter, the following definitions apply:

- (1) "Agency" has the meaning provided in 2-18-101, MCA.
- (2) "Certified red cross disaster volunteer" means a member of the red cross disaster services human resources system (DSHRS) who has completed the American red cross specialized training program for disaster volunteers and is certified by the American red cross as a disaster service technician, specialist, coordinator or officer.
- (3) "Level III disaster" means, as defined by the American red cross disaster regulations and procedures, any disaster in which the anticipated loss is \$250,000 or above.
- (4) "Employee" means, as provided in 2-18-627, MCA, "any person employed by an agency except an elected official."
- (5) "Specialized disaster relief" means one or more of the following American red cross service categories in which a certified disaster service volunteer is trained:
 - (a) shelter management;
 - (b) mass feeding;
 - (c) family services;
 - (d) health services;
 - (e) public assistance inquiries;

- (f) damage assessment;
- (g) a support function for the above listed services, or
- (h) any other service performed for the American red cross for which training is required.

(6) A state employee who is a certified American red cross disaster volunteer may apply for up to 15 days or 120 hours of paid time off annually, which is not charged to any accrued leave or compensatory time, if called upon by the red cross to provide specialized disaster relief services. This leave does not carry over from year to year.

(7) Leave granted shall be at the discretion of the agency head through the employee's supervisor.

(8) The employee must include verification of the request from the red cross when applying for this leave.

(9) An employee granted leave shall be paid at the regular rate of pay for those regular hours during which the employee is absent from work, without loss of seniority, pay, accrued leave or compensatory time. No overtime shall be paid, regardless of hours worked. No expenses outside compensation for hours worked shall be paid.

(10) This leave shall commence upon approval by the employee's employing agency.

(11) Within 60 days of any request, the American red cross shall provide documentation of participation by the employee in disaster relief services for the period of absence.

(12) Training as a certified red cross disaster worker is provided by the red cross and is not covered under this leave policy.

AUTH: Sec. 2-18-102, MCA

IMP: Sec. 2-18-627, MCA

REASON: This rule implements HB 583, granting paid leave to certified red cross volunteers by providing clarifying definitions of the terms as applied by the American red cross and by stating conditions for such leave.

4. The rule as proposed to be amended provides as follows. Matter to be added is underlined. Matter to be deleted is interlined.

2.21.306 POLICY AND OBJECTIVES (1) and (1)(a) remain the same.

(b) provide paid time off not charged to an employee's accrued leave or compensatory time for an employee who is a trained and certified member of the American red cross disaster services human resources to provide service to the red cross in the event of a level III disaster or above as defined by the red cross; and

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

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

AUTH: Sec. 2-18-102, MCA

IMP: Sec. 2-18-627, MCA

REASON: This change adds paid red cross disaster services leave to the types of available disaster leave.

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 State Personnel Division, Department of Administration, P.O. Box 200127, Helena, MT 59620-0127, no later than November 29, 1999.

6. The State Personnel Division, Department of Administration has been designated to preside over and conduct the hearing.

7. The Department of Administration 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 mailing list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding personnel rules. Such written request may be mailed or delivered to Department of Administration, State Personnel Division, P.O. Box 200127, Helena, MT 59620-0127, faxed to the office at (406) 444-0544, or may be made by completing a request form at any rules hearing held by the Department of Administration.

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

Lois Menzies

Lois Menzies, Director
Department of Administration

Dal Smilie

Dal Smilie, Rule Reviewer

Certified to the Secretary of State October 12, 1999

BEFORE THE BOARD OF OUTFITTERS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed amendment and adoption of rules pertaining to outfitter license qualifications, examinations, outfitter acting as guide, renewal, amendment to operation plan, inactive, guide or professional guide license, fee for outfitter, operations plan, N.C.H.U., guide or professional guide, outfitter records, safety provisions, standards for outfitters, guides and professional guides, unprofessional conduct and misconduct, moratorium, review of new operations plan and proposed expansion of net client hunting use under existing and new operations plans, and sale and purchase of an outfitting operation) NOTICE OF PUBLIC HEARING ON 8.39.501 LICENSURE - OUTFITTER LICENSES, 8.39.502 LICENSURE - OUTFITTER QUALIFICATIONS, 8.39.503 LICENSURE - OUTFITTER EXAMINATION, 8.39.507 OUTFIT- TER ACTING AS GUIDE, 8.39.508 LICENSURE - RENEWAL, 8.39.510 LICENSURE - AMENDMENT TO OPERATIONS PLAN, 8.39.512 LICENSURE - INACTIVE, 8.39.514 LICENSURE - GUIDE OR PROFESSIONAL GUIDE LICENSE, 8.39.518 LICENSURE - FEES FOR OUTFITTER, OPERATIONS PLAN, N.C.H.C., AND GUIDE OR PROFESSIONAL GUIDE, 8.39.703 OUTFITTER RECORDS, 8.39.704 SAFETY PROVISIONS, 8.39.709 STANDARDS FOR OUTFITTERS, GUIDES AND PROFESSIONAL GUIDES - UNPROFESSIONAL CONDUCT AND MISCONDUCT, 8.39.802 MORATORIUM, 8.39.804 REVIEW OF NEW OPERATIONS PLAN AND PROPOSED EXPANSION OF NET CLIENT HUNTING USE UNDER AN EXISTING OPERATIONS PLAN, AND NEW RULE I SALE AND PURCHASE OF AN OUTFITTING OPERATION
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TO: All Concerned Persons

1. On November 15, 1999, at 9:00 a.m., a public hearing will be held in the Division of Professional and Occupational Licensing Large Conference Room, Lower Level, Arcade Building, 111 North Jackson, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Board of Outfitters will make reasonable accommodations for persons with disabilities who wish to participate in the public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Outfitters, no later than 5:00 p.m., on November 1, 1999, to advise us of the nature of the accommodation that you need. Please contact Hank Worsch, Board of Outfitters, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0407; telephone (406)444-3738; Montana Relay 1-800-253-4091; TDD (406)444-2978; FAX (406)444-1667.

3. The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

"8.39.501 LICENSURE--OUTFITTER LICENSES (1) through (2) will remain the same.

- (a) hunting services (big game);
- (b) small game hunting services, upland game birds, waterfowl and turkey; or
- (c) fishing services; and shall include, or
- (d) if applicable to the services provided in (2)(a) through (c) above and qualified for, one or more of the following:
 - (i) through (iv) will remain the same.
 - (v) nonmotorized boat or other floating craft, or
 - (vi) motorized watercraft used for fishing or hunting and shall include or,
 - (vii) lodging."

AUTH: Sec. 37-1-131, 37-47-201, 37-47-301, 37-47-302, 37-47-307 and 37-47-308, MCA
IMP: Sec. 37-47-201, MCA

REASON: Pursuant to 37-47-201(5)(b), MCA, the board is authorized to adopt rules prescribing requisite qualifications. The amendments are for further clarification of licensure functions.

"8.39.502 LICENSURE--OUTFITTER QUALIFICATIONS

- (1) through (b) will remain the same.
- (2) For purposes of this rule, verified experience includes:
 - (a) affidavit by the outfitter verifying the guiding experience claimed by the applicant;
 - (b) client logs submitted by the applicant, signed by the sponsoring outfitter for whom services were provided;
 - (c) outfitter log book entries; or
 - (d) sources of information with board acceptable guarantees of reliability which may include, but are not limited to, park service records, client affidavits or letters.
- (2) will remain the same, but will be renumbered (3).
- ~~(3)~~ (4) Three days of experience may be waived by the board for an applicant for every day of training completed by the applicant in the category of licensure applied for (fishing or hunting), subject to a maximum waiver of 30 days, at an outfitter or guide school ~~licensed by a state and approved by the board.~~
- ~~(4) The board may waive 50 days of the experience requirement of an applicant for an outfitter license provided that:~~
 - ~~(a) the applicant submits and receives pre approval from the board for a plan documenting how and in what capacity the applicant will work with the licensed outfitter from whom the business was obtained;~~
 - ~~(b) the applicant owns an outfitting business that constitutes the entire operation of an existing licensed~~

outfitter;

~~(c) the business has had an approved operations plan on file with the board; and~~

~~(d) the applicant works with the licensed outfitter from whom the business was obtained in operating the business now owned by the applicant, pursuant to the plan approved by the board, for not less than 12 months following advance approval of the plan from the board."~~

AUTH: Sec. 37-1-131, 37-47-201, MCA

IMP: Sec. 37-47-201, 37-47-302, 37-47-304, 37-47-307, 37-47-308, MCA

REASON: Pursuant to 37-47-201(5)(b), MCA, the board is authorized to adopt rules prescribing requisite qualifications. In recent months, outfitter applications received by the board have contained various types of information relative to the applicant's guiding experience. To provide guidance on the type of information the board will accept in an application, this subsection (2) is proposed. The remaining changes are for clarity.

"8.39.503 LICENSURE--OUTFITTER EXAMINATION

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

(3) The general examination categories will be:

(a) hunting;

(b) bird hunting;

(c) fishing;

(d) motorized watercraft used for fishing or hunting;

(e) packing; and

(f) waterfowl. This list is not intended to be exhaustive in detail. A wide range of issues and sub-topics exist within each broad topic.

(3) and (4) will remain the same, but will be renumbered (4) and (5)."

AUTH: Sec. 37-1-131, 37-47-201, MCA

IMP: Sec. 37-47-201, 37-47-305, MCA

REASON: Pursuant to 37-47-201(5)(b), MCA, the board is authorized to adopt rules prescribing requisite qualifications. The amendments are for further clarification of general examination categories.

"8.39.507 OUTFITTER ACTING AS GUIDE (1) Any person holding a current ~~and valid active~~ outfitter's license may act as a guide for another licensed outfitter without a guide's license if:

(a) he or she possesses the qualifications and the license endorsements for the activity to be guided in ~~of a guide under these rules.~~

(b) has a record of this permissive activity on file with the department;

(c) is considered as a licensed guide for this

particular outfitter only; and

(d) acts as a guide only within the services and area of operation of this particular outfitter."

AUTH: Sec. 37-47-201, MCA

IMP: Sec. 37-47-201, 37-47-301, 37-47-302, 37-47-303, MCA

REASON: Pursuant to 37-47-201(5)(b), MCA, the board is authorized to adopt rules prescribing requisite qualifications. In recent months, the Board has received several questions from outfitters concerning their need for a guide license. The proposed amendments are for further clarification of licensure requirements.

"8.39.508 LICENSURE--RENEWAL (1) through (e) will remain the same.

(2) If an outfitter, guide, or professional guide does not submit a completed application with the required fee in accordance with (1) on or before December 31 of each license year ~~for an outfitter or April 1 of each license year for a guide or professional guide~~, he or she shall immediately cease practice until a renewal application is submitted and approved by the board.

(3) will remain the same.

~~(4) A guide or professional guide who fails to submit an application for renewal prior to April 1 of each license year shall pay a late renewal fee in addition to the license fee, both specified in ARM 8.39.510, the first time the guide or professional guide seeks relicensure after the date of expiration of the previous license."~~

AUTH: Sec. 37-1-131, 37-47-201, MCA

IMP: Sec. 37-47-201, 37-47-302, 37-47-303, 37-47-304, 37-47-306, 37-47-307, 37-47-312, MCA

REASON: Pursuant to 37-47-201(5)(b), MCA, the board is authorized to adopt rules prescribing requisite qualifications. This rule is not applicable since guides are licensed on an as needed basis throughout the year and no late renewal fee is imposed.

"8.39.510 LICENSURE--AMENDMENT TO OPERATIONS PLAN

(1) An outfitter may apply for an amendment to his or her operations plan by stating in writing his or her proposed changes and submitting it to the board. All amendments will be considered by the board using the same criteria as new applicants, including, if an outfitter is applying to add hunting; fishing, motorized watercraft used for fishing or hunting, upland game bird, waterfowl, turkey or horse use to his or her operations plan, being required to take those parts of the outfitter examination that apply to the proposed amendment."

AUTH: Sec. 37-1-131, 37-47-201, MCA
IMP: Sec. 37-47-201, MCA

REASON: Pursuant to 37-47-201(5)(b), MCA, the board is authorized to adopt rules prescribing requisite qualifications. The proposed amendments are for further clarification of amendments to operation plans.

"8.39.512 LICENSURE - INACTIVE (1) and (2) will remain the same.

(3) Outfitters whose licenses are inactive more than three years and who choose to become active must take the parts of the outfitter test related to outfitter laws and rules and fish and game laws and rules. An inactive outfitter who wishes to reactivate his or her license must update their operation plan.

(3) will remain the same, but will be renumbered (4).

(5) An inactive outfitter who wishes to reactivate his or her license and has not previously established net client hunter use shall establish net client hunter use pursuant to 37-47-201(5)(d), MCA."

AUTH: Sec. 37-1-319, MCA
IMP: Sec. 37-1-319, MCA

REASON: The Legislature, pursuant to 37-47-201(5), MCA, authorized the board to adopt rules safeguarding public health, safety and welfare. The proposed amendments are to ensure public health, safety and welfare when an outfitter moves from inactive to active status.

"8.39.514 LICENSURE - GUIDE OR PROFESSIONAL GUIDE LICENSE (1) An applicant may apply for a guide or professional guide license on forms provided by the board, and accompanied by the required fee. The application must include a signature of the endorsing outfitter, confirming that, to the knowledge of the outfitter, the guide or professional guide meets all the qualifications of a guide or professional guide. ~~The endorsing outfitter may sign the guide's application for licensure only after the outfitter determines, after inquiry, that the guide or professional guide meets all qualifications of a guide.~~

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

(5) An outfitter may employ a guide for 10 days or for one excursion, whichever is less, using a one-time temporary guide license on a form provided by the board. This guide will be defined as a first-time guide.

(a) through (d) will remain the same."

AUTH: Sec. 37-1-131, 37-47-201, MCA
IMP: Sec. 37-47-201, 37-47-301, and 37-47-307, MCA

REASON: Pursuant to 37-47-201(5)(b), MCA, the board is authorized to adopt rules prescribing requisite

qualifications. The interlined sentence in subsection (1) is redundant and the proposed amendment clarifies the duties of an endorsing outfitter. The remaining changes are for clarity.

"8.39.518 LICENSURE--FEES FOR OUTFITTER, OPERATIONS PLAN, NET CLIENT HUNTING USE (N.C.H.U.), AND GUIDE OR PROFESSIONAL GUIDE

(1) Fees for outfitters, operations plan, guide or professional guides shall be as set forth below. The following All fees are nonrefundable.

(a) New resident outfitter application and \$ 900
license. This fee includes the following costs,
but does not include fees related to operations plan.

- (i) application processing 300
- (ii) examination 100
- (iii) investigation \$300
- (iv) resident license 200

(b) Application for amendment to resident ~~150~~ 400
outfitter license. This fee includes the following
costs:

- (i) application processing ~~75~~ 300
- (ii) examination ~~75~~ 100
- (c) Renewal of outfitter license
- (i) resident outfitter annual license 235
- (ii) late renewal penalty
applications postmarked Jan. 1 - Jan. 31 100
applications postmarked after Feb. 1 300
- (iii) resident outfitter inactive status 150
- (d) New operations plan
- (i) review and processing 125
- (ii) equipment inspection 300
- (e) Amendment to operations plan 10
- ~~(i) amendments requiring inspection as~~ ~~400~~
~~determined by the board (new equipment)~~
- ~~(ii) amendments to operations plan with no~~ ~~100~~
~~inspection, but requiring permit or permission~~
~~review by staff~~
- ~~(iii) amendments to operations plan with no~~ ~~10~~
~~inspection and no permit or permission review~~

(f) Fee per hunting client served per year 2
(g) Annual fee for each additional hunting camp located beyond a 100-mile radius of the outfitter's base of operations and that is in an administrative region other than the region containing the outfitter's base of operations 5,000

~~(iv)~~ (h) Amendments to operations plan ~~300~~ 2,000
proposing an increase in net client hunting use
(i) Fee for each new client added to operations plan by N.C.H.U. expansion request 500
~~(f)~~ (i) Resident guide or resident professional guide
license

- (i) resident guide renewal 75
- (ii) resident original guide license ~~for temporary if~~
~~applied for~~ 75

(iii) resident temporary guide license 75

(k) Nonresident outfitters, guides or professional guides will pay the fee their residency state charges for the similar license if in excess of the amount established by the board for the license. Otherwise they will pay the Montana resident fee."

AUTH: Sec. 37-1-131, 37-47-201, MCA

IMP: Sec. 37-47-306, MCA

REASON: Pursuant to 37-47-201(5)(b), MCA, the board is authorized to adopt rules prescribing requisite qualifications. Under the proposed amendments, application fees for amendment to resident outfitter license are commensurate with costs and adjusted to reflect the same as a new resident outfitter application. Late renewal penalties will be escalated under the proposed amendments. To ensure compliance with amendments to operation plans fees will be reduced under this amendment. The remaining changes to fees are a result of recent legislation.

"8.39.703. OUTFITTER RECORDS (1) through (2)(c) will remain the same.

(d) clients' hunting and fishing license numbers; ~~and,~~

(e) districts hunted and rivers and lakes fished by clients;

(f) the actual leased acreage actively used by clients during that year;

(g) the actual leased acreage unused by clients during that year; and

(h) tally sheets reflecting the number of clients served per category each year shall be maintained and submitted to the board during the renewal of the license or when the outfitter's license is lapsed.

(3) Submitted outfitter client records shall be maintained as confidential information and shall not be released to any person or organization without approval of the board, written permission of the outfitter, subpoena or order of a court, or written request of a state or federal agency for the purpose of furthering investigation of criminal activities."

AUTH: Sec. 37-1-131, 37-47-201, MCA

IMP: Sec. 37-47-301, MCA

REASON: Pursuant to 37-47-201(5)(b), MCA, the board is authorized to adopt rules prescribing requisite qualifications. The amendments regarding leased acreage is as a result of recent legislation. The remaining changes are for clarity.

"8.39.704 SAFETY PROVISIONS (1) will remain the same.

(2) Except for the one-time, 90-day exemption provided for new, first-time applicants and temporary guide licenses in

ARM 8.39.514(2), guides and professional guides are required to hold a current basic first aid card at all times licensed.

(3) Each watercraft, vessel, vehicle, primary, secondary and temporary base of operation with guests present will possess a serviceable basic first aid kit.

(4) will remain the same.

(5) All watercraft or vessels are required to carry on board a supplementary means of power, such as an extra motor or extra oars that will adequately motivate the craft."

AUTH: Sec. 37-47-201, MCA

IMP: Sec. 37-47-201, MCA

REASON: The Legislature, pursuant to 37-47-201(5), MCA, authorized the board to adopt rules safeguarding public health, safety and welfare. Recently the Board has been questioned concerning first aid for temporary guide licenses and first aid kits. This amendment is for further clarification.

"8.39.709 STANDARDS FOR OUTFITTERS, GUIDES, AND PROFESSIONAL GUIDES - UNPROFESSIONAL CONDUCT AND MISCONDUCT

(1) through (1)(k) will remain the same.

(1) make all client records available ~~at all times~~ at the outfitter's main base camp or business office to enforcement or investigative personnel authorized or appointed by the board;

(m) through (3) will remain the same.

~~(a) not shoot, kill or take any game animal, other than a game bird, while providing services for clients;~~

(b) through (c) will remain the same, but will be renumbered (a) through (n)."

AUTH: Sec. 37-1-319, 37-47-201, 37-47-341, MCA

IMP: Sec. 37-1-312, 37-47-341, MCA

REASON: The Legislature, pursuant to 37-47-201(5), MCA, authorized the board to adopt rules safeguarding public health, safety and welfare. The question has been raised as to whether or not an outfitter may take game.

"8.39.802 MORATORIUM (1) ~~Except as provided in (2), the number of outfitting licenses for operations involving hunting use may not exceed the number of licenses existing on April 14, 1995, passage date of 37-47-315, MCA 543.~~

~~(2) The moratorium on outfitting licenses for operations involving hunting use does not apply to individuals who submitted a completed application for license prior to April 14, 1995, the effective date of 37-47-315, MCA, and who met all qualifications for licensure on the date of application.~~

(3) through (4)(c) will remain the same, but will be numbered (2) through (3)(c).

(5) and (6) will remain the same, but will be renumbered (4) and (5)."

AUTH: Sec. 37-47-201, MCA
IMP: Sec. 37-47-201, 37-47-315, MCA

REASON: The Legislature, pursuant to 37-47-201(5), MCA, authorized the board to adopt rules safeguarding public health, safety and welfare. This amendment sets the number of licensed hunting outfitters in accordance with recent legislation.

"8.39.804 REVIEW OF NEW OPERATIONS PLAN AND PROPOSED EXPANSION OF NET CLIENT HUNTING USE UNDER AN EXISTING AND NEW OPERATIONS PLAN(S). (1) and (2) will remain the same.

(a) category 1: nonresident deer or elk clients holding B-10 or B-11 licenses ("big game outfitter sponsored") ~~7.1~~

(b) category 2: deer or elk clients not holding outfitter sponsored B-10 or B-11 licenses, antelope, mountain lion, mountain sheep, mountain goat, moose, or bear or wild buffalo clients ("big game non-outfitter sponsored") ~~7.1~~ and

(c) category 3: upland game bird, turkey, and migratory game bird (waterfowl) clients ("non-big game").

(3) The outfitter shall designate net client hunting use for each of the following categories, under affirmation by oath on a form provided by the board. The outfitter shall specify the year or years from which the use is designated. If use is designated from any year prior to 1988, the outfitter claiming such use must submit documentation of such use, which shall be subject to approval of the board. The use designated by the outfitter shall be subject to random audit by the board's investigators. Submission of false information regarding net client hunting use is specifically designated as unprofessional conduct, and shall result in revocation of the outfitter's license.

(4) and (5) will remain the same.

(6) An outfitter shall not exchange, trade or substitute between the categories of net client hunting use ~~without approval under this rule.~~ Net client hunting use of each outfitter shall be specific as to the category designated by the outfitter (big game outfitter sponsored, big game non-outfitter sponsored and non-big game).

(7) An application for proposed expansion in net client hunting use under an existing operations plan, and applications by license applicants proposing new operations plans involving hunting use, shall be made on forms provided by the board. The board shall ~~solicit comments by maintaining a copy of the proposal in the board's offices, and by publishing a notice of the existence of the proposal, with an invitation to submit and a deadline for receipt of comments on the proposal, in a paper of daily circulation that is closest to the land identified in the proposal. The board shall also mail a copy of the proposal, with an invitation to submit, and a deadline for receipt of comments on the proposal, to:~~

- ~~(a) the Montana outfitters and guides association,~~
- ~~(b) the fishing outfitters association of Montana,~~

~~(c) the professional wilderness outfitters association;~~
~~(d) any state, federal, local or tribal land managing agency with jurisdiction over the outfitter's area of operation where the net increase in client hunting use is proposed;~~

~~(e) any sportspersons' or outfitters' association requesting to receive such proposal;~~

~~(f) the Montana wildlife federation; and~~

~~(g) the department of fish, wildlife and parks regional offices in the area of proposed expansion.~~

~~(8) The board shall review the proposal and any comments received before the expiration of the deadline for receipt of such comments. The board shall utilize comments received, in conjunction with criteria specified below, to decide whether to approve the proposal. The board shall not approve a new operations plan or the proposed expansion of net client hunting use under the existing operations plan if it finds that the proposal will cause an undue conflict with existing hunting uses of the area, constituting a threat to the public health, safety or welfare. The criteria the board may consider when identifying undue conflict include, but are not limited to:~~

~~(a) sufficiency of land for personal safety of the hunters and sufficient wildlife to support the proposed net client hunting use;~~

~~(b) restriction of public access points to public lands utilized for public hunting use;~~

~~(c) pending disciplinary actions or current license restrictions;~~

~~(d) veracity of statements made in application; and~~

~~(e) existing hunting uses of the area.~~

~~(9) (8) The board shall issue an order, supported by findings of fact and conclusions of law, either granting, denying or modifying the proposal. A copy of the order shall be provided by regular mail to the individual submitting the proposal request and any persons, associations or agencies submitting comments.~~

~~(10) will remain the same, but will be renumbered (9)."~~

AUTH: Sec. 37-47-201, MCA

IMP: Sec. 37-47-201, MCA

REASON: Pursuant to 37-47-201(5) (b), MCA, the board is authorized to adopt rules prescribing requisite qualifications. Legislation enacted mandated certain criteria for net client hunting use expansion and consideration. These rule changes move the Board of Outfitter and the industry within the parameter of that legislative mandate.

4. The proposed new rule will read as follows:

"NEW RULE 1 SALE AND PURCHASE OF AN OUTFITTING OPERATION

(1) The board will evaluate outfitter applications involving the sale of an existing outfitting operation

utilizing information pertaining to experience and training relative to outfitter activities.

(2) The applicant purchasing the business must submit a signed sales agreement setting forth the following:

- (a) name of seller and purchaser;
- (b) a general description of the transaction (stock purchase, merger, etc.);
- (c) a list of the equipment and livestock which is included as part of the sale;
- (d) a legal description of all lands involved in the sale, including copies of signed land use approval forms (L-1 forms); and

(e) a statement relative to whether the seller will surrender or retain the outfitter license, place the license on inactive status, or transfer the license to the purchaser upon sale.

(3) The board may waive 50 days of experience for an applicant purchasing an existing outfitter operation provided that:

(a) the applicant submits and receives pre-approval from the board for a plan documenting how and in what capacity the applicant will work with the licensed outfitter from whom the business was obtained;

(b) the applicant has entered into a sales agreement with the selling outfitter for the purchase of the operation and the sales agreement provides supervision of the applicant during the 12-month period by the selling outfitter; and

(c) the business has a current, approved operations plan on file with the board.

(4) The purchaser must provide a current list of all clients booked by seller and a written description of how such reservations will be transferred including, but not limited to, transfer of outfitter sponsored licensees, refunds of deposits and notification of the sale of clients.

(5) In instances where the license of seller is to be transferred to the purchaser, the sales agreement must provide that the effective date of the transfer is midnight, December 31, as no license may be transferred during the licensure year."

AUTH: Sec. 37-47-201, MCA

IMP: Sec. 37-47-201, MCA

REASON: The Legislature, pursuant to 37-47-201(5), MCA, authorized the board to adopt rules safeguarding public health, safety and welfare. The sale of an outfitting operation is complex and involves title to equipment, livestock and client security deposit which, in some instances, may have a very high monetary value. To ensure that the interests of clients who have provided such deposits, purchasers and sellers who are paying and receiving such money are adequately protected during this period, the board needs information relative to the sale, including information pertaining to the location of client deposits. Without this

information, the Board will find it very difficult to obtain recoveries for clients damaged by a sale which does not transpire and as a result, are unable to receive outfitting services.

5. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Outfitters, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., on November 22, 1999.

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

7. The Board of Outfitters maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding the Board of Outfitters. Such written request may be mailed or delivered to the Board of Outfitters, faxed to the office at (406)444-1667 or may be made by completing a request form at any rules hearing held by the Board of Outfitters.

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

BOARD OF OUTFITTERS
ROBIN CUNNINGHAM, CHAIRMAN

BY:

Annie M. Bartos

ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

BY:

Annie M. Bartos

ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State October 12, 1999.

BEFORE THE BOARD OF PHARMACY
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of a rule pertaining) THE PROPOSED AMENDMENT OF ARM
to definitions) 8.40.702 DEFINITIONS

TO: All Concerned Persons

1. On November 17, 1999, at 10:00 a.m., a public hearing will be held in the Division of Professional and Occupational Licensing, Small Conference Room, Lower Level, Arcade Building, 111 North Jackson, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Board of Pharmacy will make reasonable accommodations for persons with disabilities who wish to participate in the public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Pharmacy, no later than 5:00 p.m., on November 3, 1999, to advise us of the nature of the accommodation that you need. Please contact Cami Robson, Board of Pharmacy, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0407; telephone (406)444-1698; Montana Relay 1-800-253-4091; TDD (406)444-2978; FAX (406)444-1667.

3. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.40.702 DEFINITIONS (1) "Facility" means an ambulatory surgical facility, a hospital and/or long term care facility.

(2) through (5) (a) remain the same.

AUTH: Sec. 37-21-201, MCA

IMP: Sec. 37-7-201, 37-7-321, 50-32-314, MCA

RATIONALE: Pursuant to 50-32-314, MCA, the Board is mandated to adopt rules for registration of ambulatory surgical facilities. The Board of Pharmacy is therefore proposing to add ambulatory surgical facilities to the definition of "facility" which will require ambulatory surgical facilities to obtain a certified pharmacy license.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Pharmacy, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., on November 18, 1999.

5. Ed Myers, attorney, has been designated to preside over and conduct this hearing.

6. The Board of Pharmacy maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request which includes

the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding the practice of pharmacy. Such written request may be mailed or delivered to the Board of Pharmacy, faxed to the office at (406)444-1667 or may be made by completing a request form at any rules hearing held by the Board of Pharmacy.

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

BOARD OF PHARMACY
JOHN POUSH, R.Ph., CHAIRMAN

BY:

Annie M. Bartos

ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

BY:

Annie M. Bartos

ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State October 12, 1999.

BEFORE THE BOARD OF PUBLIC ACCOUNTANTS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed amendment of rules pertaining to licensure of foreign-trained applicants, credit for formal individual study programs and basic requirement) NOTICE OF PROPOSED AMENDMENT) OF ARM 8.54.416 LICENSURE OF) FOREIGN-TRAINED APPLICANTS,) 8.54.802 BASIC REQUIREMENT,) 8.54.816 CREDIT FOR FORMAL) INDIVIDUAL STUDY PROGRAMS,) AND 8.54.821 REPORTING) REQUIREMENTS
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NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. On November 22, 1999, the Board of Public Accountants proposes to amend the above-stated rules.

2. The Board of Public Accountants 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 Public Accountants, no later than 5:00 p.m., on November 8, 1999, to advise us of the nature of the accommodation that you need. Please contact Suzanne Criswell, Board of Public Accountants, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-3739; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667.

3. The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

"8.54.416. LICENSURE OF FOREIGN-TRAINED APPLICANTS

(1) ~~The board may grant a certificate or permit to practice to a foreign-trained applicant if all of the following requirements are met~~ The board may grant a certificate or permit to practice to a foreign-trained applicant if all of the regulations established under ARM 8.54.415 regarding out-of-state applicants have been met, or by meeting the following requirements:

~~(a) the applicant has met the educational requirements established under 37-50-302 and 37-50-303, MCA, and all regulations established thereunder, and had their education evaluated by the foreign academic credentials service, inter (FACS) or other advisory evaluation service specified by the board~~ the applicant met the issuing body's education requirement and passed the issuing body's examination used to qualify its own domestic candidates. The board may in its discretion rely on the international qualifications appraisal board for evaluation of foreign credential equivalency;

~~(b) the applicant has taken and passed the AICPA uniform CPA examination in all appropriate parts~~ all held foreign and domestic credentials must be valid and in good standing at the time of application;

~~(c) the applicant has met the continuing professional education requirements established under 37-50-314, MCA, and the regulations established thereunder, and must successfully pass a uniform qualifying examination to ensure that the holder possess adequate knowledge of national practice standards. The board may in its discretion rely on the national association of state boards of accountancy, the American institute of certified public accountants (AICPA), or other professional bodies to develop, administer, and grade such a qualifying examination;~~

~~(d) an applicant for a permit to practice must meet the experience requirements established under 37-50-203, 37-50-302, 37-50-303 and 37-50-314, MCA, and the regulations established thereunder; must take and pass the open book AICPA ethics course;~~

~~(e) must provide evidence of having met an equivalent experience requirement obtained under the supervision or direction of a chartered accountant, certified public accountant or licensed public accountant in the original jurisdiction in order to be issued an initial permit to practice;~~

~~(f) must meet the continuing professional education requirements established under 37-50-314, MCA, and the regulations established thereunder in order to be issued an initial permit to practice; and~~

~~(g) the foreign authority granting the designation to the applicant must make a similar provision to allow a person who holds a valid certificate or permit to practice issued by this state to obtain such foreign authority's comparable designation.~~

~~(2) The AICPA has no program or facilities to evaluate the licensing examinations of foreign countries or to compare them to the uniform CPA examination. Therefore, endorsement of certificates or licenses from foreign countries will not be recognized."~~

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-50-311, 37-50-312, MCA

RATIONALE: The Canada-United States Free Trade Agreement became effective January 1, 1989. This agreement along with a common commitment to eliminate impediments to reciprocity prompted the establishment of the United States International Qualifications Appraisal Board (U.S.IQAB) by the National Association of State Boards of Accountancy (NASBA) and the American Institute of Certified Public Accountants (AICPA). The U.S.IQAB, the Institute of Chartered Accountants in Australia and the Canadian Institute of Chartered Accountants have achieved a consensus on principles for reciprocity acceptable to the Board. Therefore, the Board has decided to proceed with the adoption of the principles for the mutual recognition of the CA (Chartered Accountants) and CPA designations.

"8.54.802 BASIC REQUIREMENT (1) through (2) will remain the same.

(3) Beginning July 1, 1998, at least two hours of the 120 hours of acceptable continuing education credit must consist of knowledge and the application of board rules and how board unprofessional conduct rules may compare and contrast with the codes of professional conduct of certified public accountant and licensed public accountant primary professional organizations. These hours are not considered subjects related to the reporting on financial statements required in (2) above.

(4) and (5) will remain the same."

AUTH: Sec. 37-1-319, 37-50-201, MCA
IMP: Sec. 37-1-306, MCA

RATIONALE: To correct the word unprofessional to professional. When the Board amended the rule in January 1999, it inadvertently adopted the word unprofessional when in fact the word should have been professional.

"8.54.816 CREDIT FOR FORMAL INDIVIDUAL STUDY PROGRAMS

(1) The amount of credit to be allowed for correspondence and formal individual study programs (including taped study programs), is to be recommended by the program sponsor based upon one-half the average completion time under appropriate "field tests". Formal self-study programs shall be pretested by the developer to determine average completion time.

(a) Interactive self-study programs shall receive continuing education credit equal to the average completion time, if the sponsor is recognized by NASBA's CPE quality assurance service. An interactive self-study program is designed to use interactive learning methodologies that simulate a classroom learning process by employing software, other courseware, or technology-based systems that provide significant ongoing, interactive feedback to the participant regarding his or her learning progress.

(b) Non-interactive self-study programs should receive continuing education credit equal to one-half of the average completion time.

(2) Individuals claiming credit for such correspondence or formal individual study courses are required to obtain evidence of satisfactory completion of the course from the program sponsor. Credit will be allowed in the period in which the course is completed, except as allowed in ARM 8.54.802+(3)+(4).

AUTH: Sec. 37-50-201, 37-50-203, MCA
IMP: Sec. 37-50-203, 37-50-314, MCA

RATIONALE: The Board reviewed and studied their current continuing professional education rules along with the NASBA and AICPA jointly supported Statement on Standards for

Continuing Professional Education Programs. The Board concluded that interactive self-study programs simulate a classroom learning process, and thereby would entitle participants to earn CPE credit based on 100 percent of the completion time. The Board further decided to limit the acceptable sponsors of interactive self-study programs to those recognized by NASBA's CPE Quality Assurance Service.

8.54.821 REPORTING REQUIREMENTS (1) will remain the same.

(2) Persons who use the two-month carry-back provision of ARM 8.54.802~~(4)~~(5) shall file their reporting forms by July 31, listing the course(s) they are planning to attend or complete. If the course(s) listed are not completed, they must notify the board office in writing immediately, but not later than August 31. Such notification(s) shall explain why the course(s) were not completed and provide a plan to meet the continuing education requirements.

AUTH: Sec. 37-50-201, 37-50-203, MCA

IMP: Sec. 37-50-203, 37-50-314, MCA

RATIONALE: To properly reflect the correct section referring to the two-month carry-back provision of ARM 8.54.802.

4. Concerned persons may submit their data, views or arguments concerning the proposed action(s) in writing to the Board of Public Accountants, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., November 22, 1999.

5. If persons who are directly affected by the proposed action(s) wish to express their data, views or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit the request along with any comments they have to the Board of Public Accountants, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile to (406) 444-1667, to be received no later than 5:00 p.m., November 22, 1999.

6. If the Board receives requests for a public hearing on the proposed action(s) from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed action(s), from the appropriate administrative rule review committee of the legislature, from a governmental agency or subdivision 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. Ten percent of those persons directly affected has been determined to be 330 based on the 3,300 licensees in Montana.

7. The Board of Public Accountants maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to

receive notices and specifies that the person wishes to receive notices regarding the Board of Public Accountants. Such written request may be mailed or delivered to the Board of Public Accountants, faxed to the office at (406)444-1667 or may be made by completing a request form at any rules hearing held by the Board of Public Accountants.

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

BOARD OF PUBLIC ACCOUNTANTS
ELLEN G. SOLEM, CHAIRPERSON

BY:

Annie M. Bartos

ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

BY:

Annie M. Bartos

ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State October 12, 1999.

BEFORE THE BOARD OF REALTY REGULATION
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment of a rule pertaining) THE PROPOSED AMENDMENT OF ARM
to continuing real estate) 8.58.415A CONTINUING REAL
education) ESTATE EDUCATION

TO: All Concerned Persons

1. On November 22, 1999, at 9:00 a.m., a public hearing will be held in the Division of Professional and Occupational Licensing Large Conference Room, Lower Level, Arcade Building, 111 North Jackson, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Board of Realty Regulation will make reasonable accommodations for persons with disabilities who wish to participate in the public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Realty Regulation, no later than 5:00 p.m., on November 8, 1999, to advise us of the nature of the accommodation that you need. Please contact Grace Berger, Board of Realty Regulation, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0407; telephone (406)444-1699; Montana Relay 1-800-253-4091; TDD (406)444-2978; FAX (406)444-1667.

3. The proposed amendment will read as follows: (new matter underlined, deleted matter interlined)

"8.58.415A CONTINUING REAL ESTATE EDUCATION (1) and (2) will remain the same.

(3) By October 1 of each year, the board shall prescribe topics in which the 12 hours of education must be obtained. A minimum of ~~three~~ four hours must come from mandatory topics determined by the board and ~~nine~~ eight hours may come from elective topics approved by the board.

(4) through (12) will remain the same.

(13) The board may audit licensees for compliance with continuing education requirements. Audited licensees must provide copies of completion certificates to the board as verification of compliance within ~~20~~ 30 days ~~of receipt after mailing~~ of the audit request.

(14) and (15) will remain the same."

AUTH: Sec. 37-1-131, 37-1-306, 37-51-203, 37-51-204, MCA
IMP: Sec. 37-51-202, 37-51-203, 37-51-204, MCA

RATIONALE: To clarify the time given to licensees to respond to the CE audit request and to change the mandatory verses elective continuing education requirement.

4. Concerned persons may present their data, views or

arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Realty Regulation, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than 5:00 p.m., on November 22, 1999.

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

6. The Board of Realty Regulation maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding the Board of Realty Regulation. Such written request may be mailed or delivered to the Board of Realty Regulation, faxed to the office at (406)444-1667 or may be made by completing a request form at any rules hearing held by the Board of Realty Regulation.

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

BOARD OF REALTY REGULATION
JOHN BEAGLE, CHAIRMAN

BY: Annie M. Bartos

ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

BY: Annie M. Bartos

ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State October 12, 1999.

In the matter of the proposed) NOTICE OF PUBLIC HEARING ON
amendment and repeal of rules) THE PROPOSED AMENDMENT AND
pertaining to County Printing) REPEAL OF RULES PERTAINING
) TO COUNTY PRINTING

1. On November 18, 1999, at 1:00 p.m., a public hearing will be held at the Montana Electric Cooperative Association conference room, 501 Bay Drive, Great Falls, Montana, to consider the proposed amendment of ARM 8.91.301 through 8.91.303 and repeal of ARM 8.91.304 pertaining to county printing.

2. The department of commerce 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 Commerce no later than 5:00 p.m., on November 11, 1999, to advise us of the nature of the accommodation that you need. Please contact Monica Carson, (administrative assistant), Department of Commerce, 1424 9th Avenue, P.O. Box 200513, Helena, Montana 59620; telephone (406) 444-3553; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-2903.

3. The proposed amendments of ARM 8.91.301, 8.91.302 and 8.91.303 will read as follows: (new matter underlined; deleted matter interlined)

"8.91.301 POWERS AND DUTIES OF BOARD (1) and (1)(a)
will remain the same.

(b) Adopt and publish a schedule of maximum prices to be charged for county printing and legal advertising. Such prices shall be the full prices to be charged and shall include the paper stock specified, completion of all printing and other work, and delivery to the county courthouse.

(c) ~~Adopt all necessary standards for sizes, weights, and grades of paper stock, which shall conform to the uniform scale of sizes, weights, and grades used by paper manufacturers, and for sizes and types of printing, ruling and finding, which shall conform as nearly as possible to the ordinary standards in use in the printing industry. For this purpose, reference may be made to establish standards or publications used in the state of Montana, and the board may provide for the adoption of such a standard list for those items not covered by the prices, regulations, or standards published by the board.~~

~~(d) Conduct hearings when required to determine maximum rates for county printing. Notice of intention to hold such a hearing shall be published at least 30 days before the date set for the hearing in a newspaper published in Helena.~~

~~Montana, and a copy mailed to each board of county commissioners.~~

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

AUTH: Sec. 7-5-2404, MCA

IMP: Sec. 7-5-2404, MCA

REASON: The county printing prices are being deleted because the statute was amended during the 1995 Legislature, which no longer required the county printing board to set prices for County Printing. The board is authorized to adopt and publish a schedule of maximum prices to be charged for county legal advertising.

8.91.302 COUNTY COMMISSIONERS TO CONTRACT FOR COUNTY PRINTING LEGAL ADVERTISING (1) It is hereby made the duty of the county commissioners of the several counties in the state of Montana to contract with one newspaper, published at least once a week, and of general circulation published within the county, and having been published continuously in such county at least 12 months immediately preceding the awarding of such contract, to do and perform ~~all the printing for which said counties may be chargeable, including all legal advertising required by law to be made, and all other printed forms required for the use of such counties~~ at not more than the prices set by the board of county printing.

~~(a) Nothing in this act shall limit or restrict the power of a board of county commissioners to call for competitive bids from persons or firms qualified to bid on county printing under the terms of this act, or to let contracts at prices less than the maximum fixed by the board.~~

AUTH: Sec. 7-5-2404, MCA

IMP: Sec. 7-5-2404, MCA

REASON: The county printing prices are being deleted because the statute was amended during the 1995 Montana Legislature, which no longer required the county printing board to set prices for County Printing. The board is authorized to adopt and publish a schedule of maximum prices to be charged for county legal advertising.

8.91.303 OFFICIAL PUBLICATIONS AND LEGAL ADVERTISING

(1) Rates shall not be more than ~~\$8~~ \$2 for the first folio insertion and not more than ~~\$6~~ \$7 for each subsequent insertion.

(2) Subsection (1) will become effective on ~~July 1, 1992~~ January 1, 2000.

(3) though (6) will remain the same.

AUTH: Sec. 7-5-2404, MCA

IMP: Sec. 7-5-2404, MCA

REASON: The board received a request to review the price that a newspaper may charge for legal advertising. The board determined that the consumer price index should be utilized to set the price for legal advertising. Following a review of

the consumer price index the board determined that the adjusted rate should increase by \$1.00 for the first folio insertion and \$1.00 for each subsequent insertion.

4. The board is proposing to repeal 8.91.304, located at pages 8-3100 and 8-3101, Administrative Rules of Montana, (authority section 7-5-2404, MCA, implementing section 7-5-2404, MCA). The reason for the proposed repeal is that the board's authority to set county printing prices was repealed by the 1995 Montana Legislature. The Franklin Printing Catalog would be used solely for reference to price schedules for printing.

5. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Department of Commerce, 1424 9th Avenue, Helena, Montana 59620, by facsimile (406) 444-2903, to be received no later than 5:00 p.m., December 1, 1999.

6. Annie M. Bartos, attorney, has been designated to preside over and conduct this hearing.

7. The board of county printing maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding rules relating to county printing. Such written request may be mailed or delivered to the Department of Commerce, or faxed to the office at (406)444-2903 or may be made by completing a request form at any rules hearing held by the Board of County Printing.

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

BY:

Annie M. Bartos

ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

BY:

Annie M. Bartos

ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, October 12, 1999

BEFORE THE LOCAL GOVERNMENT ASSISTANCE DIVISION
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PUBLIC HEARING ON
adoption of a new rule for	)	THE PROPOSED ADOPTION OF A
the administration of the	)	NEW RULE PERTAINING TO THE
2000/2001 Treasure State	)	2000/2001 TREASURE STATE
Endowment (TSEP) Program	)	ENDOWMENT PROGRAM

TO: All Concerned Persons

1. On November 17, 1999, at 1:30 p.m., a public hearing will be held in the downstairs conference room at the Department of Commerce Building, 1424 Ninth Ave., Helena, Montana, to consider the adoption by reference of rules governing the administration of the 2000/2001 Treasure State Endowment (TSEP) Program.

2. The Department of Commerce 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 Commerce no later than 5:00 p.m., on November 11, 1999, to advise us of the nature of the accommodation that you need. Please contact Richard M. Weddle, Local Government Assistance Division, P.O. Box 200501, Helena, Montana 59620-0501; telephone (406) 444-2781; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-4482 or by E-mail, addressed to rweddle@state.mt.us.

3. The proposed new rule provides as follows:

"I INCORPORATION BY REFERENCE OF RULES FOR ADMINISTERING THE 2000/2001 TREASURE STATE ENDOWMENT PROGRAM (1) The department of commerce herein adopts and incorporates by this reference the Montana Treasure State Endowment Program 2000/2001 Application Guidelines published by it as rules for the administration of the TSEP program.

(2) The rules incorporated by reference in (1) above, relate to the following:

(a) estimated amount of TSEP funds available in FY 2000 and 2001;

(b) eligible applicants and projects;

(c) application scoring system and ranking criteria;

(d) forms of financial assistance available under TSEP;

(e) general requirements for TSEP applications; and

(f) application review process.

(3) Copies of the regulations adopted by reference in (1) of this rule may be obtained from the Department of Commerce, Local Government Assistance Division, Capitol Station, Helena, Montana 59620."

AUTH: Sec. 90-6-710, MCA

IMP: Sec. 90-6-710, MCA

REASON: It is reasonably necessary to adopt the proposed rule because local government entities must have these application guidelines before the entities may apply to the Department for financial assistance. The guidelines describe the types of projects that are eligible for TSEP funding and the types of assistance available. They also establish the numerical ranking structure by which the Department will evaluate applications in light of statutory criteria and make funding recommendations to the Legislature.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Richard Weddle, Local Government Assistance Division, P.O. Box 200501, Helena, Montana 59620-0501, or by facsimile (406) 444-4482, or by E-mail, addressed to rweddle@state.mt.us to be received no later than 5:00 p.m., November 25, 1999.

5. Richard M. Weddle will preside over and conduct the hearing.

6. The Local Government Assistance Division maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the Division. Persons who wish to have their name added to this list may 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 rules relating to the Treasure State Endowment Program. This request may be mailed or delivered to the Division, faxed to the office at (406) 444-4482 or may be made by completing a request form at any rules hearing held by the Division.

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

LOCAL GOVERNMENT ASSISTANCE
DIVISION
DEPARTMENT OF COMMERCE

BY:

Annie M. Bartos

ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

BY:

Annie M. Bartos

ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, October 12, 1999

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

In the matter of the adoption	)	NOTICE OF PUBLIC HEARING
of rules I through V	)	ON PROPOSED ADOPTION
pertaining to independent)	
review of health care)	
decisions)	

TO: All Interested Persons

1. On November 10, 1999, at 10:00 a.m., a public hearing will be held in the auditorium of the Department of Public Health and Human Services Building, 111 Sanders, Helena, Montana to consider the proposed adoption of the above-stated rules.

The Department of Public Health and Human Services 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 request an accommodation, contact the Department no later than 5:00 p.m. on November 1, 1999, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; E-mail dphhslegal@state.mt.us.

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

RULE I INDEPENDENT REVIEW OF HEALTH CARE DECISIONS:
DEFINITIONS The following definitions, in addition to those contained in 33-37-101, MCA, apply to this chapter:

(1) "Expedited review" means an accelerated appeal of an adverse health care treatment decision made by a managed care entity involving an enrollee with urgent medical needs whose life or health would be seriously threatened by the delay of a standard appeals process.

(2) "Independent review organization" means a network of peers conducting an independent review of an adverse health care treatment decision made by a managed care entity.

(3) "Internal appeals process" means a process established by a managed care entity by which a party affected by an adverse health care treatment decision made by a managed care entity may appeal the adverse decision within the deciding agency.

AUTH: Sec. 33-37-105, MCA
IMP: Sec. 33-37-101 and 33-37-105, MCA

RULE II INDEPENDENT REVIEW OF HEALTH CARE DECISIONS:
NOTICE OF ADVERSE HEALTH CARE DECISION AND INDEPENDENT REVIEW RIGHTS (1) A managed care entity shall notify an enrollee and the treating physician of any adverse health care decision

within 10 calendar days from the date the decision is made if the decision involves routine medical care. A managed care entity shall notify an enrollee and the treating physician of any adverse health care decision within 48 hours from the date the decision is made if the decision involves a medical care determination which qualifies for expedited review.

(2) The notice shall:

(a) be printed in clear legible type using a font of at least 12 point size;

(b) be written using a format and language which can be understood by a person who has no more than an eighth grade education;

(c) explain the reasons for the adverse health care decision; and

(d) include an explanation of the enrollee's right to appeal the decision or to submit the decision for independent review and instructions on how an enrollee may initiate an appeal or independent review.

(3) If the enrollee is eligible for expedited review, the notice shall inform the enrollee that the expedited review process is available and shall explain how an enrollee initiates an expedited review.

AUTH: Sec. 33-37-105, MCA

IMP: Sec. 33-37-102, MCA

RULE III INDEPENDENT REVIEW OF HEALTH CARE DECISIONS:
INTERNAL APPEALS PROCESS (1) If a managed care entity has an internal appeals process in place, the internal appeals process provided by the managed care entity shall be exhausted before the enrollee can submit a decision for independent review, unless:

(a) the internal appeals process is not completed within 15 calendar days from the date the appeal is requested, in which case the internal appeals process shall be interrupted and the case forwarded for independent review;

(b) the health care treatment decision results in a serious threat to the health, or threatens the life of, the enrollee, in which case the internal appeals process shall be bypassed and the matter shall immediately be submitted for expedited review; or

(c) the enrollee's physician certifies in writing, facsimile or by electronic mail that the life or health of the enrollee would be seriously threatened by the delay of an internal appeals process, in which case the internal appeals process shall be bypassed and the matter shall immediately be submitted for expedited review.

(2) The managed care entity shall maintain written records of all requests for appeal and shall retain all related data for a period of 5 years unless a claim, audit, or litigation involving the records and data is pending, then the records and data shall be retained until the claim, audit, or litigation is finally resolved. The department shall have reasonable access to the records and data for quality assurance purposes, to

perform an evaluation of the independent review process, or for any other lawful purpose.

AUTH: Sec. 33-37-105, MCA

IMP: Sec. 33-37-102, MCA

RULE IV INDEPENDENT PEER REVIEW OF HEALTH CARE DECISIONS:

PROCESS (1) A managed care entity and an enrollee may agree on a peer to conduct an independent review, as specified in these rules, of any adverse health care treatment decision made by the managed care entity. If the managed care entity and the enrollee are unable to agree on a peer to conduct the independent review, then the managed care entity shall forward the case file to the independent review organization designated by the department.

(2) The chosen peer or the independent review organization designated by the department shall confirm that the case file contains the information listed in 33-37-102(2)(a) through (2)(d), MCA, and that it otherwise is eligible for independent review.

(3) In the case of routine health care decisions, the peer or independent review organization shall notify the managed care entity, the enrollee, and the treating physician of its decision within 30 calendar days after receiving the case file. If the peer or independent review organization requires additional time to complete its review, it shall request an extension in writing from the department. The request for extension shall include the reasons for the request and state the specific time the review is expected to be completed.

(4) In the case of expedited review, the enrollee's physician must certify in writing, facsimile, or by electronic mail the need for the expedited review. Within 48 hours from the date the request for expedited review is received, the peer or independent review organization shall notify the managed care entity, the enrollee, and the treating physician of its decision.

AUTH: Sec. 33-37-105, MCA

IMP: Sec. 33-37-102 and 33-37-103, MCA

RULE V INDEPENDENT REVIEW OF HEALTH CARE DECISIONS:

CONFIDENTIALITY (1) All health care information provided to a peer or independent review organization is confidential and is subject to the Health Care Information Act, Title 50, chapter 16, MCA.

AUTH: Sec. 33-37-105, MCA

IMP: Sec. 33-37-102 and 33-37-103, MCA

3. In the 1999 legislative session, the legislature passed House Bill 607, codified at 33-37-101 through 33-37-106, MCA. The statute provides that whenever a managed care entity makes a health care decision which is adverse to the enrollee, the enrollee has the right to an independent review of the

decision after the entity's internal appeals process, if any, has been exhausted. Section 33-37-105, MCA, requires the Department of Public Health and Human Services to "adopt rules to provide a process for selecting peers, ensuring the confidentiality of health care information, and implementing the provisions of" the statute. The proposed rules are necessary to carry out that requirement.

The Department believes there will not be added costs as the result of these rules. The number of persons affected by these rules is unknown. However, based on existing data from Medicare and other states, the volume of cases under external review programs is small. In Medicare, external review is performed at a rate of about 2 cases per 1,000 managed care enrollees per year. By comparison, state external review programs have experienced a small fraction of Medicare's caseload.

Proposed Rule I lists additional defined terms. It provides a framework for the rules which implement the bill. The definitions are intended to create a common understanding, provide clarity, and aid in comprehension of the statute and the implementing rules. Rule I will not result in costs, benefits, or savings.

Proposed Rule II requires that notice be given to an enrollee when an adverse health care decision is made. The rule specifies time limits for providing notice and lists what information the notice must contain. The right to have an adverse health care decision reviewed would be of no consequence if the affected person has no right to learn that an adverse health care decision has been made. Thus, the proposed rule is intended to ensure notice of the decision so that the adversely-affected party can take the necessary steps to enforce the rights given them by the statute.

In addition, the proposed rule provides minimum requirements for font size and language difficulty in order to ensure that the notice, once given, will be effective. The minimum requirements are intended to remove or reduce barriers to understanding for persons with reading difficulties and to help consumers to understand the protections provided them by the statute. The Department notes that 33-15-325, MCA, requires minimum font size and language difficulty with respect to policies issued by insurance carriers. The Department contends that the purpose underlying those requirements applies equally well to the notice provided by the proposed rule. Effective notice of the adverse decision must be provided in order for the enrollee to begin the independent review process and to enforce the protections provided by the statute. The Department believes that 12-point font is of sufficient size to be visible to most people, including those with some vision difficulty. Smaller and larger fonts were considered and rejected. Larger font, though easier to read, consumes a great deal of paper.

Smaller font is too difficult to read, particularly for persons with vision difficulties. Thus, the Department chose 12-point font.

The Department chose an eighth grade reading level because research indicated that 89% of adults can comprehend what they read at an eighth grade level. Therefore, to ensure that the notice is effective, the language must be comprehensible to the majority of its readers. Consequently, the department believes that language of any more difficulty would be ineffective in providing notice to a significant number of consumers. Thus, to ensure effective notice, the Department proposes to require language of no more difficulty than an eighth grade reading level. Proposed Rule II will not result in costs, benefits, or savings.

Proposed Rule III is necessary to ensure that a managed care entity has an appropriate process in place to complete internal appeals within a reasonable time. The rule is necessary to protect consumers of medical care from lengthy, and potentially harmful, delays. Since the process of internal appeals may result in substantial delay, the proposed rule provides for direct access to expedited review when the enrollee's life or health would be seriously threatened by delay. The Department patterned this aspect of the proposed rule (providing for bypassing the internal appeals process) after the exceptions used in the Medicare program. Less stringent criteria was considered and rejected because the department felt that permitting additional delay would not adequately protect the health of the consumer in an urgent health crisis. Again, the right to independent review of health care decisions is of no consequence if the process takes so long that the consumer cannot possibly risk the delay caused by the process.

The Department reviewed similar statutes from 13 other states. Twelve of the 13, and Medicare, provide for expedited review in some form. The average time to complete an external review was 30 days for routine health decisions. The Department feels the 15 day requirement to be appropriate for internal review because the pertinent information is already in the possession of the managed care entity and the managed care entity is already familiar with the circumstances of the case. Industry experts say there has been no difficulty completing timely external reviews, even given the varied timelines among the states. The Department contacted the reviewing agency for Medicare and learned that most reviews are completed within 14 days. Thus, 15 days appears to provide ample time for internal appeal.

The Department considered providing no specific timeline for internal appeals, allowing instead for the managed care entity to complete internal appeals within a "reasonable time." However, a "reasonable time" can be a vague notion and may be

subject to vastly different interpretation. Thus, in order to provide consistency in the process and to protect the consumer of medical care from potentially harmful delay, the Department chose the 15 day requirement. The Department, again, considered the time limits given by other states and the Medicare program. The 15 day limit appears to afford the best balance between the needs of the health care consumer and the burden on the managed care entity. The managed care entity should be in possession of all the pertinent information as it already rendered a decision based on that information. And, as stated above, the managed care entity should be familiar with the circumstances involved in the review as, again, it has already made a decision affecting those circumstances.

Because the proposed new rule addresses procedural criteria to be applied by managed care entities, it will not result in significant costs or savings.

Proposed Rule IV provides that enrollees who receive adverse health care treatment determinations have the right to submit those determinations for independent review. The rule sets out the standards for timely review and provides for expedited review in cases where the enrollee's life or health would be seriously threatened by the delay of the ordinary appeals process. Both more and less stringent timelines were considered and rejected. The Department felt more stringent timelines would be unduly burdensome to the reviewer. But, less stringent timelines would not safeguard the urgent health needs of the enrollee. In the 12 other states that provide for expedited review, the timeline for decisions ranged from 48 hours to 7 days for completion of the review. The Department chose 48 hours in an effort to protect the life and health of the enrollee.

No additional costs, savings or benefits result from this rule; however, 33-37-102(4), MCA, requires the managed care entity to pay for the independent review process.

Proposed Rule V provides that the health care information used in the review process is confidential and subject to the Health Care Information Act. The rule cites the Health Care Information Act found in Title 50, chapter 16, MCA. The Health Care Information Act describes when disclosure of confidential health care information is lawful. The rule cites Title 50 in order to avoid the necessity of reproducing the provisions of that Act in the rule. The Department considered requiring more stringent rules regulating the confidentiality of the information used in the review process. However, rules differing from the Health Care Information Act may result in confusion. Thus, the Department decided to defer to the Health Care Information Act, requiring that confidentiality be managed in accordance with its provisions. No costs or savings result from this rule.

4. Interested persons may submit their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than November 18, 1999. Data, views or arguments may also be submitted by facsimile (406) 444-1970 or by electronic mail via the Internet to dphhslegal@state.mt.us. The Department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

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

Dawn Sliva

Rule Reviewer

Laurie E. Hanger

Director, Public Health
and Human Services

Certified to the Secretary of State October 12, 1999.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the Matter of the Proposed) NOTICE OF PUBLIC HEARING ON
Adoption of New Rules I, II) PROPOSED ADOPTION AND AMENDMENT
and III and Amendments of ARM)
42.21.112, 42.21.113, 42.21.)
123, 42.21.131, 42.21.137,)
42.21.138, 42.21.139, 42.21.)
140, 42.21.151, 42.21.153,)
42.21.155, 42.21.158, 42.21.)
159, 42.21.160, and 42.21.162)
relating to Class Eight)
Property Exemption and)
Depreciation Schedules for)
Personal Property)

TO: All Concerned Persons

1. On November 15, 1999, at 1:00 p.m., a public hearing will be held in the Fourth Floor Conference Room, East Wing of the Sam Mitchell Building, in Helena, Montana. The hearing will be held to consider the adoption of New Rules I, II and III, and amendments of ARM 42.21.112, 42.21.113, 42.21.123, 42.21.131, 42.21.137, 42.21.138, 42.21.139, 42.21.140, 42.21.151, 42.21.153, 42.21.155, 42.21.158, 42.21.159, 42.21.160, and 42.21.162 relating to Property Exemption and Depreciation Schedules for Personal Property.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the Department not later than 5:00 p.m., November 5, 1999, 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 59620-5805; telephone (406) 444-2460; fax (406) 444-3696; or e-mail canderson@state.mt.us. An alternative accessible format of this Notice of Public Hearing for any person needing it to participate in this rulemaking action is available upon request.

3. The proposed new rules I through III do not replace or modify any section currently found in the Administrative Rules of Montana. The proposed rules to be adopted provide as follows:

NEW RULE I ADJUSTED TAX RATE (1) Beginning with tax year 2004, if the percent growth in inflation-adjusted Montana wage and salary income is 2.85% or greater from the prior year, as defined in 15-6-138, MCA, the tax rate for class eight property will be reduced by 1%. Each subsequent year, the tax rate for class eight property will be decreased by 1% per year until it reaches 0%. If the inflation-adjusted Montana wage and salary income factor, 2.85%, is not met in year 2004, the tax rate will remain the same as the previous year.

(2) However, in year 2005 if the inflation factor is met, then the tax rate will decrease by 1% per year. Each subsequent

year the tax rate for class eight property will be decreased by 1% per year until it reaches 0%. If the inflation factor is not met in 2005 the same process will be gone through for each succeeding year thereafter.

AUTH: 15-1-201, MCA

IMP: 15-6-138, MCA

NEW RULE II BUSINESS EQUIPMENT (1) Once a lease agreement is consummated pursuant to a dealer lease program, that equipment is not a part of the dealer's inventory. Each party to the lease transaction is obligated to report the equipment on the department's property reporting form. The appropriate party, based on a Uniform Commercial Code (UCC) filing, shall be assessed property tax on the equipment for the term of the lease.

(2) Business equipment that is held by dealers, pursuant to a dealer rental program, is not a part of the dealer's inventory. The dealer shall report the equipment on the property reporting form provided by the department. The dealer shall be assessed property tax on the equipment for the full tax year.

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

(a) The equipment is rented to a single consumer as part of a purchase incentive program, not to exceed one year; and

(b) There is no depreciation allocated to the equipment from any source or for the purpose of filing income tax or corporation tax returns.

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

(5) All business equipment that is part of a dealer sales program or a dealer demonstration program shall be considered a part of the dealer's business inventory.

AUTH: 15-1-201, MCA

IMP: 15-6-202, MCA

NEW RULE III EXEMPT INTANGIBLE PERSONAL PROPERTY DEDUCTION FOR COMMERCIAL AND INDUSTRIAL PROPERTY (1) The value of exempt intangible personal property will be for the amount stated in the taxpayer's accounting records.

AUTH: 15-1-201, MCA

IMP: 15-6-202, MCA

4. The rules proposed to be amended provide as follows:

42.21.112 MOBILE HOME - IMPROVEMENT TO REAL PROPERTY

(1) Pursuant to 15-1-101(e), MCA, a mobile home will be considered an improvement to real property only when it is attached to a foundation which cannot feasibly be relocated and only when the wheels are removed.

(a) through (c) remain the same.

(2) remains the same.

AUTH: 15-1-201 MCA

IMP: 15-1-101 MCA

42.21.113 LEASED AND RENTED RENTAL EQUIPMENT (1) Leased or rental equipment which meets the criteria of 15-6-136, MCA, will be valued in the following manner:

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

YEAR NEW/ACQUIRED TRENDED % GOOD

1998	70%
1997	40%
1996	17%
1995 or older	8%

YEAR NEW/ACQUIRED TRENDED % GOOD

1999	70%
1998	43%
1997	17%
1996 or older	8%

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

YEAR NEW/ACQUIRED TRENDED % GOOD

1998	85%
1997	69%
1996	52%
1995	34%
1994 or older	20%

YEAR NEW/ACQUIRED TRENDED % GOOD

1999	85%
1998	69%
1997	52%
1996	34%
1995 or older	20%

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

YEAR NEW/ACQUIRED TRENDED % GOOD

1998	92%
1997	85%
1996	78%
1995	71%
1994	63%

1993	55%
1992	44%
1991	34%
1990	20%
1989 or older	24%

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
1999	92%
1998	84%
1997	77%
1996	69%
1995	62%
1994	54%
1993	44%
1992	34%
1991	28%
1990 or older	24%

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

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
1999	80%
1998	65%
1997	54%
1996	47%
1995	46%
1994	44%
1993	41%
1992	38%
1991	36%
1990	33%
1989	31%
1988	29%
1987	27%
1986	24%
1985	24%
1984	23%
1983	20%
1982	22%
1981	23%
1980 or older	22%

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2000	80%
1999	65%
1998	54%
1997	52%
1996	47%
1995	44%
1994	43%

<u>1993</u>	<u>39%</u>
<u>1992</u>	<u>35%</u>
<u>1991</u>	<u>33%</u>
<u>1990</u>	<u>31%</u>
<u>1989</u>	<u>29%</u>
<u>1988</u>	<u>28%</u>
<u>1987</u>	<u>27%</u>
<u>1986</u>	<u>25%</u>
<u>1985</u>	<u>24%</u>
<u>1984</u>	<u>22%</u>
<u>1983</u>	<u>20%</u>
<u>1982</u>	<u>20%</u>
<u>1981 or older</u>	<u>20%</u>

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

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
<u>1990</u>	<u>25%</u>
<u>1997</u>	<u>15%</u>
<u>1996 or older</u>	<u>10%</u>

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
<u>1999</u>	<u>25%</u>
<u>1998</u>	<u>15%</u>
<u>1997 or older</u>	<u>10%</u>

(2) and (3) remain the same.

(4) This rule is effective for tax years beginning after December 31, ~~1990~~ 1999.

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

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

42.21.123 FARM MACHINERY AND EQUIPMENT (1) remains the same.

(2) For all farm machinery and equipment ~~which that~~ cannot be valued under (1), the department has developed a manual to value the equipment. This manual will be used in conjunction with the depreciation schedule in (5) ~~in the valuation of when valuing~~ farm equipment and machinery. The purpose of the department developed manual will be to arrive at values which approximate average wholesale value. The department's ~~of revenue's~~ farm machinery manual is hereby incorporated by reference. ~~Copies are available to taxpayers at a reasonable cost for copying at the Department of Revenue, Property Assessment Division, Helena, Montana 59620. Customers can contact the department to obtain copies.~~

(3) For all farm machinery and equipment which cannot be valued under (1) and (2), the department shall try to ascertain the original FOB through old farm machinery and equipment valuation guidebooks. If an original FOB cannot be ascertained, the department may use trending to determine the FOB. The FOB

or "trended" FOB will be used in conjunction with the depreciation schedule in (5) to arrive at a value which ~~that~~ approximates average wholesale value. ~~The trend factors shall be the same as those mentioned in ARM 42-21-106.~~

(4) remains the same.

(5) The trended depreciation schedule referred to in (2) through (4) is listed below and shall be used for tax year ~~1999~~ 2000. The schedule is derived by using the guidebook listed in (1) as the data base. The trended depreciation schedule will approximate average wholesale value.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD AVERAGE WHOLESALE</u>
1999	65%
1998	65%
1997	64%
1996	60%
1995	57%
1994	49%
1993	43%
1992	40%
1991	41%
1990	36%
1989	36%
1988	30%
1987	27%
1986	26%
1985	24%
1984	23%
1983	21%
1982	21%
1981	22%
1980	24%
1979	25%
1978	24%
1977	23%
1976	22%
1975 and before	20%

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD AVERAGE WHOLESALE</u>
2000	80%
1999	65%
1998	65%
1997	59%
1996	55%
1995	53%
1994	45%
1993	39%
1992	38%
1991	37%
1990	35%
1989	35%

<u>1988</u>	<u>28%</u>
<u>1987</u>	<u>26%</u>
<u>1986</u>	<u>25%</u>
<u>1985</u>	<u>22%</u>
<u>1984</u>	<u>21%</u>
<u>1983</u>	<u>21%</u>
<u>1982</u>	<u>20%</u>
<u>1981 & Older</u>	<u>20%</u>

(6) remains the same.

(7) This rule is effective for tax years beginning after December 31, ~~1990~~ 1999.

AUTH: 15-1-201, MCA

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

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

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

(5) The trended depreciation schedule referred to in (2), (3) and (4) is listed below and shall be used for tax year ~~1999~~ 2000. The percentages approximate the "quick sale" values as calculated in the guidebooks listed in (1).

HEAVY EQUIPMENT TRENDED DEPRECIATION SCHEDULE

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD WHOLESALE</u>
<u>1999</u>	<u>80%</u>
<u>1998</u>	<u>65%</u>
<u>1997</u>	<u>54%</u>
<u>1996</u>	<u>47%</u>
<u>1995</u>	<u>46%</u>
<u>1994</u>	<u>44%</u>
<u>1993</u>	<u>41%</u>
<u>1992</u>	<u>38%</u>
<u>1991</u>	<u>36%</u>
<u>1990</u>	<u>33%</u>
<u>1989</u>	<u>31%</u>
<u>1988</u>	<u>29%</u>
<u>1987</u>	<u>27%</u>
<u>1986</u>	<u>24%</u>
<u>1985</u>	<u>24%</u>
<u>1984</u>	<u>23%</u>
<u>1983</u>	<u>20%</u>
<u>1982</u>	<u>22%</u>
<u>1981</u>	<u>23%</u>
<u>1980 and before</u>	<u>22%</u>

HEAVY EQUIPMENT TRENDED DEPRECIATION SCHEDULE

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD WHOLESALE</u>
<u>2000</u>	<u>80%</u>
<u>1999</u>	<u>65%</u>
<u>1998</u>	<u>54%</u>
<u>1997</u>	<u>52%</u>
<u>1996</u>	<u>47%</u>
<u>1995</u>	<u>44%</u>
<u>1994</u>	<u>43%</u>
<u>1993</u>	<u>39%</u>
<u>1992</u>	<u>35%</u>
<u>1991</u>	<u>33%</u>
<u>1990</u>	<u>31%</u>
<u>1989</u>	<u>29%</u>
<u>1988</u>	<u>28%</u>
<u>1987</u>	<u>27%</u>
<u>1986</u>	<u>25%</u>
<u>1985</u>	<u>24%</u>
<u>1984</u>	<u>22%</u>
<u>1983</u>	<u>20%</u>
<u>1982</u>	<u>20%</u>
<u>1981 and before</u>	<u>20%</u>

(6) This rule is effective for tax years beginning after December 31, ~~1998~~ 1999, and applies to all heavy equipment.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-136, 15-6-138, and 15-6-140, MCA

42.21.137 SEISMOGRAPH UNITS AND ALLIED EQUIPMENT

(1) remains the same.

(2) The department ~~of revenue~~ shall prepare a five-year trended depreciation schedule for seismograph units and a five-year trended depreciation schedule for all other allied seismograph equipment. ~~These trended depreciation schedules will be derived by using trend factors and depreciation factors published by "Marshall and Swift Publication Company". Trend factors and depreciation factors published by "Marshall and Swift Publication Company" will be used to develop the trended depreciation schedules.~~ The trend factors shall be the most recent available from the "Chemical Industry Cost Indexes" listed in the above publication. The "% good" for seismograph units and other allied seismograph equipment less than one year old shall be 100% and the "% good" for equipment more than 5 ~~five~~ years old shall be 5%.

(3) remains the same.

(4) The trended depreciation schedules referred to in (1) through (3) are listed below and shall be used for tax year ~~1999~~ 2000.

SEISMOGRAPH UNITS

<u>YEAR/NEW</u>		<u>TREND</u>		<u>TRENDED</u>		<u>TRENDED</u>
<u>ACQUIRED</u>	<u>% GOOD</u>	<u>FACTOR</u>		<u>% GOOD</u>	<u>FACTOR</u>	<u>WHOLESALE</u>
1999	100%	1.000		100%	80%	80%
1998	85%	1.000		85%	80%	68%
1997	69%	1.010		70%	80%	56%
1996	52%	1.022		53%	80%	42%
1995	34%	1.049		35%	80%	28%
1994	20%	1.081		22%	80%	18%
1993 & older	5%	1.103		6%	80%	5%

SEISMOGRAPH UNIT

<u>TRENDED</u>					
<u>YEAR/NEW</u>		<u>TREND</u>	<u>TRENDED</u>	<u>WHOLESALE</u>	<u>WHOLESALE</u>
<u>ACQUIRED</u>	<u>% GOOD</u>	<u>FACTOR</u>	<u>% GOOD</u>	<u>FACTOR</u>	<u>% GOOD</u>
2000	100%	1.000	100%	80%	80%
1999	85%	1.000	85%	80%	68%
1998	69%	0.997	69%	80%	55%
1997	52%	1.007	52%	80%	42%
1996	34%	1.020	35%	80%	28%
1995	20%	1.039	21%	80%	17%
1994 & older	5%	1.075	5%	80%	4%

SEISMOGRAPH ALLIED EQUIPMENT

<u>YEAR/NEW</u>		<u>TREND</u>	<u>TRENDED</u>
<u>ACQUIRED</u>	<u>% GOOD</u>	<u>FACTOR</u>	<u>% GOOD</u>
1999	100%	1.000	100%
1998	85%	1.000	85%
1997	69%	1.010	70%
1996	52%	1.007	53%
1995	34%	1.020	35%
1994	20%	1.039	22%
1993 & older	5%	1.075	6%

SEISMOGRAPH ALLIED EQUIPMENT

<u>YEAR/NEW</u>		<u>TREND</u>	<u>TRENDED</u>
<u>ACQUIRED</u>	<u>% GOOD</u>	<u>FACTOR</u>	<u>% GOOD</u>
2000	100%	1.000	100%
1999	85%	1.000	85%
1998	69%	0.997	69%
1997	52%	1.007	52%
1996	34%	1.020	35%
1995	20%	1.039	21%
1994 & older	5%	1.075	5%

(5) This rule is effective for tax years beginning after December 31, ~~1990~~ 1999.

AUTH: 15-1-201, MCA

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

42.21.138 OIL AND GAS FIELD MACHINERY AND EQUIPMENT

(1) remains the same.

(2) The department ~~of revenue~~ shall prepare a 15-year trended depreciation schedule for oil and gas field machinery and equipment. ~~The trended depreciation schedule will be derived by using trend factors and depreciation factors published by "Marshall and Swift Publication Company." Trend factors and depreciation factors published by "Marshall and Swift Publication Company" will be used to develop the trended depreciation schedules.~~ The trend factors shall be the most recent available from the "Chemical Industry Cost Indexes" listed in the above publication.

(3) The trended depreciation schedule referred to in (1) and (2) is listed below and shall be used for tax year ~~1999~~ 2000.

OIL AND GAS FIELD PRODUCTION
EQUIPMENT TRENDED DEPRECIATION SCHEDULE

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
1999	100%	1.000	100%
1998	95%	1.000	95%
1997	90%	1.010	91%
1996	85%	1.022	87%
1995	79%	1.042	82%
1994	73%	1.061	79%
1993	68%	1.103	75%
1992	62%	1.117	69%
1991	55%	1.126	62%
1990	49%	1.150	56%
1989	43%	1.180	51%
1988	37%	1.246	46%
1987	31%	1.300	40%
1986	26%	1.315	34%
1985	23%	1.321	30%
1984 & older	20%	1.339	27%

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2000	100%	1.000	100%
1999	95%	1.000	95%
1998	90%	0.997	90%
1997	85%	1.007	86%
1996	79%	1.020	81%
1995	73%	1.039	76%
1994	68%	1.075	73%

1993	62%	1.116	69%
1992	55%	1.126	62%
1991	49%	1.148	56%
1990	43%	1.179	51%
1989	37%	1.238	46%
1988	31%	1.282	40%
1987	26%	1.294	34%
1986	23%	1.303	30%
1985 & older	20%	1.322	26%

(4) remains the same.

(5) This rule is effective for tax years beginning after December 31, 1990 1999.

AUTH: 15-1-201, MCA

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

42.21.139 WORKOVER AND SERVICE RIGS (1) remains the same.

(2) The department ~~of revenue~~ shall prepare a 10-year trended depreciation schedule for workover and service rigs. The trended depreciation schedule shall be derived from depreciation factors published by "Marshall and Swift Publication Company". The "% good" for workover and service rigs less than one year old shall be 100%.

(3) and (4) remain the same.

(5) The trended depreciation schedule referred to in (2) and (4) is listed below and shall be used for tax year 1999 2000.

SERVICE AND WORKOVER RIG TRENDED DEPRECIATION SCHEDULE

YEAR NEW/ ACQUIRED	% GOOD	TRENDED FACTOR	WHOLESALE FACTOR	TRENDED WHOLESALE % GOOD
1999	100%	1.000	80%	80%
1998	92%	1.000	80%	74%
1997	84%	1.010	80%	68%
1996	76%	1.022	80%	62%
1995	67%	1.042	80%	56%
1994	58%	1.081	80%	50%
1993	49%	1.103	80%	43%
1992	39%	1.117	80%	35%
1991	30%	1.126	80%	27%
1990	24%	1.150	80%	22%
1989 & older	20%	1.180	80%	19%

SERVICE AND WORKOVER RIG TRENDED DEPRECIATION SCHEDULE

YEAR NEW/ ACQUIRED	% GOOD	TRENDED FACTOR	WHOLESALE FACTOR	TRENDED WHOLESALE % GOOD
2000	100%	1.000	80%	80%
1999	92%	1.000	80%	74%
1998	84%	0.997	80%	67%

1997	76%	1.007	80%	61%
1996	67%	1.020	80%	55%
1995	58%	1.039	80%	48%
1994	49%	1.075	80%	42%
1993	39%	1.116	80%	35%
1992	30%	1.126	80%	27%
1991	24%	1.148	80%	22%
1990 & older	20%	1.179	80%	19%

(6) This rule is effective for tax years beginning after December 31, 1990 1999.

AUTH: 15-1-201, MCA

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

42.21.140 OIL DRILLING RIGS (1) remains the same.

(2) The department shall prepare a 10-year trended depreciation schedule for oil drilling rigs. The trended depreciation schedule shall be derived from depreciation factors published by Marshall and Swift Publication Company. The "% good" for all drill rigs less than one year old shall be 100%. The trended depreciation schedule for tax year 1999 2000 is listed below.

DRILL RIG TRENDED DEPRECIATION SCHEDULE

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
1999	100%	1.000	100%
1998	92%	1.000	92%
1997	84%	1.010	85%
1996	76%	1.022	78%
1995	67%	1.042	70%
1994	58%	1.081	63%
1993	49%	1.103	54%
1992	35%	1.117	39%
1991	30%	1.126	34%
1990	24%	1.150	28%
1989 & older	20%	1.180	24%

DRILL RIG TRENDED DEPRECIATION SCHEDULE

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2000	100%	1.000	100%
1999	92%	1.000	92%
1998	84%	0.997	84%
1997	76%	1.007	76%
1996	67%	1.020	68%
1995	58%	1.039	60%
1994	49%	1.075	53%

1993	35%	1.116	39%
1992	30%	1.126	34%
1991	24%	1.148	28%
1990 & older	20%	1.179	24%

(3) remains the same.

(4) This rule is effective for tax years beginning after December 31, 1990 1999.

AUTH: 15-1-201, MCA

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

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

(4) The trended depreciation schedules referred to in (2) and (3) are listed below and shall be in effect for tax year 1999 2000.

TABLE 1. 5 YEAR "DISHES"

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
1998	85%	1.000	85%
1997	69%	1.000	70%
1996	52%	1.025	53%
1995	34%	1.040	35%
1994 & older	20%	1.078	22%

TABLE 1: FIVE-YEAR "DISHES"

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
1999	85%	1.000	85%
1998	69%	1.001	69%
1997	52%	1.010	53%
1996	34%	1.026	35%
1995 & older	20%	1.042	21%

TABLE 2. 10 YEAR "TOWERS"

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
1998	92%	1.000	92%
1997	84%	1.000	85%
1996	76%	1.025	78%
1995	67%	1.040	70%
1994	50%	1.078	63%
1993	49%	1.100	54%
1992	39%	1.130	44%

1991	30%	1.143	34%
1990	24%	1.166	28%
1989 & older	20%	1.198	24%

TABLE 2: 10-YEAR "TOWERS"

YEAR NEW/ ACQUIRED	GOOD	TREND FACTOR	TRENDED % GOOD
1999	92%	1.000	92%
1998	84%	1.001	84%
1997	76%	1.010	77%
1996	67%	1.026	69%
1995	58%	1.042	60%
1994	49%	1.079	53%
1993	39%	1.110	43%
1992	30%	1.131	34%
1991	24%	1.145	27%
1990 & older	20%	1.168	23%

(5) This rule is effective for tax years beginning after December 31, 1990 1992.

AUTH: 15-1-201, MCA

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

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

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

DEPRECIATION TABLE FOR SKI LIFT EQUIPMENT

Installed Cost X Trended Percent Good = Average Market Value

YEAR	TREND FACTOR	PERCENT GOOD	TRENDED %GOOD
1990	1.000	92%	92%
1997	1.000	84%	85%
1996	1.025	76%	78%
1995	1.040	67%	70%
1994	1.078	58%	63%
1993	1.108	49%	54%
1992	1.130	39%	44%
1991	1.143	30%	34%
1990	1.166	28%	28%
1989 & older	1.198	24%	24%

DEPRECIATION TABLE FOR SKI LIFT EQUIPMENT

Installed Cost X Trended Percent Good = Average Market Value

<u>YEAR</u>	<u>TREND FACTOR</u>	<u>PERCENT GOOD</u>	<u>TRENDED</u>
1999	1.000	92%	92%
1998	1.001	84%	84%
1997	1.010	76%	77%
1996	1.026	67%	69%
1995	1.042	58%	60%
1994	1.079	49%	53%
1993	1.110	39%	43%
1992	1.131	30%	34%
1991	1.145	24%	27%
1990 & older	1.168	20%	23%

(a) and (b) remain the same.

(4) This methodology is effective for tax years beginning after December 31, ~~1998~~ 1999.

AUTH: 15-1-201, MCA

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

42.21.155 DEPRECIATION SCHEDULES (1) remains the same.

(2) The trended depreciation schedules for tax year ~~1999~~ 2000 are listed below. The categories are explained in ARM 42.21.156. The trend factors are derived according to ARM 42.21.156 and 42.21.157.

CATEGORY 1

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
1998	70%	1.000	70%
1997	45%	0.899	40%
1996	20%	0.825	17%
1995 and older	10%	0.772	8%

CATEGORY 2

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
1998	85%	1.000	85%
1997	69%	1.004	69%
1996	52%	1.005	52%
1995	34%	1.012	34%
1994 and older	20%	1.010	20%

CATEGORY 3

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
1998	85%	1.000	85%

1997	69%	0.954	66%
1996	52%	0.911	47%
1995	34%	0.883	36%
1994 and older	20%	0.865	17%

CATEGORY 4

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
1998	85%	1.000	85%
1997	69%	0.989	68%
1996	52%	0.963	50%
1995	34%	0.956	33%
1994 and older	20%	0.946	19%

CATEGORY 5

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
1998	85%	1.000	85%
1997	69%	1.001	70%
1996	52%	1.012	53%
1995	34%	1.030	35%
1994 and older	20%	1.047	21%

CATEGORY 6

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
1998	85%	1.000	85%
1997	69%	1.027	71%
1996	52%	1.042	54%
1995	34%	0.069	36%
1994 and older	20%	1.083	22%

CATEGORY 7

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
1998	92%	1.000	92%
1997	84%	1.015	85%
1996	76%	1.034	79%
1995	67%	1.061	71%
1994	58%	1.085	63%
1993	49%	1.107	54%
1992	39%	1.133	44%
1991	30%	1.167	35%
1990	24%	1.213	29%
1989 and older	20%	1.264	25%

CATEGORY 8

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
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1998	92%	1.000	92%
1997	84%	1.012	85%
1996	76%	1.032	78%
1995	67%	1.060	71%
1994	58%	1.086	63%
1993	49%	1.113	55%
1992	39%	1.131	44%
1991	30%	1.147	34%
1990	24%	1.170	28%
1989 and older	20%	1.223	24%

CATEGORY 1

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
1999	70%	1.000	70%
1998	45%	0.948	43%
1997	20%	0.853	17%
1996 and older	10%	0.783	8%

CATEGORY 2

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
1999	85%	1.000	85%
1998	69%	0.998	69%
1997	52%	1.002	52%
1996	34%	1.003	34%
1995 and older	20%	1.009	20%

CATEGORY 3

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
1999	85%	1.000	85%
1998	69%	0.975	67%
1997	52%	0.929	48%
1996	34%	0.887	30%
1995 and older	20%	0.861	17%

CATEGORY 4

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
1999	85%	1.000	85%
1998	69%	0.990	68%
1997	52%	0.979	51%
1996	34%	0.953	32%
1995 and older	20%	0.946	19%

CATEGORY 5

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
1999	85%	1.000	85%
1998	69%	1.003	69%
1997	52%	1.005	52%
1996	34%	1.016	35%
1995 and older	20%	1.034	21%

CATEGORY 6

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
1999	85%	1.000	85%
1998	69%	1.057	73%
1997	52%	1.085	56%
1996	34%	1.101	37%
1995 and older	20%	1.130	23%

CATEGORY 7

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
1999	92%	1.000	92%
1998	84%	1.008	85%
1997	76%	1.023	78%
1996	67%	1.042	70%
1995	58%	1.070	62%
1994	49%	1.094	54%
1993	39%	1.117	44%
1992	30%	1.142	34%
1991	24%	1.176	28%
1990 and older	20%	1.224	24%

CATEGORY 8

YEAR NEW/ ACQUIRED	% GOOD	TREND FACTOR	TRENDED % GOOD
1999	92%	1.000	92%
1998	84%	1.005	84%
1997	76%	1.017	77%
1996	67%	1.037	69%
1995	58%	1.066	62%
1994	49%	1.092	54%
1993	39%	1.119	44%
1992	30%	1.137	34%
1991	24%	1.153	28%
1990 and older	20%	1.184	24%

(3) This rule is effective for tax years beginning after December 31, 1998 1999.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-136, 15-6-138, 15-6-140, 15-6-207,

20-10/21/99

MAR Notice No. 42-2-643

15-24-921, 15-24-922, and 15-24-925, MCA

42.21.158 PROPERTY REPORTING TIME FRAMES REQUIREMENTS

(1) Taxpayers having property in the state of Montana on January 1, 2000, must complete the statement as provided in 15-8-301, MCA.

(2) If the aggregate market value of a person or business entity's class eight property on a statewide basis is \$5,000 or less, the person or business entity is exempt from class eight taxation. For class eight property, future year reporting requirements will not apply to such a person or business entity unless the person or business entity acquires new class eight property or a departmental review as provided in 15-8-104, MCA, indicates a need to report.

~~++(3)~~ Taxpayers having taxable property in the state of Montana on January 1 of each year must complete the statement as provided for in 15-8-301, MCA. With the exception of livestock owners, the taxpayer has 30 days from the date of receipt of any request for information to respond to the department's ~~of~~ revenue request for information. The department may grant ~~an~~ 30-day extension if the taxpayer requests such an extension during the 30-day period. No extension may be granted that allows the taxpayer to report after March 15. Upon request from the taxpayer, the department shall provide a copy of the assessed value of individual pieces of personal property.

~~(2) If the taxpayer shall fail to respond to the department request for information during the time frames set forth in (1), the department shall assess the property under the provisions of 15-1-303, MCA.~~

~~(3) If such requests for information involve migratory property as defined in 15-24-301, MCA, the taxpayer will have 5 days to respond to the department request for information as provided by 15-16-111, MCA. The department may grant a 10 day extension if the taxpayer requests such an extension during the 5 day period and the department is satisfied the property will remain in the county for a time period sufficient to guarantee the payment of taxes.~~

~~++(4)~~ A taxpayer who raises livestock has 14 days from February 1 to respond to the department request for information. The department may grant ~~an~~ 10-day extension if the taxpayer requests such an extension before February 15.

~~++(5)~~ If the taxpayer shall fail to respond to the department request for information during the time frames set forth in (3) ~~and~~ (4), the department shall assess the property under the provisions of 15-1-303, 15-8-309 and 15-24-904, MCA, or any other applicable statute.

(6) Industrial and commercial property taxpayers shall provide documentation of the installed costs of intangible personal property included on the taxpayer's accounting records.

(7) This rule is effective for tax years beginning after December 31, 1996 1999.

AUTH: 15-1-201, MCA

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

42.21.159 PROPERTY AUDITS AND REVIEWS (1) remains the same.

(2) ~~Commercial personal property is defined as all property, other than real property and real property improvements, which is used for the production of income.~~

(3) For purposes of this audit and review, the department may utilize information supplied by the secretary of state, department of livestock, department of revenue, department of agriculture, department of commerce, federal agricultural stabilization and conservation service offices, department developed models or comparative studies and local government entities to determine the taxable value of the property subject to taxation.

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

(5) (4) The department ~~of revenue~~ will seek access to the following records for purposes of conducting the audits and reviews, pursuant to 15-8-304, MCA:

(a) personal property returns on file in the department's field county appraisal/assessment offices;

(b) income statements, receipts of purchase, asset listings, asset registers, asset ledgers, and any information in the possession of the property owner or lessee which would reflect capital asset investment costs;

(c) any depreciation schedules, age/life programs, asset life schedules, or capital asset investment recovery records in the possession of the commercial personal property taxpayer or his representative; and

(d) any other information in the possession of the department and/or property owner or lessee which is necessary in order to conduct a thorough audit or review.

AUTH: 15-1-201, MCA

IMP: 15-8-104, MCA

42.21.160 DEFINITION OF TAXABLE SUPPLIES DEFINITIONS

For purposes of this chapter the following definitions apply:

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

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

(a) a sole proprietorship;

(b) a corporation (foreign or domestic);

(c) a not-for-profit corporation;

(d) a profit and not-for-profit unincorporated association;

(e) a business trust;

(f) limited liability company;

(g) limited liability partnership;

(h) a small business corporation; or

(i) a partnership.

(3) "Commercial personal property" means all property, other than real property and real property improvements, which

is used for the production of income.

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

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

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

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

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

(9) "Purchase incentive rental program" is a program operated by equipment dealerships where the equipment is owned by the dealer, held for sale and is rented to a consumer for a period not to exceed one year as an incentive for sales of the equipment.

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

~~(2) Examples of supplies include, but are not limited to,~~

~~(a) fuel used in operations;~~

~~(b) parts held for repair of machinery; and~~

~~(c) chemicals used in process operations.~~

~~(3) Supplies do not include raw materials that are part of the final product.~~

AUTH: 15-1-201, MCA

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

42.21.162 PERSONAL PROPERTY TAXATION DATES (1) remains the same.

(2) In order to obtain an exemption for personal property, other than class eight property that is exempt under 15-6-138, MCA, for that tax year, an application for exemption must be filed before March 1 of the year for which the exemption is sought, except if the applicant acquires the personal property after January 1, they must submit an application for exemption:

(a) by March 1;

(b) within 30 days of acquisition of the property; or

(c) within 30 days of receipt of an assessment list, whichever is later.

(3) through (7) (a) remain the same.

(7) (b) If personal property is not in an exempt status when it is brought into the state of Montana, the department will prorate the taxes on the personal property pursuant to 15-16-613, 15-24-301, and 15-24-303, and 15-16-613, MCA.

AUTH: 15-1-201, MCA

IMP: 15-8-201, 15-16-613, 15-24-301, and 15-24-303, MCA

5. The adoption of New Rule I and amendments to ARM 42.21.158, 42.21.159, and 42.21.162 are necessary because Chapter 285, Laws of 1999, requires the department to exempt class eight property, as defined in 15-6-138, MCA, from taxation of a person or business entity that owns an aggregate of \$5,000 or less in market value of class eight property, beginning with tax year 2000. A person or business entity owning exempt business equipment is subject to limited annual reporting requirements. The department is required to draft administrative rules with regard to the criteria defining aggregate market value for a person or business entity and limited reporting.

Amendments to ARM 42.13.113, 42.21.123, 42.21.131, 42.21.137, 42.21.138, 42.21.139, 42.21.140, 42.21.151, 42.21.153, and 42.21.155 are necessary because 15-8-111, MCA, requires the department to assess all property at 100% of its market value except as provided in 15-7-111, MCA. The statute does not address in detail how the department is to arrive at market value.

To determine the market value of certain property the department has historically used and adopted the concept of trending and depreciation. The method by which the trended depreciation schedules are derived is described in the existing rules, and that method is not being changed. However, the method does result in annual changes to the schedule. The courts have indicated that schedules of this nature should be included in the administrative rules of the department.

As originally adopted ARM 42.21.160 only defined the term "taxable supplies." ARM 42.21.160 is being amended to create a specific definition rule which will contain all the various terms used in the rules found in chapter 21. The specific terms defined in the amendments are terms found in the other amendments to rules in this notice that the department believes require further definition.

New rule II is necessary because in the past there has been taxpayer confusion about the obligation to include this leased equipment as business equipment for property tax purposes. They have full use of the equipment and are to pay class eight business equipment property tax on the equipment. The financial arrangement for obtaining the business equipment does not alter their tax obligation.

New Rule III is necessary to provide the documentation of the net book value of intangible personal property included in the taxpayer's accounting records. This reporting is necessary to provide appraisers the information necessary to allow an exempt intangible personal property deduction.

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

Cleo Anderson
Department of Revenue
Director's Office
P.O. Box 5805
Helena, Montana 59620-5805

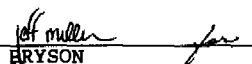
and must be received no later than November 19, 1999.

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

8. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the 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 a particular subject matter or matters. Such written request may be mailed, delivered, or faxed to the person identified in 2. above or may be made by completing a request form at any rules hearing held by the Department of Revenue.

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


CLEO ANDERSON
Rule Reviewer


MARY BRYSON
Director of Revenue

Certified to Secretary of State October 12, 1999

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the Matter of the Proposed)	NOTICE OF PUBLIC HEARING
Adoption of New Rules I)	ON THE PROPOSED ADOPTION
through IX and Repeal of ARM)	AND REPEAL
42.2.601 through 42.2.612)	
relating to the Office of)	
Dispute Resolution)	

TO: All Concerned Persons

1. On November 17, 1999, at 9:00 a.m., a public hearing will be held in Fourth Floor Conference Room of the Mitchell Building, at Helena, Montana, to consider the adoption of new rules I through IX and repeal of ARM 42.2.601 through 42.2.612 relating to the Department's Office of Dispute Resolution rules.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the Department not later than 5:00 p.m., November 5, 1999, 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 59620-5805; telephone (406) 444-2460; fax (406) 444-3696; or e-mail canderson@state.mt.us. An alternative accessible format of this Notice of Public Hearing for any person needing it to participate in this rule-making action is available upon request.

3. The proposed new rules I through IX do not replace or modify any section currently found in the Administrative Rules of Montana. The rules as proposed to be adopted provide as follows:

RULE I DEFINITIONS The following definitions apply to rules found in this chapter.

(1) "Alternative dispute resolution (ADR)" means the option of a voluntary, confidential, and cooperative means of resolving disputes. One objective is to reduce costs and risks inherent in adjudication or litigation for either the person or other entity and the department. Alternative dispute resolution can include mediation.

(2) "Customer" means any person or other entity doing business in Montana.

(3) "Department" means the Montana department of revenue.

(4) "Evidence" means documents or testimony offered during the mediation process or at a hearing. Such evidence includes but is not limited to direct or circumstantial, oral or written testimony, or real or demonstrative exhibits.

(5) "Hearing" means a proceeding with specified issues of fact or law to be heard before a finder of fact, from which a decision is rendered. The decision rendered by the finder of fact shall be considered the final agency decision in all matters not involving the Montana Administrative Procedure Act.

The director as required by the Montana Administrative Procedure Act shall issue final agency decisions in liquor licensing matters.

(6) "Hearing examiner" means, within the context of the department's office of dispute resolution, either a finder of fact or mediator. When serving as a finder of fact, the "hearing examiner" performs an adjudicatory function. A hearing presided over by the finder of fact involves a proceeding addressing specific issues of fact or of law to be tried. The respective parties have the right to offer testimony and evidence, from which the finder of fact renders a decision subject to appeal. When the office of dispute resolution's "hearing examiner" functions as a mediator, the mediator shall interpose between the parties with the objective of assisting them to reconcile, adjust, or settle their dispute.

(7) "Initial conference" means a conference conducted by the office of dispute resolution to review all matters pertaining to a dispute, including which course may best address a situation deemed appropriate by the parties.

(8) "Liquor licensing matters" means disputes involving alcoholic beverages licenses administered by the department under authority of the Montana Alcoholic Beverage Code, (Title 16, chapters 1 through 6, MCA). Such disputes may include, but are not limited to, contested violations, denial of applications, revocations, lapses, and protests to license applications. It is understood that the Montana Administrative Procedure Act is considered controlling as to such liquor licensing matters. In addition, it is noted that some disputes with regard to such licenses do not involve the department as a party, such as protest hearings between protestors and license applicants.

(9) "Mediation" means a process by which a mediator assists opposing parties in arriving at a mutually acceptable settlement of a dispute. In mediation, the mediator does not have authority to enter any decision on the merits of the issues in dispute or to impose, in any way, a settlement upon the parties. The parties control the identification of issues submitted and the type of resolution to be agreed upon. The mediator may conduct joint or separate meetings with the parties. Matters raised in mediation are privileged, private, and confidential. Mediation is voluntary. No person, other entity, or the department is required to participate in any given case except by voluntary agreement. The mediation process is informal. No record is made.

(a) The following items include matters that cannot be disclosed by either party with respect to settlement:

(i) views expressed or suggested by a party with respect to a possible settlement;

(ii) admissions made by any party;

(iii) statements made or views expressed by any party, witness, the mediator, or any other person privy to the process; or

(iv) the fact that another party did or did not indicate a willingness to accept a proposal for settlement.

(10) "Other entity" means all businesses, corporations, or similar enterprises.

(11) "Person" means natural persons as contemplated by law, or human beings.

(12) "Settlement" means a compromise, agreement, or arrangement between parties which, in consideration of mutual concessions, terminates a controversy.

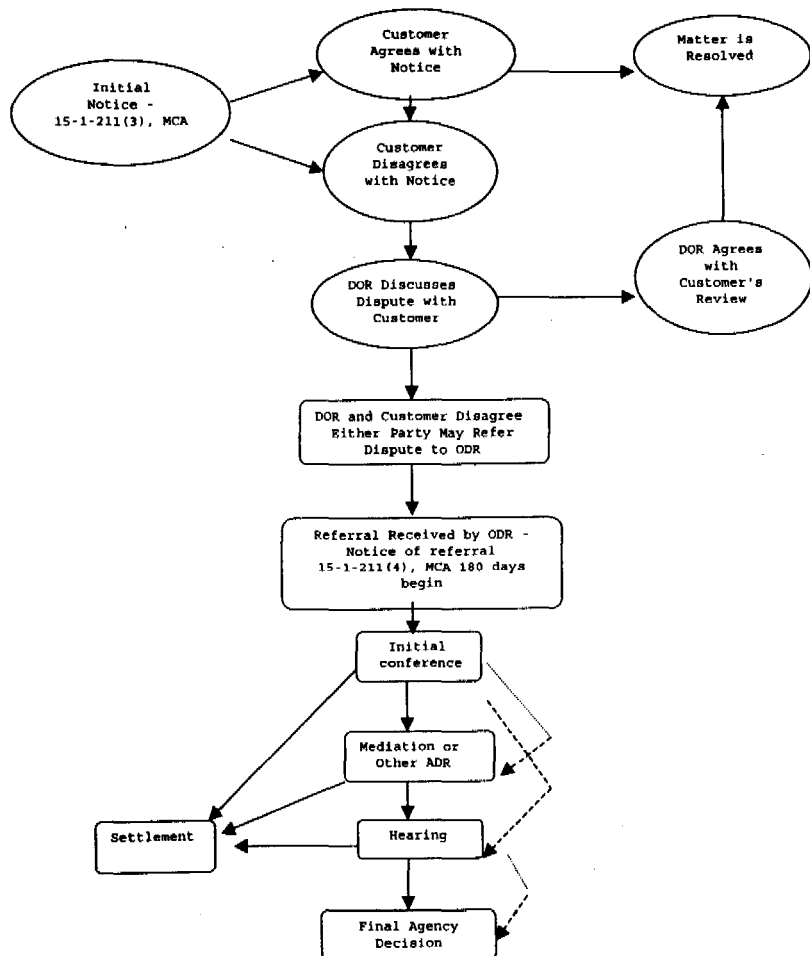
AUTH: 15-1-201 and 15-1-211, MCA

IMP: 15-1-211, MCA

RULE II PURPOSE (1) Section 15-1-211, MCA, passed during the 1999 legislative session establishes new procedures for resolving disputes between the department and persons or other entities. Among other provisions, the bill provides for the creation of an office of dispute resolution (ODR) within the department and requires that a new uniform dispute review process be developed by rule. A primary objective of the resolution procedure is to make dispute resolution as unthreatening and inexpensive as possible to parties appearing before the department. The law exempts property, inheritance, and estate taxes from the dispute resolution process.

(2) The following flow chart shows how the process will flow beginning with the initial notice provided to the customer:

DEPARTMENT OF REVENUE
DISPUTE RESOLUTION FLOW CHART



AUTH: 15-1-201 and 15-1-211, MCA

IMP: 15-1-211, MCA

RULE III REFERRAL REQUIREMENTS (1) The notification requirement of a referral to the office of dispute resolution by the department is covered in 15-1-211, MCA.

(2) Referrals by the customer to the office of dispute resolution shall be submitted in writing and shall indicate the issues in dispute.

(3) The office of dispute resolution shall notify the appropriate division within the department that a referral has been received.

AUTH: 15-1-201 and 15-1-211, MCA

IMP: 15-1-211, MCA

RULE IV DISCRETION AS TO FORMALITY OF PROCEDURES (1) The department recognizes that a wide array of parties appears before the agency in connection with disputes. They range from large corporations employing professional tax counsel to individuals appearing on their own behalf contesting comparatively minimal amounts of tax, violation penalties, etc. It is the intent of the agency to accommodate all such disputes to the greatest extent possible. In particular, the agency seeks to conduct proceedings that are as unintimidating as possible. Persons who are not represented in disputes before the department should not feel apprehensive or dissuaded by procedural complexities, legalistic terms, or bewildering formalities. The hearing examiner will determine the level of formality and procedures appropriate for each dispute.

(2) In disputes where persons or other entities are not represented and are disputing smaller amounts of potential liability, it is understood that far less formal procedures may be used.

(3) In disputes where both parties are represented by counsel, applying rules of evidence and civil procedure as described or referred to in this chapter to provide structure to the process may be entirely warranted.

AUTH: 15-1-201 and 15-1-211, MCA

IMP: 15-1-211, MCA

RULE V INITIAL CONFERENCES (1) Following the office of dispute resolution's receipt of a person's or other entity's request for appeal in any dispute, a hearing examiner assigned to the case shall schedule an initial conference. The conference shall be scheduled as soon as practicable. Parties may participate at the initial conference either in person or through representatives, employees, or agents, as long as a requisite notice of appearance has been filed from an attorney or a written authorization to represent a party has been submitted from any other representative.

(2) Written notice of the conference shall be given at least 10 days prior to the date of the conference unless the parties waive notice. The initial conference may be conducted by telephone with the taxpayer and/or their representative.

(3) Any issue may be settled at the initial conference, including referring the dispute to mediation if both parties agree. In the course of the conference, the hearing examiner may

take any appropriate action to settle, compromise, or reduce a deficiency subject to approval by the director or the director's designee. If the dispute cannot be settled at the conference, the hearing examiner shall set a time and date for subsequent mediation or a hearing which is as mutually satisfactory as possible to all concerned.

(4) Any discovery for the hearing may be discussed and the terms agreed upon at the initial conference.

(5) A party must exhaust their administrative remedies, whether by mediation or a hearing decision, prior to further appealing a matter. The parties may jointly stipulate to waiving a hearing.

(6) A record may not be kept of the initial conference. All such conference proceedings are considered confidential and privileged. Any matters raised do not constitute admissions against interest of any party participating in the conference.

(7) The hearing examiner conducting the initial conference shall not be the one presiding over the formal hearing if mediation occurs.

(8) Nothing in this rule may be construed as limiting a party's right to a hearing.

AUTH: 15-1-201 and 15-1-211, MCA

IMP: 15-1-211, MCA

RULE VI MEDIATION PROCEDURES (1) The resolution of any matter in connection with a dispute may be pursued through mediation.

(2) Mediation may be requested at the initial conference. If both parties agree, mediation may also occur during the initial conference.

(a) The mediator may either be a hearing examiner from the office of dispute resolution, or a mediator from outside the department. The mediator shall be chosen with the consent of both parties.

(b) If an outside mediator is selected, the cost of the mediator shall be paid by the "person" or "other entity" as defined in [RULE I].

(3) It will be understood that any person appearing on behalf of a party shall have full settlement authority for the party they are representing.

(4) If mediation produces a settlement agreement the written agreement shall be prepared by the parties and if necessary, with the assistance of the mediator. The settlement shall be signed by the parties and the mediator and it shall be filed with the director or director's designee for approval. If the director does not approve the agreement, the matter may proceed to a hearing.

(5) If mediation does not resolve all issues in a dispute, the parties shall prepare a stipulation that identifies the issues resolved and those that still remain in dispute. For the issues remaining unresolved, a hearing shall be scheduled before a hearing examiner.

AUTH: 15-1-201 and 15-1-211, MCA

IMP: 15-1-211, MCA

RULE VII HEARING PROCEDURES (1) Hearings may be telephonic. Such requests will be granted unless the hearing examiner determines that telephonic participation may unfairly prejudice the rights of any party. If telephonic participation is requested, the hearing examiner will place the call at the designated time to whatever telephone number is provided by the person or other entity.

(2) Notice of the time and place for a hearing shall be given to the parties concerned, or their representatives if legal authorization is on file, not less than 14 days prior to the day fixed for such proceedings.

(3) A party may be represented by legal counsel at the hearing, and/or at every stage of adjudication. However, failure to obtain legal representation cannot be cited as grounds for complaint at a later stage in the adjudicative process or for relief on appeal from an adverse decision.

(a) Legal counsel must enter a notice of appearance.

(b) Any representative other than legal counsel must submit a written, signed statement authorizing the representative to act on the party's behalf.

(c) All documents and information pertaining to the dispute will be directed to the party's representative. They may be transmitted by facsimile number, e-mail address, or other electronic means if such transmission does not breach confidentiality. Otherwise, documents will be mailed to or served upon the representative's address as shown in the original filing.

(4) Hearing proceedings shall be conducted, at all times, with due regard for the confidentiality requirements imposed by 15-30-303, 15-31-511, MCA, and any other confidentiality requirements currently set forth in Title 15, MCA, or at any future time.

(5) Testimony at hearings shall be given under oath.

AUTH: 15-1-201 and 15-1-211, MCA

IMP: 15-1-211, MCA

RULE VIII INFORMATION OFFERED IN HEARINGS (1) The hearing examiner shall have the discretion to impose rules of civil procedure and or rules of evidence as deemed necessary. Imposition of any rules governing hearings shall be done by written order.

(2) Every party at a hearing shall have the right to introduce evidence. The evidence may be oral or written, real or demonstrative, direct or circumstantial.

(3) At the discretion of the hearing examiner, or upon stipulation of the parties, the parties may be required to reduce their testimony to writing and to pre-file the testimony.

(a) Pre-filed testimony may be placed in the record without being read into the record at a hearing if the opposing parties have had reasonable access to the testimony before it is presented.

(b) If a party intends to question a witness on pre-filed testimony, that party must file a notice of intent to do so

within a time frame agreed upon by the parties.

(4) The hearing examiner shall rule and sign orders on matters concerning the evidentiary and procedural conduct of the hearing.

(5) Any party appearing at a hearing may submit a written statement addressing factual or legal issues, including cites of legal authority, if deemed necessary by the hearing examiner for a full and informed consideration of all matters.

AUTH: 15-1-201 and 15-1-211, MCA

IMP: 15-1-211, MCA

RULE IX. APPEAL OF AN AGENCY DECISION (1) If a person or other entity receives an adverse agency decision in a tax dispute, they shall have 30 days to submit an appeal from such decision to the state tax appeal board.

(2) If no decision is rendered by the end of the 180-day period specified in 15-1-211, MCA, and [RULE IV], the department shall issue a determination to the taxpayer. The determination shall inform them that the 180-day term has run without a decision and that they are therefore entitled to carry their appeal forward. The person or other entity shall then have 30 days to file a complaint with the appropriate reviewing authority.

AUTH: 15-1-201 and 15-1-211, MCA

IMP: 15-1-211, MCA

4. The Department proposes to repeal the following rules:

42.2.601 UNIFORM TAX REVIEW PROCEDURE - DEFINITIONS - APPLICABILITY DATE found at page 42-261 of the Administrative Rules of Montana.

AUTH: 15-1-201, MCA

IMP: 15-1-211, MCA

42.2.602 NOTICE TO TAXPAYERS found at page 42-262 of the Administrative Rules of Montana.

AUTH: 15-1-201, MCA

IMP: 15-1-211, MCA

42.2.603 TAXPAYER OBJECTIONS TO AUDITOR'S ASSESSMENT OR REFUND DENIAL, OR DENIAL, OR DENIAL OF WAIVER OF PENALTY AND INTEREST found at page 42-263 of the Administrative Rules of Montana.

AUTH: 15-1-201, MCA

IMP: 15-1-211, MCA

42.2.604 CONSEQUENCES OF FAILURE TO OBJECT TO AN ASSESSMENT IN A TIMELY MANNER found at page 42-263 of the Administrative Rules of Montana.

AUTH: 15-1-201, MCA

IMP: 15-1-211, MCA

42.2.605 DIVISION ADMINISTRATOR'S DECISION found at page 42-264 of the Administrative Rules of Montana.

AUTH: 15-1-201, MCA

IMP: 15-1-211, MCA

42.2.606 TAXPAYER OBJECTION TO DECISION OF THE DIVISION ADMINISTRATOR found at page 42-265 of the Administrative Rules of Montana.

AUTH: 15-1-201, MCA

IMP: 15-1-211, MCA

42.2.607 ALTERNATIVE PROCEDURES found at page 42-265 of the Administrative Rules of Montana.

AUTH: 15-1-201, MCA

IMP: 15-1-211, MCA

42.2.608 DIRECTOR OF THE DEPARTMENT OF REVENUE'S DECISION found at page 42-265 of the Administrative Rules of Montana.

AUTH: 15-1-201, MCA

IMP: 15-1-211, MCA

42.2.609 TAXPAYER APPEALS TO THE STATE TAX APPEAL BOARD found at page 42-266 of the Administrative Rules of Montana.

AUTH: 15-1-201, MCA

IMP: 15-1-211, MCA

42.2.610 DIRECTOR INITIATED REVIEW found at page 42-266 of the Administrative Rules of Montana.

AUTH: 15-1-201, MCA

IMP: 15-1-211, MCA

42.2.611 SETTLEMENT OF TAX DISPUTES found at page 42-267 of the Administrative Rules of Montana.

AUTH: 15-1-201, MCA

IMP: 15-1-211, MCA

42.2.612 DEPARTMENTAL PROCEDURES found at page 42-267 of the Administrative Rules of Montana.

AUTH: 15-1-201, MCA

IMP: 15-1-211, MCA

5. The Department is proposing the new rules for the Office of Dispute Resolution as required by 15-1-211, MCA. The rules provide the public with the means to refer a dispute to a third party for resolution of the unresolved issues. The rules address the step by step process that will be taken during a dispute before the Office of Dispute Resolution.

Rule I defines the various definitions found in this chapter.

Rule II addresses the purpose of the rules and the goal of the department to resolve disputed matters in the least intimidating manner possible to the parties.

Rule III explains the referral process for the customer and the department.

Rule IV outlines the various levels of formality for conducting proceedings before the Office of Dispute Resolution.

This rule encourages customers to feel at ease while appearing before this office and presenting their concerns and disputes.

Rule V explains how the initial conference will be conducted and what could happen at this conference. The rule provides for personal appearance of the aggrieved party or appearance through a representative. The rule provides for the consideration of settlement at an initial conference, as well as, a request to move to mediation.

Rule VI addresses the mediation process provided under the law.

Rule VII covers the hearing process before the Office of Dispute Resolution.

Rule VIII explains the type of material that can be offered as information during a hearing.

Rule IX clarifies the process a party must follow if no final agency decision is rendered by the end of the 180 day period specified in the law.

ARM 42.2.601 through 42.2.612 are repealed because 15-1-211, MCA was completely rewritten to provide for the Office of Dispute Resolution. The rules contained in sub-chapter 6 no longer apply to the appeal process before the Department.

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

Cleo Anderson
Department of Revenue
Director's Office
P.O. Box 5805
Helena, Montana 59620-5805

and must be received no later than November 22, 1999.

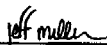
7. Cleo Anderson, with the Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

8. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding particular subject matter or matters. Such written request may be mailed or delivered to the person in 6. 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 notice requirements of 2-4-302, MCA, apply and have been satisfied.



CLEO ANDERSON
Rule Reviewer



MARY BRYSON
Director of Revenue



Certified to the Secretary of State October 12, 1999

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC HEARING
adoption of New Rules I)	ON THE PROPOSED ADOPTION,
through V; amendment of ARM)	AMENDMENT AND REPEAL
42.20.501, 42.20.503, 42.20.)	
505, 42.20.506, and 42.20.507;)	
and repeal of ARM 42.20.508)	
relating to Property Tax)	
Assessment)	

TO: All Concerned Persons

1. On November 15, 1999, at 9:00 a.m., a public hearing will be held in Fourth Floor Conference Room of the Sam Mitchell Building, in Helena, Montana, to consider the proposed adoption of New Rules I through V, amendment of ARM 42.20.501, 42.20.503, 42.20.505, 42.20.506, and 42.20.507; and repeal of ARM 42.20.508 relating to property tax assessment.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the Department not later than 5:00 p.m., November 5, 1999, 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 59620-5805; telephone (406) 444-2460; fax (406) 444-3696; or e-mail canderson@state.mt.us. An alternative accessible format of this Notice of Public Hearing for any person needing it to participate in this rulemaking action is available upon request.

3. The proposed rules I through V do not replace or modify any section currently found in the Administrative Rules of Montana. The rules proposed to be adopted provide as follows:

NEW RULE I DETERMINATION OF TOTAL TAXABLE VALUE OF ELIMINATED PROPERTY (1) The total taxable value of eliminated property is determined by compiling the actual total value of properties that have been eliminated from a particular taxing jurisdiction. In cases where the actual values have not been compiled, the department will use a statewide average rate of 0.12% (.0012) to multiply by the previous year total taxable value in the taxing jurisdiction, to calculate an estimated value of eliminated property.

AUTH: 15-1-201 and 15-7-111, MCA

IMP: 15-10-420, MCA

NEW RULE II DETERMINATION OF TOTAL TAXABLE VALUE OF NEWLY TAXABLE PROPERTY (1) For the 1999 tax year and subsequent tax years, the department will calculate for each taxing jurisdiction the total taxable value of class 4 newly taxable property as follows:

(a) The department shall determine the reappraisal value of class 4 newly taxable property in a taxing jurisdiction. The reappraisal value of new class 4 property is calculated as the difference between the current year total reappraisal value of class 4 property and the previous year total reappraisal value of class 4 property.

(b) The department also shall determine the additional class 4 land value excepted from taxation in a taxing jurisdiction for the current tax year as a result of the land cap provided in 15-7-111, MCA. The additional class 4 land value excepted from taxation is calculated as the difference between the total class 4 land value excepted from taxation under 15-7-111(4), MCA, for the current tax year and the total class 4 land value excepted from taxation under 15-7-111(4), MCA, for the previous tax year.

(c) The total market value of class 4 newly taxable property for the current tax year is determined by adding the total reappraisal value of class 4 newly taxable property for the current year and the additional class 4 land value excepted from taxation for the current tax year by the land cap provisions.

(d) The total taxable value of newly taxable property for the current tax year is determined by multiplying the current year total market value by the current year effective tax rate for class 4 property.

(e) For example, applying the steps set forth above, the total market value of newly taxable class 4 property for a taxing jurisdiction, would be determined as follows:

Current year total class 4 reappraisal value	\$2,000,000
Previous year total class 4 reappraisal value	<u>-1,800,000</u>
Reappraisal value of new class 4 property	\$ 200,000
Current year total land value excepted by cap	\$ 20,000
Previous year total land value excepted by cap	<u>- 15,000</u>
Land value excepted by land cap for current year	\$ 5,000
Reappraisal value of new class 4 property	\$ 200,000
Current year value of land excepted by land cap	<u>+ 5,000</u>
Market value of class 4 newly taxable property	\$ 205,000

(f) Using the above example, the total taxable value of newly taxable class 4 property in the taxing jurisdiction for the 1999 tax year would be determined by multiplying the total market value of newly taxable class 4 property by the 1999 effective tax rate for class 4 property in that jurisdiction.

Total market value of new class 4 property	\$ 205,000.00
1999 effective tax rate for class 4 property	x <u>2.66%</u>
Total taxable value of new class 4 property	\$ 5,453.00

(2) For tax year 1999 and subsequent tax years, the department will calculate for each taxing jurisdiction the total taxable value of newly taxable property that is classified as

class 5, 6, 8, 9 and 12 property. Except as provided in (3) of this rule, the taxable value of newly taxable property of class 5, 6, 8, 9 and 12 property shall be determined as follows:

(a) The department shall determine the total market value of newly taxable property in a taxing jurisdiction. The total market value of newly taxable property is calculated as the difference between the current year total reappraisal value for each class of property and the previous year total reappraisal value of the same class of property.

(b) For each class of property, the total taxable value of newly taxable property for the current tax year is determined by multiplying the current year total market value of newly taxable property by the current year tax rate for that class of property.

(3) For the 2000 tax year, the department shall calculate the total taxable value for class 8 property as follows:

(a) The department shall determine the total reappraisal value of newly taxable class 8 property in a taxing jurisdiction. The total reappraisal value of newly taxable property is calculated as the difference between the current year total reappraisal value of class 8 property and the previous year total reappraisal value of class 8 property.

(b) The department also shall determine the total value of class 8 property excepted from taxation in a taxing jurisdiction for the 2000 tax year as a result of the exemption provided in 15-6-138(6), MCA.

(c) The total market value of class 8 newly taxable property for the 2000 tax year is determined by adding the reappraisal value of class 8 newly taxable property for the 2000 tax year and the amount of class 8 property value excepted from taxation for the 2000 tax year by the provisions of 15-6-138(6), MCA.

(d) The total taxable value of newly taxable class 8 property for the 2000 tax year is determined by multiplying the 2000 tax year total market value of newly taxable class 8 property by the tax rate for class 8 property applicable to the tax year 2000.

(4) The total taxable value of newly taxable class 3 and class 10 property shall be determined in the same manner as set forth in (2) of this rule to the extent that land is transferred into a taxing jurisdiction (e.g. a change from exempt status to taxable status) and identified as newly taxable property. For jurisdictions in which land transfers have not been specifically identified, a value for newly taxable class 3 and 10 property will not be calculated.

(5) The total taxable value of all newly taxable property in a taxing jurisdiction shall be determined by adding together:

(a) the separate taxable values as determined above for class 3, 4, 5, 6, 8, 9, 10 and 12 property for that taxing jurisdiction; and

(b) the total taxable value of eliminated property for the taxing jurisdiction.

AUTH: 15-1-201 and 15-7-111, MCA

IMP: 15-40-420, MCA

NEW RULE III APPLICATION OF PHASE-IN PROVISIONS FOR CLASS 3, CLASS 4, AND CLASS 10 PROPERTIES THAT DECREASE IN VALUE DUE TO REAPPRAISAL (1) The department will not apply a phase-in percentage calculation to class 3, class 4 and class 10 properties when the reappraisal value decreased as a result of the reappraisal of those properties. The value to be used for assessment purposes for those properties will be the reappraisal value.

(2) The reappraisal value is subject to any applicable land cap adjustments or homestead and comstead exemptions.

AUTH: 15-1-201, MCA

IMP: 15-6-134 and 15-7-111, MCA

NEW RULE IV APPLICATION OF HOMESTEAD OR COMSTEAD EXEMPTION TO MIXED USE PROPERTIES (1) Properties with mixed commercial and residential use where 50% or more of total square footage of the structure is dedicated to use as a residential dwelling will receive the residential homestead exemption.

(2) Properties with mixed commercial and residential use where 50% or more of the total square footage of the structure is dedicated to a commercial use, as defined in 15-1-101, MCA, will receive the comstead exemption.

AUTH: 15-1-201, MCA

IMP: 15-6-134 and 15-7-111, MCA

NEW RULE V LAND CAP ELIGIBILITY AND APPLICATION (1) The department is required to determine parcels of real property that would be eligible for a "land cap." The following criteria will be used in that determination:

(a) the parcel of land must be used solely for residential purposes and must include a dwelling as defined in ARM 42.20.501;

(b) the value of the land must exceed 75% of the value of the improvements situated on that land; and

(c) the value of the land must be equal to or greater than 75% of the statewide average value of improvements.

(2) The land cap is applicable on up to five acres of contiguous land under the same ownership.

(a) If the land is valued using more than one unit of measurement (i.e. front foot, square foot, acre) or more than one value for that measurement, the land cap will be calculated by determining the average value per acre and multiplying that value times the number of qualified acres, up to and including five acres.

(b) For contiguous parcels of land under the same ownership that meet the requirements set forth in (1), any acreage in excess of the five acre limitation will also be valued using the average value per acre.

(3) The calculation of a land cap is an adjustment to the reappraisal value, prior to the application of the phase-in and homestead/comstead exemption provisions.

AUTH: 15-1-201, MCA

IMP: 15-7-111, MCA

4. The rules proposed to be amended provide as follows:

42.20.501 DEFINITIONS ASSOCIATED WITH VALUATION PHASE-IN

The following definitions are necessary to implement the provisions 15-6-134, 15-7-102 and 15-7-111, MCA, as amended in Ch. 463, L. 1997 apply to this subchapter:

(1) "1996 tax year value" means the market value of a property which appears on the 1996 assessment notice of that property.

(2) "Annual appraisal trend factor class 5" means a factor used to annually reappraise class 5 qualifying air and water pollution control property, new industrial property, gasohol facilities, qualifying research and development firms, and electrolytic reduction facilities real property by trending their cost values up or down based on accepted cost indices.

(3) "Constead exemption" means the percentage of phase-in value of commercial property that is exempt from taxation pursuant to 15-6-201, MCA.

~~(4)~~ (4) "Current year phase-in value" is the difference between the value before reappraisal (VBR) and the reappraisal value times the phase-in percentage, added to the VBR. The current year phase-in value is the amount subject to tax each year and is determined by the following formula:

Current year phase-in value =

$$[(\text{Reappraisal (REAP) value} - \text{VBR}) \times \text{phase-in percentage}] + \text{VBR}$$

~~(5)~~ (5) "Destruction" means the removal or deletion of improvements, buildings, living areas, garages, and outbuildings caused by burning, razing, or natural disaster.

(6) "Dwelling unit" is defined as a building or portion of a building that contains living facilities with provision for sleeping, eating, cooking and sanitation for one or more persons.

(7) "Effective tax rate" is the total taxable value of a class of property divided by the total reappraisal value of the same class of property.

(8) "Homestead exemption" means the percentage of phase-in value of residential property that is exempt from taxation pursuant to 15-6-201, MCA.

~~(9)~~ (9) "Improvement grade change" means a change in the quality of construction of an improvement. Each improvement grade signifies a different level of construction quality. Examples of improvement grades include, but are not limited to the following:

- (a) 1F-1 = cheap construction;
- (b) 1F-5 = average construction; and
- (c) 1F-9 = superior construction.

(10) "Land cap" refers to a limit or "cap" on the land value of residential parcels that qualify under 15-7-111, MCA. The value of the contiguous land (up to five acres) under one ownership cannot exceed 75% of the value of the improvements located on the land; or 75% of the statewide average value of improvements, whichever is greater.

~~(5)~~(11) "Land productivity change (grade change)" means a change in the productive capacity or yield of agricultural or forest land. In a land productivity change the land use does not change, rather the land as currently used simply becomes more or less productive. For example, a productivity change in grazing land may occur when it is discovered that the productivity potential has decreased due to a new saline seep on the land. Because the land continues to be used as grazing land the department shall continue to classify the land as agricultural grazing land, but the grade of the grazing land may be changed to reflect its lessened productivity.

~~(6)~~(12) "Land reclassification" means changing the use of land from one type of agricultural use to a different type of agricultural use. For example, a land reclassification occurs when agricultural land that was previously used as grazing land is converted to irrigated land. In a land reclassification, the land is dedicated to agricultural purposes both before and after the change in land use. It is this characteristic that distinguishes a land reclassification from the more general land use change.

~~(7)~~(13) "Land split" means the division of a single property into two or more properties for the ultimate purpose of conveying one or more of the properties to a new owner or owners.

~~(8)~~(14) "Land use change" means the conversion of a current use of land to a different, alternate use. Land splits shall be considered land use changes. Examples of land use changes contained in this definition include, but are not limited to, the following:

- (a) agricultural land converted to tract land;
- (b) forest land converted to tract land; or
- (c) forest land converted to agricultural land.

~~(9)~~(15) "Neighborhood (NBHD) group percentage" means the percent of change in value from the total 1996 tax year value to the total 1997 reappraisal value, excluding properties with new construction, for those homogeneous areas within each county or between counties that have been defined as a neighborhood group. The neighborhood group percentage is determined by using the following formula:

$$\text{Neighborhood Group Percentage} = \frac{(\text{Total 1997 NBHD REAP Value} - \text{Total 1996 NBHD Tax Year Value})}{\text{Total 1996 NBHD Tax Year Value}}$$

(a) Individual neighborhood group percentages will be determined for residential land, commercial land, residential improvements, and commercial improvements.

~~(10)~~(16) "New construction" means the construction, addition, or substitution of improvements, buildings, living areas, garages and outbuildings; or the extensive remodeling of existing improvements, buildings, living areas, garages, and outbuildings, land reclassification and land use changes.

(17) "New construction trend factor" for industrial property means a factor used to adjust reappraisal values and

VBRs (values before reappraisal) in instances where the property has new construction or destruction. The factor will be derived from nationally accepted cost indices.

~~(11)(18)~~ "Phase-in percentage" for tax years 1997 and 1998 is 2% per year. The phase-in percentage accumulates annually, and is determined by the following formula:

~~Current Phase In Percentage = (Current tax year - 1996) x 2%~~

~~(a) The following illustrates a 1997 application of the phase in percentage formula:~~

~~(i) 1997 Phase in percentage = (1997 - 1996) x 2%;~~

~~(ii) 1997 Phase in percentage = 1 x 2%, or~~

~~(iii) (a) The 1997 Phase-in percentage = 2%.~~

~~(b) The following illustrates a 1998 application of the phase in percentage formula:~~

~~(i) 1998 Phase in percentage = (1998 - 1996) x 2%~~

~~(ii) 1998 Phase in percentage = 2 x 2%~~

~~(iii) (b) The 1998 Phase-in percentage = 4%~~

~~(c) The following table illustrates the phase in percentage for the first 5 years of its application:~~

<u>Year</u>	<u>Phase In Percentage</u>
1997	2%
1998	4%
1999	6%
2000	8%
2001	10%

(c) The phase-in percentage for tax years 1999 through 2002 is 25% per year of the difference between the reappraisal value less the 1998 phase-in value.

~~(12)(19)~~ "Reappraisal (REAP) value" means the full 1997 value determined for the current reappraisal cycle pursuant to 15-7-111, MCA, adjusted annually for new construction or destruction. The 1997 reappraisal value reflects a market value of the property on January 1, 1996. A current year REAP value is the same as the 1997 reappraisal value of the property if there is no new construction, destruction, land splits, land use changes, land reclassifications, land productivity changes, improvement grade changes or other changes made to the property during 1997 or subsequent tax years.

(20) "Taxable market value" means that portion of the total market value subject to taxation after the total market value has been adjusted, if applicable, for the land cap, phase-in of value, and the homestead/comstead exemption.

~~(13)(21)~~ "Value before reappraisal (VBR)" means the 1996 tax year value adjusted for any new construction or destruction that occurred in the prior year. The VBR for the 1997 tax year and subsequent years is the same as the 1996 tax year value if there is no new construction, destruction, land splits, land use changes, land reclassifications, land productivity changes, improvement grade changes or other changes made to the property

during 1996 or subsequent tax years.

AUTH: 15-1-201 and 15-7-111, MCA

IMP: 15-6-201 and 15-7-111, MCA

42.20.503 DETERMINATION OF CURRENT YEAR PHASE-IN VALUE FOR CLASS 3, CLASS 4, AND CLASS 10 PROPERTY (1) The department is required to determine the current year phase-in value for each property in class 3, class 4, and class 10 annually. The current year phase-in value is determined by adding the difference between the reappraisal (REAP) value and the VBR times the phase-in percentage to the VBR.

~~Current Year Phase-In Value =~~

~~{(Reappraisal (REAP) Value - VBR) x Phase-In Percentage} + VBR~~

1997 Phase-In =

{(1997 Reappraisal Value - Value Before Reappraisal) x 2%}
+ Value Before Reappraisal

1998 Phase-In =

{(1997 Reappraisal Value - Value Before Reappraisal) x 4%}
+ Value Before Reappraisal

(2) For tax years 1999 through 2002, the department is required to determine the current year phase-in value for each property in class 3, class 4 and class 10 annually. The current year phase-in value is determined by subtracting the 1998 phase-in value from the 1997 reappraisal value multiplied by the applicable phase-in percentage, the product of which is added to the 1998 phase-in value. The calculations of the phase-in values are represented by the following formula:

1999 Phase-In =

{(1997 reappraisal value - 1998 phase-in value) x 25%}
+ 1998 phase-in value

2000 Phase-in =

{(1997 reappraisal value - 1998 phase-in value) x 50%}
+ 1998 phase-in value

2001 Phase-in =

{(1997 reappraisal value - 1998 phase-in value) x 75%}
+ 1998 phase-in value

2002 Phase-in =

1997 reappraisal value

AUTH: 15-1-201 and 15-7-111, MCA

IMP: 15-7-111, MCA

42.20.505 ASSESSMENT NOTICES AND VALUATION REVIEWS (1) As required by 15-7-102, MCA, The the assessment notice shall include:

(a) Quantity (size or number of properties),

~~(b) (a) Reappraisal value;~~
~~(c) Value before reappraisal (VBR);~~
~~(d) (b) Current year phase-in value;~~
~~(e) Previous year tax rate phase in value;~~
~~(f) Previous year taxable value;~~
~~(g) Current year tax rate;~~
~~(h) Current year taxable value;~~
~~(i) (c) The total amount of mills levied against the~~
~~property in the prior year; and~~
~~(j) (d) Statement that the notice is not a tax bill; and~~
~~(e) the amount of appraised value exempt from taxation~~
~~under 15-6-134, MCA.~~

~~(2) The only items on the assessment which are eligible~~
~~for review by the department are:~~

~~(a) Quantity;~~
~~(b) Reappraisal value;~~
~~(c) Value before reappraisal (VBR) for those properties~~
~~that had new construction;~~
~~(d) Current year phase-in value; and~~
~~(e) Methods A taxpayer may seek a department review of any~~
~~of the required valuation items set forth in (1)(a), (b) and (e)~~
~~of this rule. Additionally, a taxpayer may request a review of~~
~~any of the methods used to determine those values which are~~
~~shown in (2)(b) through (d)(e) (1)(a), (b) and (e).~~

AUTH: 15-1-201 and 15-7-111, MCA

IMP: 15-7-102, 15-7-111, MCA, and Sec. 11, Ch. 463, L.
1997

42.20.506 CERTIFIED MILL LEVY DETERMINATION (1) The
value of class 4 new construction, for purposes of determining
a certified mill levy for the current tax year, is the
difference in the taxable value of class 4 property from the
previous year to the current year. The department will calculate
a certified mill levy for each taxing jurisdiction by dividing
the previous year tax revenue for that jurisdiction by the
current year net taxable value for that same taxing
jurisdiction.

(2) The previous year tax revenue is determined by
multiplying the previous year total taxable value for each
taxing jurisdiction by the previous year mill levy for that
taxing jurisdiction.

(3) The current year net taxable value is determined by
subtracting the following from the current year total taxable
value of the taxing jurisdiction:

(a) The total taxable value of eliminated property;
(b) The total taxable value of newly taxable class 4
property; and

(c) The 5% reduction of the current year total taxable
value of the taxing jurisdiction as required by 15-10-202, MCA.

AUTH: 15-1-201, MCA

IMP: 15-10-202, MCA

42.20.507 PROPERTY TAX ASSISTANCE AND TAX RELIEF PROGRAMS

(1) All valuation reductions allowed for under the property

tax assistance program or other property tax relief programs will be applied against the current year ~~phase-in~~ taxable market value.

AUTH: 15-1-201 and 15-7-111, MCA

IMP: 15-7-111, MCA

5. The Department proposes to repeal the following rule:

42.20.508 DEFINITIONS - INDUSTRIAL PROPERTY found at page 42-2092 of the Administrative Rules of Montana.

AUTH: 15-1-201 and 15-7-111, MCA

IMP: 15-7-111, MCA

6. The Department is proposing the adoption of the new rules I through V, the amendment to the rules and the repeal of ARM 42.20.508 in order to provide for consistent administration of the statutory changes enacted by Chapter 584, 1999 Laws of Montana. The new law changed the definitions and calculations of phase-in values. It further changed the addition of a partial exemption for class 4 residential and commercial properties. The law established criteria for qualification and calculation of a land valuation cap for certain class 4 properties. It also established a calculation of a statewide factor estimating the amount of taxable value loss for each levy district due to destruction or deletion for tax years 1999 through 2002.

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 5805
Helena, Montana 59620-5805

and must be received no later than November 19, 1999.


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 the 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 a particular subject matter or matters. Such written request may be mailed or delivered to the person identified in 7. above, 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, apply and have been fulfilled.



CLEO ANDERSON
Rule Reviewer



MARY BRYSON
Director of Revenue

Certified to Secretary of State October 12, 1999

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the Matter of the Proposed) NOTICE OF PUBLIC HEARING ON
Adoption of New Rules I through) PROPOSED ADOPTION OF NEW
XII relating to Universal) RULES
System Benefits Programs)

TO: All Concerned Persons

1. On November 12, 1999, at 9:00 a.m., a public hearing will be held in the Auditorium of the Scott Hart Building, in Helena, Montana. The hearing will be held to consider the adoption of new rules I through XII relating to universal system benefits programs.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the Department not later than 5:00 p.m., November 5, 1999, 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 59620-5805; telephone (406) 444-2460; fax (406) 444-3696; or e-mail canderson@state.mt.us. An alternative accessible format of this Notice of Public Hearing for any person needing it to participate in this rulemaking action is available upon request.

3. The Department adopted emergency rules on August 30, 1999 as found on page 1662, 1999 MAR Register Issue No. 14, addressing universal system benefits programs credits. The proposed rules contained in this notice will replace those emergency rules.

4. Title 69, chapter 8, MCA, further requires the department to develop these rules through the Montana Negotiated Rulemaking Act as outlined in Title 2, chapter 5, part 1, MCA. Therefore, the Department filed MAR Notice No. 42-2-641, page 1761, 1999 MAR Register Issue No. 15, seeking applications for Committee members. Applications were received and all applicants were appointed to the Committee by the Director on September 17, 1999. The committee members were: Bill Kellogg, Advanced Silicon Materials, Inc.; James Stromberg, Columbia Falls Aluminum Company; Tom Livers, Department of Environmental Quality; Jim Nolan, Department of Public Health and Human Services; Gene Walborn, Department of Revenue; Gregg Groepper, Energy Share of Montana; Warren McConkey, Flathead Electric Cooperative, Inc.; Donald Quander, representing several large customers; John Alke, Montana Dakota Utilities; Gary Wiens, Montana Electric Cooperatives' Assn.; Gene Leuwer, Rocky Mountain Development Council; Deb Martin Young and Dave Ryan, Montana Power Company; Deborah Smith, Natural Resource Defense Council and Renewable Northwest Project; John Hines, Pacific Northwest Power Planning Council; and Taffy Miller, Xenergy.

5. The Committee held a negotiated rulemaking meeting in Helena, Montana on September 27, 1999 to review the emergency rules and provide recommendations to the Department.

6. The Committee presented a report to the Director of Revenue on October 6, 1999 with recommendations and amendments to the emergency rules.

7. The proposed new rules I through XII do not replace or modify any section currently found in the Administrative Rules of Montana. Based on the amendments and recommendations of the Negotiated Rulemaking Committee and further review of the law, the Department proposes the rules as follows:

RULE I DEFINITIONS The following terms will be used in this chapter:

(1) "Cost-effective" means that the expected benefits accrued as a result of pursuing the action must exceed the expected costs associated with that action over some reasonable time period.

(2) "Department" means the Montana department of revenue.

(3) "Energy conservation" means the installation or implementation of an energy efficient measure or practice which results in a reduction of energy usage.

(4) "Internal activities" are those activities or programs operated, developed, and organized within the organizational structure of a utility or large customer.

(5) "Internal expenditure" means internal commitments made by a utility or large customer to an internal activity or program.

(6) "LIEAP" means low income energy assistance program.

(7) "Low-income customer eligibility" means those households whose annualized income is 150% or less of federal poverty guidelines. Exceptions are subject to documentation on an individual basis.

(8) "Low-income customer weatherization" means a group of energy assistance measures targeted at improving energy efficiency and energy-related safety of low-income homes in the state of Montana.

(9) "Low-income energy assistance" means activities that better ensure affordable energy services on a continuing basis to low-income households in the state of Montana.

(10) "Market transformation" means coordinated activities, at the state, regional, or national level, that transform markets for the support of efficient technologies and practices or renewable resources. The intent of market transformation is to undertake activities that will increase the market share so that the activity will be sustained after incentives or other support is withdrawn.

(11) "Renewable resource projects and applications" means projects and applications that use various technologies to convert virtually inexhaustible energy sources to electricity or to perform useful work in some way.

(12) "Research and development programs" means universal system benefits programs related to a broad spectrum of activities which are intended to identify, evaluate, develop,

and/or demonstrate techniques or technologies related to the acquisition of public purpose benefits.

(13) "Universal system benefits programs," means public purpose programs for:

- (a) cost-effective energy conservation;
- (b) low-income customer weatherization;
- (c) renewable resource projects and applications, including those that capture unique social and energy system benefits or provides transmission and distribution system benefits;

- (d) research and development programs related to energy conservation and renewables;

- (e) market transformation designed to encourage competitive markets for public purpose programs; and

- (f) low-income energy assistance.

AUTH: 69-8-413, MCA

IMP: 69-8-402, MCA

RULE II PURPOSE (1) Universal system benefits programs (USBP) credit and expenditure rules are designed to help utilities, cooperatives, large customers, the state USBP fund administrator, and the general public ensure that money generated through a universal system benefits nonbypassable charge produces public purpose benefits.

(2) There may be activities, programs or expenditures that are not addressed within the rules that qualify for credits or expenditures. Activities, programs or expenditures identified in the rules are not intended to be all inclusive. An omission in the rules in no way implies or intends to affect credit amounts.

AUTH: 69-8-414, MCA

IMP: 69-8-103 and 69-8-501, MCA

RULE III CLAIM PROCEDURE (1) Annual reports required pursuant to 69-8-402, MCA, must be filed with the department on or before March 1 of each year. Credits claimed on annual reports filed after March 1 will not be allowed until the subsequent calendar year.

(2) Documents submitted by the credit claimant shall be subject to the department's protective orders regarding confidential or proprietary materials. A credit claimant claiming confidential or proprietary materials shall move the department for a protective order 30 days in advance of filing the annual report to allow an order to be issued prior to the annual report being filed. The motion for protective order must specify the material sought to be protected and the reason such materials should be considered confidential or proprietary.

- (a) The department will grant or deny the motion within 30 days of receipt of the motion.

- (b) Materials not subject to a protective order will be made available for public inspection and photocopying.

- (3) The department shall publish a public notice listing:

- (a) names of the claimants who have filed application for the credits as shown on the annual reports;
- (b) when the annual report was filed;
- (c) the specific date by which challenges may be made; and
- (d) where to file the challenge.

(4) Publication will occur within 10 days of the department receiving the annual report. The department shall publish the public notice in the six major newspapers of general circulation for the state of Montana. Those newspapers are: Independent Record; Montana Standard; Billings Gazette; Missoulian; Chronicle; and Great Falls Tribune.

(5) Claimed credits shall be presumed to be acceptable unless proven otherwise, and the burden of proving ineligibility of a credit lies with the challenging party. If the department receives a challenge to a claimed credit, it shall promptly notify the credit claimant in writing of the challenge, and provide a copy of the filed challenge with any supporting documents to the claimant.

AUTH: 69-8-413, MCA

IMP: 69-8-402, MCA

RULE IV CHALLENGE AND REVIEW PROCEDURE (1) Any interested person may file comments challenging a claim. A challenge must include supporting documentation. A challenge of any claimed credit must be received within 60 days of the department's receipt of the credit claimant's annual reports. The 60 days does not begin to run until the department receives the claimant's annual reports or a motion for protective order is determined, whichever occurs later.

(2) If a challenge to a credit is filed, the department shall conduct an initial review of the claim. The review will be concluded within 30 days of the close of the challenge period. The purpose of the initial review shall be to determine the likelihood of the credit qualifying for universal system benefits programs. In performing its review, the department may seek additional information from the interested persons or from the claimant.

(a) After the initial review, if the department concludes that the credit qualifies, it shall dismiss the challenge and provide the interested persons with a statement of reasons for the dismissal.

(b) If the department concludes that the challenged credit is not likely to qualify for universal system benefits programs, the department will forward the matter to the department's office of dispute resolution to schedule a formal review.

(3) If a formal review is conducted the department shall provide public notice of the opportunity to comment to the credit claimant and interested persons. The public notice shall include:

- (a) name of the credit claimant;
- (b) name of the interested parties challenging the credits;

- (c) time period for submitting comments;
- (d) where to file the comments; and
- (e) date of the initial conference.

(4) The department shall publish the public notice in the six major newspapers of general circulation for the state of Montana. Those newspapers are: Independent Record; Montana Standard; Billings Gazette; Missoulian; Chronicle; and Great Falls Tribune.

(5) The formal review process for a challenged credit shall be governed by the administrative rules found in chapter 2, sub-chapter 6 of the department's rules except that the department's final decision must be completed within 60 days of the public notice of the opportunity to comment on a challenged credit.

AUTH: 69-8-413, MCA

IMP: 69-8-402 and 69-8-414, MCA

RULE V REQUIRED RECORD KEEPING (1) In accordance with 69-8-402, MCA, a utility or large customer claiming a universal system benefits programs credit is responsible for developing and demonstrating appropriate documentation in support of its decisions relative to each application. Depending upon circumstances specific to such application, a utility or large customer claiming the incremental or total cost of a program, project, or acquisition shall include an explanation of total or incremental costs claimed.

(2) A utility or large customer claiming credits or expenditures shall maintain such records and other appropriate documentation concerning such expenditures or portions of expenditures which qualify for meeting the utility's or large customer's universal system benefits programs requirements. Any record of decision, order, or other documentation of a federal power agency, the Montana public service commission, or other governmental agency which allocates the portion of the cost of power attributable to renewable energy or conservation-related activities shall be conclusive and shall be appropriate documentation for purposes of the record-keeping and documentation requirements of this rule. Such documentation shall be made available to the department if the department undertakes a review of such credits pursuant to [Rule IV].

AUTH: 69-8-413, MCA

IMP: 69-8-402, MCA

RULE VI CREDITS AND EXPENDITURES FOR COST-EFFECTIVE ENERGY CONSERVATION (1) Subject to [Rule XI], credits or expenditures permitted in support of cost-effective energy conservation include, but are not limited to:

- (a) energy audits;
- (b) water heater programs;
- (c) lighting efficiency conversions;
- (d) motor efficiency conversions;
- (e) consumer conservation education;
- (f) demand side management programs;

- (g) ground-source heat pumps used for energy efficiency savings;
 - (h) irrigation audits to reduce power requirements;
 - (i) programs such as super good cents;
 - (j) design/construction assistance for energy-efficient construction;
 - (k) design/implementation assistance for retrofits of existing loads;
 - (l) waste heat generation expenses;
 - (m) street lighting/security lighting upgrades for efficiency;
 - (n) incremental cost of distribution efficiency expenditures attributable to increases in energy efficiency above acceptable minimum industry standards that are documented and verified by an electrical engineer;
 - (o) peak-shaving devices applied in customer facilities for the purpose of reducing peak demands excluding interruptible service or payment for curtailment rates; and
 - (p) large customer conservation investments made pursuant to Title 69, chapter 8, MCA.
- (2) Credits and expenditures for cost-effective conservation shall include a cross-fuels analysis where appropriate.
- (3) Pure load building costs or expenses are not acceptable universal system benefits programs credit or expenditure activities.

AUTH: 69-8-413, MCA

IMP: 69-8-402, MCA

RULE VII CREDITS AND EXPENDITURES FOR LOW-INCOME UNIVERSAL SYSTEM BENEFITS PROGRAMS (1) Subject to [Rule XI], credits or expenditures permitted in support of low-income energy assistance and weatherization activities include, but are not limited to:

- (a) outreach for LIEAP enrollment;
- (b) funds contributed to endowments that qualify for low-income universal system benefits programs purposes;
- (c) safety/repairs related to low-income energy issues;
- (d) energy-efficient equipment/technologies that assist low-income households in paying the costs of home energy;
- (e) heating and energy crisis benefits, including payments toward recipient households' energy costs;
- (f) payment toward recipient household weatherization costs;
- (g) purchase and delivery of fuels used by recipient households for home energy;
- (h) purchase, delivery, and installation of weatherization materials;
- (i) purchase and delivery of blankets, space heating devices, equipment, and other tangible items that are provided to assist low-income households pay the costs of home energy;
- (j) discounted utility and bulk fuel prices for recipient households;

(k) partial or full waivers of utility and other low-income home energy connection and reconnection fees, application fees, and late payment charges;

(l) partial or full forgiveness of home energy bill arrearages;

(m) discounts or reductions in the costs of home heating and weatherization materials;

(n) services of paid staff donated by their employer to deliver fuel and other tangible items that assist low-income households pay the costs of home energy; and

(o) purchase, delivery, and installation of energy efficient equipment/technologies that assist low-income households pay the costs of home energy.

(2) Low-income energy assistance and weatherization activities include a broad-based spectrum of services and benefits that provide affordable home energy services to qualifying low-income families in the state of Montana. Customers must comply with low-income customer eligibility requirements with documentation to support the exceptions.

AUTH: 69-8-413, MCA

IMP: 69-8-412, MCA

RULE VIII RENEWABLE RESOURCE PROJECTS AND APPLICATIONS

(1) Subject to [Rule XI], credits or expenditures for renewable resource projects include, but are not limited to:

(a) photovoltaic conversion;

(b) solar thermal applications;

(c) geothermal projects;

(d) wind power projects and applications; and

(e) local micro hydro projects that are on streams outside protected areas as defined by the northwest power planning council or state or federal law, or that are irrigation ditch projects.

(2) The amount of credit that may be claimed for a purchase from another party of electric energy generated from a renewable resource is the difference between the cost to the credit claimant for the energy from the renewable resource and the cost of the next best alternative known to and available to the credit claimant at the time the credit claimant committed to purchase energy from the renewable resource.

(3) The amount of credit that may be claimed for a renewable resource developed by the credit claimant is the difference between net present value cost of the renewable energy and of the next best alternative for the provision of electric service known at the time of project inception and calculated over the expected life of the project.

AUTH: 69-8-413, MCA

IMP: 69-8-402, MCA

RULE IX RESEARCH AND DEVELOPMENT ELIGIBILITY FOR CREDITS

(1) Subject to [Rule XI], costs incurred in connection with research and development activities supporting public purpose investments and programs are also eligible for

credits. Such expenditures must take technical feasibility, economic feasibility, and local applicability into account.

AUTH: 69-8-413, MCA

IMP: 69-8-402 and 69-8-414, MCA

RULE X MARKET TRANSFORMATION PROGRAMS (1) It is possible for market transformation programs to overlap with low-income expenditures and credits, energy conservation, renewable projects and applications, and research and development activities. Consideration of market transformation expenditures is necessary to examine the issues of whether a given technology/process possesses a reasonable probability of becoming a normal practice without the incentive. Additionally, determining whether the use of codes and standards can or should be used to compel changes in practice, and whether certain market transformation changes are likely to remain in place over time will be considered.

AUTH: 69-8-413, MCA

IMP: 69-8-402 and 69-8-414, MCA

RULE XI QUALIFYING EXPENDITURES AND TIMING (1) A utility or large customer may be entitled to receive a credit against its universal system benefits obligation for the total cost of a qualifying expenditure. A qualifying expenditure by a utility or large customer shall be deemed to occur when resources or funds are financially committed by a utility or large customer to a program, project, or activity whether by payment, contract, or other obligation and such credited funds or resources shall be expended by the end of the following calendar year, unless the department grants an extension for good cause shown.

(2) Credits or expenditures permitted in support of annual universal system benefits programs funding requirements include but are not limited to:

(a) A utility's internal programs or activities that qualify as universal system benefits programs, including but not limited to those portions of expenditures for the purchase of power that are for the acquisition or support of renewable energy, or conservation-related activities or low-income energy assistance; and

(b) A large customer's internal expenditures or activities that qualify as universal system benefits programs expenditures, including but not limited to:

(i) expenditures that result in a reduction in the consumption of electrical energy in the large customer's facility; and

(ii) those portions of expenditures for the purchase of power at retail or wholesale that are for the acquisition or support of renewable energy, or conservation-related activities, or low-income energy assistance.

(3) A qualifying expenditure by a utility or large customer includes a commitment of funds or resources to a universal system benefits program as defined at 69-8-103, MCA.

Qualifying expenditures do not include financial commitments to an external activity or program.

AUTH: 69-8-413, MCA

IMP: 69-8-402 and 69-8-414, MCA

RULE XII JUDICIAL REVIEW OF DEPARTMENT DECISIONS ON CHALLENGED CREDITS

(1) A party that is aggrieved by a department decision on a challenged credit is entitled to judicial review of the decision. The petition for judicial review must be filed in the district court for the county where the petitioner resides or has the petitioner's principal place of business or where the agency maintains its principal office. Service of the petition must comply with the requirements of 2-4-702, MCA.

AUTH: 69-8-413, MCA

IMP: 69-8-414, MCA

8. The rationale for the rules is set forth in paragraphs 3 through 7.

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

Cleo Anderson
Department of Revenue
Director's Office
P.O. Box 5805
Helena, Montana 59620-5805

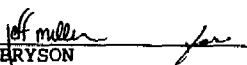
and must be received no later than November 19, 1999.

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

11. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the 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 a particular subject matter or matters. Such written request may be mailed, delivered, or faxed to the person identified in 2. above or may be made by completing a request form at any rules hearing held by the Department of Revenue.

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


CLEO ANDERSON
Rule Reviewer


MARY BRYSON
Director of Revenue

Certified to Secretary of State October 12, 1999

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC HEARING
adoption of New Rules I)	ON THE PROPOSED ADOPTION
through VII; amendment of ARM)	AND AMENDMENT
42.22.101, 42.22.102, 42.22.)	
103, 42.22.104, 42.22.105, 42.)	
22.106, 42.22.108, 42.22.111,)	
42.22.112, 42.22.113, 42.22.)	
115, 42.22.116, 42.22.117, 42.)	
22.121, 42.22.122, 42.22.131,)	
42.22.1312, 42.31.501,)	
42.31.505, 42.31.510, and)	
42.31.515 relating to)	
Centrally Assessed Property)	

TO: All Concerned Persons

1. On November 16, 1999, at 9:00 a.m., a public hearing will be held in Fourth Floor Conference Room of the Sam W. Mitchell Building, at Helena, Montana, to consider the proposed adoption of new rules I through VII, and the amendment to ARM 42.22.101, 42.22.102, 42.22.103, 42.22.104, 42.22.105, 42.22.106, 42.22.108, 42.22.111, 42.22.112, 42.22.113, 42.22.115, 42.22.116, 42.22.117, 42.22.121, 42.22.122, 42.22.1311, 42.22.1312, 42.31.501, 42.31.505, 42.31.510, and 42.31.515 relating to centrally assessed property.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the Department not later than 5:00 p.m., November 5, 1999, 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 59620-5805; telephone (406) 444-2460; fax (406) 444-3696; or e-mail canderson@state.mt.us. An alternative accessible format of this Notice of Public Hearing for any person needing it to participate in this rule-making action is available upon request.

3. The proposed new rules I through VII do not replace or modify any section currently found in the Administrative Rules of Montana. Rules I, II, and III will be found in Chapter 25 and rules IV through VII will be placed in Chapter 31 of Title 42. The rules proposed to be adopted provide as follows:

NEW RULE I DEFINITIONS The following definitions apply to this sub-chapter:

(1) "Electricity produced in the state for delivery outside of the state" means electricity that is produced at an electrical generation facility in Montana, placed on a transmission line, and delivered immediately and without interruption to entities beyond Montana borders.

(2) "Electricity produced in the state for delivery within

the state" means electricity that is not produced for delivery outside of the state.

(3) "Other associated property" includes appurtenant land and improvements and personal property that are normally operated together to produce electric power as defined in the Code of Federal Regulations.

AUTH: 15-72-117, MCA

IMP: 15-72-104, MCA

NEW RULE II WHOLESALE ENERGY TRANSACTION TAX: LINE LOSS

(1) A deduction of 5% is allowed for line loss for electricity produced in the state for delivery outside of the state. The transmission service provider will collect the wholesale energy transaction tax, less the 5% deduction, from the electrical generating facility.

AUTH: 15-72-117, MCA

IMP: 15-72-104, MCA

NEW RULE III WHOLESALE ENERGY TRANSACTION TAX - ASSESSMENT OF THE TAX

(1) A distribution services provider who purchases its electricity directly from an agency of the United States government will self-assess the tax on the kilowatt hours of electricity that it receives and will forward the tax to the department.

(2) In all other circumstances, the distribution services provider is the taxpayer and the transmission services provider shall collect the tax and forward it to the department.

AUTH: 15-72-117, MCA

IMP: 15-72-105 and 15-72-106, MCA

NEW RULE IV TAXPAYER RECORDS

(1) For the telecommunications excise tax, each telecommunications service provider who is liable for the tax under this sub-chapter will keep records showing the total retail revenue to support the tax liability as required in these rules.

(2) Anytime during usual business hours, the department, or its duly authorized agents, may enter any office or other area where the provider maintains business records to examine the records and other supporting data from which the reports were prepared. These audits may be conducted at the same time as audits are conducted for other state taxes.

(3) Records and other supporting data used to prepare the quarterly returns must be maintained for a period of five years from the due date of the return or five years from the date of payment, whichever is later.

AUTH: 15-53-155, MCA

IMP: 15-53-150, MCA

NEW RULE V ADVANCE TELECOMMUNICATIONS INFRASTRUCTURE CREDIT

(1) The telecommunications service provider may offset its tax liability by applying a credit for infrastructure improvements. To receive a credit, a copy of the letter from the department of commerce showing the amount of credit approved, which it is entitled to receive, must be attached to

the quarterly report.

AUTH: 15-53-155, MCA

IMP: 15-53-202, MCA

NEW RULE VI WHO MUST COLLECT THE TAX (1) Every telecommunications service provider shall be liable for all amounts required to be collected as a tax under the provisions of Title 15, chapter 53, MCA.

(2) A telecommunications service provider has the right to request a hearing on a tax liability as provided in 15-1-211, MCA.

(3) If the tax or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7, MCA.

(4) The tax must be collected by the telecommunications service provider, and records shall be maintained evidencing proof of the taxes collected.

(5) Telecommunications services are not taxable if they are offered by an exempt telecommunications service provider.

AUTH: 15-53-155, MCA

IMP: 15-1-211, 15-1-701, 15-53-130, and 15-53-137, 15-53-138, and 15-53-139, MCA

NEW RULE VII APPLICATION FOR REPORTING ON AN ACCRUAL BASIS

(1) For purposes of the telecommunications excise tax, a telecommunication service provider will make an application for permission to report the tax on an accrual basis in writing on a form prescribed by the department.

(2) The department will respond to all applications in writing within 60 days.

AUTH: 15-53-155, MCA

IMP: 15-53-137, MCA

4. The rules proposed to be amended provide as follows:

42.22.101 DEFINITIONS The following definitions apply to this chapter:

(1) through (15) remain the same.

(16) "Related services" for property tax purposes, means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing or making available information via telecommunications through, but not limited to operator and information services, directory assistance, call waiting, call forwarding, caller ID, call rejection, last call return, priority call, speed calling, three way calling, voice messaging, continuous redial and line blocking.

(16) through (20) remain the same but are renumbered (17) through (21).

(22) "Telecommunications" for property tax purposes, means the transmission of information between or among points specified by the user. The transmission must be without change in the form or content as sent and received. The transmission includes all related services associated with providing the

information by the telecommunication service provider.

(23) "Telecommunications service provider" means a telecommunication services company or a person providing retail telecommunication services as provided in 15-53-129, MCA.

(24) "Two-way transmission" for property tax purposes, means all forms of telecommunications except those forms of telecommunications that are only capable of one-way transmission and are not related services as defined in (6).

(25) "Unit method of valuation" is a method for determining the market value of a centrally assessed company. This involves appraising, as a going concern and as a single entity, the entire unit, operating property, wherever located, then deducting the intangible personal property value and then ascertaining the part thereof in this state. The resulting value is referred to as the "unit state allocated value".

(26) "Unit value" is the value of all tangible and intangible property which is reasonable and necessary to the maintenance and operation of a centrally assessed company's interstate or intercounty business.

AUTH: 15-53-104, 15-53-155, and 15-72-117, MCA

IMP: 15-53-101, 15-53-104, and 15-53-111, 15-53-145, 15-53-147 and 15-72-104, MCA

42.22.102 CENTRALLY ASSESSED PROPERTY (1) The department of revenue shall centrally assess the interstate and intercounty continuous properties of the following types of companies:

- (a) railroad;
- (b) railroad car;
- (c) microwave;
- (d) telecommunications;
- (e) telephone;
- (f) telephone cooperatives; telegraph;
- (g) cable television;
- (h) gas;
- (i) electric;
- (j) electric cooperatives;
- (k) ditch;
- (l) canal;
- (m) flume;
- (n) natural gas pipeline;
- (o) oil pipeline; and
- (p) airline.

(2) The property of a centrally assessed company is separated into two categories: operating and non-operating. The department's agents are responsible for the valuation of all the nonoperating properties. All operating property will be valued by the centralized assessment bureau and apportioned to the taxing units as provided in ARM 42.22.121 and 42.22.122.

(3) The department will determine centrally assessed property based on the property's operating characteristics such as but not limited to property use, integration of operations, management, and corporate structure.

AUTH: 15-23-108, MCA

IMP: Title 15, chapter 23, part 1, and 15-23-211, MCA

42.22.103 DETERMINATION OF OPERATING AND NONOPERATING PROPERTY (1) and (2) remain the same.

~~(3) Gathering lines owned and operated by centrally assessed pipeline companies will be considered operating property. All other gathering lines will be considered nonoperating property to be reported to the local county appraiser.~~

AUTH: 15-23-108, MCA

IMP: Title 15, chapter 23, part 1, MCA

42.22.104 TREATMENT OF MOTOR VEHICLES AND MOBILE EQUIPMENT

(1) ~~Automobiles, trucks, equipment attached to the vehicle~~ Motor vehicles with a rated capacity of 1 ton or less, equipment attached to motor vehicles 1 ton or less, and special mobile equipment excluded from the definition of situs property are to be locally assessed and reported to the department of revenue by each centrally assessed company.

(2) ~~Vehicles over 1 ton with or without equipment attached are exempt and shall pay a fee in lieu of tax, 61-3-529, MCA.~~

~~(3)~~ (3) Each centrally assessed company having ~~such~~ equipment defined in (1) shall provide the department with a statement showing a description and the total market value for each piece of equipment. The market value shall be the value shown on the automobile, truck, equipment attached to the vehicle or special mobile equipment Montana vehicle registration or other tax payment receipt. Companies with prorated vehicles shall provide the department with the total number of miles traveled in and out of the state of Montana, a description and the market value for each vehicle. Companies that license fleet vehicles with the Montana ~~gross vehicle weight (GVW)~~ motor carrier services (MCS) division will use the value for each piece of equipment determined by ~~GVW (MCS)~~ as the market value to report to the department. This statement is to be filed at the same time the report required by ARM 42.22.105 is filed.

(4) ~~Each centrally assessed company having equipment defined in (2) shall provide the department with the net book value for each piece of equipment as of January 1 each year.~~

~~(5)~~ (5) The department of revenue may, at any time, ask for verification of the reported equipment's market value from the county, other agencies, other states or the company. This verification may be, but is not limited to, supplying the department with copies of each vehicle's Montana registration form. Omission of any requested information may result in loss of or a partial deduction for the equipment.

(6) ~~The total net book value for equipment defined in (2) shall be deducted on a market to cost basis from the Montana unit value, as defined in ARM 42.22.111.~~

~~(7)~~ (7) The total market value for ~~these assessed automobiles, trucks, equipment attached to the vehicle and special mobile equipment defined in (1)~~ is deducted from the Montana unit value, as defined in ARM ~~42.22.111~~ 42.22.111, to determine the amount of the Montana unit value to be allocated

under the provisions of ARM 42.22.122. ~~This methodology shall be effective for all reporting years beginning after December 31, 1991.~~

AUTH: 15-23-107 and 15-23-108, MCA

IMP: Title 15, chapter 23, part 1, and 15-23-101, MCA

42.22.105 REPORTING REQUIREMENTS (1) remains the same.

(2) The report shall contain the following information on the operating properties:

- (a) balance sheet for the system;
- (b) statement of income for the system;
- (c) original cost and book depreciation for system property, including an estimate of current value of property leased from others;
- (d) statement of outstanding preferred stock, common stock, and debt, showing both book value and market value;
- (e) statement of actual revenue and expense for the Montana operation. If actual amounts are not available, a statement of allocated revenue and expense may be substituted;
- (f) if non-operating properties are included in ~~subsections (2) (a) through (e)~~ above, their original cost, book depreciation, market value, and income;
- (g) general description, original cost, and book depreciation of Montana properties, including description and location of property leased from others, together with name of lessor, current value or annual rental, and responsibility for the property tax (lessor or lessee);
- (h) if rolling stock is allocated to Montana, the method used;
- (i) pertinent statistical data on the company's operations within and without this state;
- (j) copy of annual report to stockholders;
- (k) copy of annual report to the federal regulatory agency if one is filed;
- (l) copy of annual report to the Montana public service commission ~~if no report is filed with a federal regulator agency one is filed~~;

(m) in the case of centrally assessed railroads, all information required under ARM 42.22.106;

(n) in the case of centrally assessed electric utilities, all information required under ARM 42.22.107, if applicable;

(o) all other information requested by the department which will assist in valuing the operating properties;

(p) documentation of the net book value of intangible personal property included on the taxpayers accounting records; and

~~(p)~~ (q) signed statement of correctness.

(3) remains the same.

AUTH: 15-23-108, MCA

IMP: 15-23-103, 15-23-210, 15-23-212, 15-23-301, 15-23-402, 15-23-502, 15-23-602, and 15-23-701, MCA

42.22.106 ADDITIONAL REPORTING REQUIREMENTS FOR CENTRALLY ASSESSED RAILROADS (1) Each year all centrally assessed

railroads shall submit by April 15 (except that information required under ARM 42.22.103-~~4~~) a report of operations for the preceding year containing, in addition to that information required by ARM 42.22.105, the following information and items:

- (a) copies of all Montana valuation maps;
- (b) copies of all Montana track charts;
- (c) a statement ~~setting~~ forth by individual counties the total acreage of Montana real property and right-of-way;
- (d) a statement of all agreements authorizing the longitudinal use of Montana right-of-way, including for each agreement the names of the parties to the agreement, a summary of its terms, the amounts paid thereunder, the longitudinal use contemplated, and the location and length of right-of-way covered;
- (e) ~~Total~~ miles traveled by each type of car for each railroad car company operating on track owned or used by the railroad in the state of Montana, and any additional information that may be required by the department for the valuation and allocation of the railroad car companies.

(2) Information which is of a static nature need not be resubmitted on an annual basis as specified in ~~paragraph~~ (1). Each railroad shall have a continuing obligation to provide updated information whenever static information is changed, amended, revised, rescinded, or revoked.

(3) remains the same.

AUTH: 15-23-108, MCA

IMP: 15-23-201, MCA

42.22.108. MARKET VALUE OF POLLUTION CONTROL EQUIPMENT

(1) The market value of approved class 5 pollution control equipment shall be determined by multiplying the ~~ratio of the system market value to the system net book value, times the net book value of the equipment~~ net book value of the pollution control equipment in Montana by a market to book ratio. The market to book ratio shall be determined by dividing the system or unit market value after deduction of the exempt intangible personal property by the system net book value after deduction of the exempt intangible personal property. This value shall then be deducted from the Montana value and certified to the counties as class 5 property.

(2) remains the same.

AUTH: 15-23-108, MCA

IMP: 15-6-135, MCA

42.22.111 VALUATION METHOD (1) remains the same.

(2) When the unit method of valuation is used with multiple indices of value, they will be combined into one (system or unit) value. Combining of the indices shall require the department to review all available information including:

- (a) reliability of the cost data₇₁
- (b) sufficiency of the depreciation allowed₇₁
- (c) frequency of full audit by a regulatory agency₇₁
- (d) quality of the income to be capitalized₇₁
- (e) level of income to be capitalized₇₁

(f) accuracy of information used to set a capitalization rate;

(g) accounting principles used to report data from which the valuation is made;

(h) fluctuations in the stock market;

(i) methods used by other taxing authorities; and

(j) all other pertinent information.

(3) After examination of the above information the department shall correlate the indices into one system or unit value.

(4) Railroad transportation property in 15-6-145, MCA, are assessed based on the valuation formula described in 15-23-205, MCA.

~~(4)~~ (5) The valuation determined appropriate by the department shall be supported by a written explanation of the indices examined and the method by which the valuation was determined.

~~(4)~~ (6) This rule shall be effective for all reporting years ending December 31, ~~1995~~ 1999, and thereafter.

AUTH: 15-23-108, MCA

IMP: Title 15, chapter 23, part 1, and 15-8-111, MCA

42.22.112. COST INDICATOR (1) remains the same.

(2) The type of cost used may be one of the following:

(a) replacement;

(b) replacement less depreciation;

(c) reproduction;

(d) reproduction less depreciation;

(e) historical ~~(original)~~; and

(f) historical less depreciation;

(g) original; and

(h) original less depreciation.

(3) remains the same.

(4) ~~New aircraft and supporting equipment~~ Newly acquired aircraft which are purchased or acquired under a capitalized lease or operating lease by a scheduled airline company operating within this state, whose allocation of value within this state as determined by the procedures described in ARM 42.22.121 is 50 percent or more, and new newly acquired equipment which is purchased by the airline for the direct and sole purpose of supporting these new aircraft shall be valued according to the following schedule. ~~(This section does not apply to aircraft or equipment which are purchased used.)~~

Year of acquisition:	28% of full and true value
First year after acquisition:	36% of full and true value
Second year after acquisition:	44% of full and true value
Third year after acquisition:	52% of full and true value
Fourth year after acquisition:	60% of full and true value
Fifth year after acquisition:	68% of full and true value
Sixth year after acquisition:	76% of full and true value
Seventh year after acquisition:	84% of full and true value
Eighth year after acquisition:	92% of full and true value
All succeeding years:	100% of full and true value

AUTH: 15-23-108, MCA

IMP: 15-23-403, MCA

42.22.113 MARKET INDICATOR (1) A market, or stock and debt indicator, of value may be derived from the company's outstanding securities and liabilities. The department may also construct a market indicator using sales comparison data for similar properties, or any analysis, study, database, or methodology which contains or generates market values or estimates of market values for similar properties.

(2) The department shall consider the market value of the company's preferred and common stocks, and outstanding debt, and the net of current assets and current liabilities. The sum of these items represent an indicator of market value for all the company's property. When the sum represents both operating and includes non-operating property, the department will deduct the market value of the non-operating property.

(3) remains the same.

AUTH: 15-23-108, MCA

IMP: Title 15, chapter 12, part 1, MCA

42.22.115 NOTIFICATION AND HEARING (1) remains the same.

~~(2) If the company does not find the results of the department hearing satisfactory, an appeal may be made to the state tax appeal board for review.~~

~~(3)~~ (2) If additional time is needed for filing reports or preparing for hearings, the department must receive the request prior to the due date if the extension request is to be considered.

AUTH: 15-23-108, MCA

IMP: 15-23-102 and 15-23-403, MCA

42.22.116 DETERMINATION OF TAX RATE FOR CLASS 12 PROPERTY

(1) To implement the statutory direction to compute an annualized tax rate for class 12 property, the department of revenue will employ the procedure outlined in this rule.

(2) The department of revenue ~~has developed a form which will be employed in order to solicit information regarding the taxable value and the market value for all commercial and industrial property from the county appraisal/assessment office. That form will be dispatched annually to the county appraisal/assessment office on May 1. The county appraisal/assessment office shall have up to and including the 15th day of May of each taxable year in which to return the form to the property assessment division will obtain the market and taxable value for all commercial, industrial and centrally assessed property from the department's computer data bases or other sources as necessary. A copy of the form this information is available to taxpayers upon request.~~

~~(3) The department of revenue will obtain the taxable value for centrally assessed property from its centralized assessment bureau each year.~~

~~(4)~~ (3) Upon receipt of obtaining the information referred to in (2) and (3) above, the department of revenue will proceed

to compute the tax rate reflected in 15-6-145, MCA. It will employ the mathematical formula reflected in the statute.

~~(5)(4) In the event that a county appraisal/assessment office should fail to return the solicited required information form is not available to the department of revenue by the 15th day of May of each taxable year, the department of revenue will estimate, the taxable value for all commercial, and industrial or centrally assessed property within that particular county. This estimation process will take place only if the county appraisal/assessment office should fail to return the form by the deadline referred to hereinabove will be estimated.~~

(a) The department of revenue will use the reported taxable and market market and taxable value for all commercial, and industrial and centrally assessed property for the previous tax year in estimating the total taxable and market market and taxable value of all commercial, and industrial and centrally assessed property for the present tax year for nonreporting counties.

(b) This estimation will be a disputable one, and it may be challenged by the taxpayer in the event of litigation or in the event of an assessment appeal.

~~(c) If the department of revenue should receive the information which was initially solicited from the county appraisal/assessment office relating to the total taxable and the total market value of all commercial and industrial property within that county after May 15th of the tax year, the department of revenue will recompute the overall tax rate set forth in 15-6-145, MCA. In the event that the total tax rate should be determined to be not less than nor more than 5% of the estimated rate, no further adjustment of the tax rate will be made for that particular tax year. In the event that the recomputed tax rate should be less than or greater than 5% of the estimated tax rate, the department of revenue will recompute the overall tax rate for the state of Montana and it will issue revised assessments to the affected property taxpayers pursuant to 15-8-601, MCA.~~

AUTH: 15-1-201, MCA

IMP: 15-6-145, MCA

42.22.117 METHODOLOGY FOR PREPARATION OF SALES ASSESSMENT RATIO STUDY (1) In order to implement the statutory direction to prepare an annualized sales assessment ratio study of all commercial and industrial real property and improvements, each January 1, the department of revenue will employ the following methodology.

(2) The department of revenue will endeavor to follow the sales assessment ratio study principles set forth in a document entitled ~~Sales Assessment Ratio Study Preparation (1980)~~ published by the International Association of Assessing Officers. In the event that that publication is insufficient for purposes of the ratio study preparation, the department of revenue reserves the right to employ other statistically accepted methods for purposes of preparing the study.

(3) The department of revenue will rely upon the sales

information which is reflected on realty transfer certificates filed pursuant to 15-7-302, MCA, for purposes of a sales assessment ratio study. The sales for all commercial and industrial property shall be ~~forwarded to the property assessment division from the various county appraisal offices for inclusion into the identified in the department's~~ computer system.

(a) The department ~~of revenue~~ shall rely upon the expertise and the judgment of its various ~~county~~ appraisers in order to determine whether a particular sale is suitable for inclusion in the study. That judgment is exercised when the ~~county~~ appraiser checks the appropriate block on the realty transfer certificate reflecting that the sale is a valid sale.

(b) The department will rely upon the sales confirmation process which is set forth in the document entitled ~~oSales oAssessment oRatio oStudy pPreparation (1988)~~.

(c) For purposes of the sales assessment ratio study, the department ~~of revenue~~ shall rely upon all valid realty transfer certificate sales information for the preceding calendar year ~~tendered to the property assessment division and entered into the computer system as of December 31st of the preceding tax year.~~

(4) The department ~~of revenue~~ may engage the services of various statisticians, experts, and other persons in order to facilitate the preparation of the sales assessment ratio study.

(5) When the department ~~of revenue~~ has prepared the annual sales assessment ratio study, it will be published ~~in a written format~~. The final ~~published~~ document will be available upon request to interested ~~taxpayers parties~~.

(6) When the department ~~of revenue~~ has determined the overall assessed to market value ratio for all commercial and industrial real property and improvements in ~~the state of~~ Montana, it shall integrate that factor into the formula set forth in 15-6-145, MCA.

(7) remains the same.

AUTH: 15-1-201, MCA

IMP: 15-6-145, MCA

42.22.121 ALLOCATION PROCEDURE (1) remains the same.

(2) ~~Except for railroad operating property~~. Title 15, MCA, does not provide procedures for the allocation of unit value. Therefore, the department will use ratios that are readily available, accurate, and arrived at by exercise of sound judgment which reflect the relationship between the unit value and the value of Montana property.

(3) For the purpose of allocating the unit value, quantity, use, and productivity ratios may be applied. Following are examples of possible ratios the department may apply to allocate unit value to Montana. The following examples shall not be construed to prohibit the use of other factors in the allocation process:

(a) for airlines:

(i) ~~Wwestern~~ ~~Estates~~ ~~Aassociation~~ of ~~Ttax~~ ~~Aadministrators~~ formula which separates mobile and terminal

property for the purpose of allocation;

- (ii) originating and terminating tons;
- (iii) equated ground hours;
- (iv) equated flight hours;
- (v) revenue ton miles;
- (vi) arrivals and departures;
- (b) for electric:
 - (i) cost;
 - (ii) revenue;
 - (iii) wire miles;
 - (iv) pole line miles;
- (c) for gas:
 - (i) cost;
 - (ii) revenue;
 - (iii) pipe miles;
 - (iv) mcf miles;
- (d) for pipelines:
 - (i) cost, trended cost, depreciated cost;
 - (ii) mcf miles;
 - (iii) pipe miles;
 - (iv) barrel miles;
- ~~(e) for railroads:~~
 - ~~(i) track mileage;~~
 - ~~(ii) train miles;~~
 - ~~(iii) revenue traffic units;~~
 - ~~(iv) revenue;~~
 - ~~(v) car and locomotive miles;~~
 - ~~(vi) cost;~~
- ~~(vii) originating and termination tonnage;~~
- ~~(f)~~ (e) for telephone:
 - (i) cost;
 - (ii) revenue;
 - (iii) telephone;
- ~~(g) for telegraph:~~
 - ~~(i) cost;~~
 - ~~(ii) revenue;~~
- ~~(h)~~ (f) for microwave:
 - (i) cost;
 - (ii) revenue;
- (g) for telecommunication:
 - (i) cost;
 - (ii) revenue;
 - (iii) number of customers;
 - (iv) billing addresses.

(4) and (5) remain the same.

AUTH: 15-23-108, MCA;

IMP: Title 15, chapter 23, part 2, and 15-23-213, MCA

42.22.122 APPORTIONMENT PROCEDURE (1) remains the same.

(2) ~~(a)~~ To determine the amount of value available for distribution to the taxing units, the department shall deduct the Montana situs property value from the Montana unit value.

(a) The difference is apportioned to the taxing units as provided in ~~subsection~~ (3) below.

(b) The Montana situs property value is apportioned to the taxing units as provided in subsection (4) below.

(c) The Montana situs property value (MSPV) may be determined from the following equations:

- (i) MSPV =
$$\frac{\text{Installed cost of Montana Situs property} \times \text{(Total unit value)}}{\text{Total installed cost of all operating property for the unit}}$$
- (ii) MSPV =
$$\frac{\text{Installed cost of Montana Situs property} \times \text{(MT unit value)}}{\text{Total installed cost of MT operating property for the unit}}$$
- (iii) MSPV =
$$\text{MT Unit Value} \times \frac{\text{Total System Situs Costs}}{\text{System Total Costs}}$$

(3) ~~(a)~~ Apportionment under subsection (1)(a) (2)(a) above may be made by the following methods:

- ~~(i)(a)~~ airlines - arrivals and departures;
- ~~(i)(b)~~ electric - pole and wire mileage by capacity;
- ~~(i)(c)~~ gas - pipe mileage by size;
- ~~(i)(d)~~ microwave - situs of equipment;
- ~~(i)(e)~~ pipeline - pipe mileage by size;
- ~~(i)(f)~~ railroads - track mileage weighted at 100% for main line, 60% for branch line and 40% for side track.
- ~~(i)(g)~~ telegraph telecommunications - wire mileage and/or situs of equipment;
- ~~(i)(h)~~ telephone - wire mileage and situs of equipment.

~~(b)(4)~~ In addition to these methods in (3) the department may use other methods which properly ~~partition~~ apportion value among the taxing units.

~~(4)(5)~~ The Montana situs property value is apportioned to the taxing units in which the property is situated. To accomplish this the total installed cost of situs property in each taxing unit is multiplied by the percentage computed by dividing the MSPV developed in subsection (1)(c) (2)(c) above by the total installed cost of Montana situs property.

AUTH: 15-23-108, MCA

IMP: Title 15, chapter 23, part 1, and 15-23-201, MCA

42.22.1311 INDUSTRIAL MACHINERY AND EQUIPMENT TREND FACTORS (1) The department ~~of revenue~~ will utilize the machinery and equipment trend factors which are set forth on the following tables. The trend factors will be used to value industrial machinery and equipment for ad valorem tax purposes pursuant to ARM 42.22.1306. The department uses annual cost indexes from Marshall Valuation Service. The current index is divided by the annual index for each year to arrive at a trending factor. Each major industry has its own trend table. Where no index existed in the Marshall Valuation Service for a particular industry, that industry was grouped with other industries using similar equipment.

1999 2000 INDUSTRIAL MACHINERY & EQUIPMENT TREND FACTORS

Trend

<u>Table</u>	<u>Description</u>	<u>Life</u>
(1)	Aircraft/Airframe Mfg.	15
(4)	Alcohol Plant	15
(2)	Baking	12
(21)	Bentonite	20
(3)	Bottling	12
(4)	Brewing & Distilling	20
(5)	Candy & Confectionery	20
(25)	Cardboard Container	20
(6)	Cement Manufacturing	20
(14)	Cereal Products	16
(7)	Chemical Manufacturing	12
(8)	Clay Products	15
(21)	Coal Crushing & Handling	20
(28)	Coal Fired Power Gener.	16
(6)	Concrete Products	18
(6)	Concrete Ready Mix	18
(9)	Contractor Equipment	10
(10)	Creamery & Dairy	12
(16)	Egg Packing	20
(11)	Electric Power Equipment	16
(12)	Electrical Equipment Mfg.	10
(12)	Electronic Component Mfg.	10
(14)	Feed Milling	16
(30)	Fertilizer Distribution	10
(7)	Fertilizer Manufacturing	12
(13)	Fish Cannery	12
(14)	Flour, Cereal & Feed	16
(14)	Flour Milling	16
(20)	Foundry	15
(15)	Fruit Cannery	12
(16)	Fruit Packing	12
(31)	Furniture Manufacturing	10
(4)	Gasohol Plant	15
(32)	Glass Manufacturing	15
(14)	Grain Handling Facilities	16
(21)	Graphite Products	20
(21)	Gypsum	20
(21)	Heap Leach Mechanical	20
(21)	Heap Leach Pads	5
(15)	Honey Processing	12
(11)	Hydroelectric Generation	20 40
(9)	Industrial Shop Equipment	10
(17)	Laundry & Drycleaning	10
(29)	Leather Fabrication	20
(21)	Lime/Calcium Benefication	20
(18)	Logging Equipment	10
(19)	Meat Packing	12
(20)	Metal Fabrication	20
(20)	Metal Machining & Milling	15
(20)	Metal Working	20

(21)	Mining & Milling	15
(23)	Natural Gas Processing	16
(21)	Nonferrous Smelting	15
(23)	Oil Refining	16
(21)	Open Pit Mining/Quarrying	15
(21)	Ore Milling/Concentrating	15
(7)	Oxygen Generation	20
(22)	Paint Manufacturing	12
(30)	Peat Moss/Compost Plant	20
(23)	Petroleum	16
(21)	Phosphate Benefication	20
(32)	Plastic Products Mfg.	20
(18)	Pole Treating Equipment	10
(32)	Polystyrene	20
(24)	Printing	12
(25)	Pulp & Paper Mfg.	13
(26)	Refrigeration	12
(20)	Rifle Manufacturing	15
(27)	Rubber & Vulcanizing	15
(18)	Sawmill Equipment	10
(14)	Seed Treating & Cleaning	16
(6)	Stationary Asphalt Plant	15
(28)	Steam Power Generation	16
(21)	Stone Products	15
(23)	Sugar Refinery	18
(23)	Sulphur Manufacturing	12
(21)	Talc Benefication	20
(29)	Textile Fabrication	10
(21)	Underground Mining	10
(14)	Vegetable Oil Extraction	20
(21)	Vermiculite Processing	20
(30)	Warehousing	10
(14)	Wood Pellet Plant	16
(31)	Wood Products, Reconstituted	10
(31)	Woodworking	20

Note: 1. Lab equipment is included in its related industry's table at 10-year life expectancy.

<u>YEAR</u>	<u>TABLE 1</u>	<u>TABLE 2</u>	<u>TABLE 3</u>	<u>TABLE 4</u>	<u>TABLE 5</u>
1998	1.000	1.000	1.000	1.000	1.000
1997	1.000	1.010	1.008	1.009	1.010
1996	1.020	1.027	1.023	1.026	1.029
1995	1.034	1.042	1.039	1.045	1.045
1994	1.075	1.085	1.080	1.084	1.088
1993	1.103	1.119	1.108	1.110	1.122
1992	1.120	1.140	1.127	1.127	1.142
1991	1.120	1.155	1.130	1.139	1.158
1990	1.146	1.101	1.160	1.165	1.186
1989	1.171	1.213	1.189	1.198	1.221
1988	1.229	1.200	1.250	1.269	1.291
1987	1.285	1.330	1.319	1.326	1.350
1986	1.300	1.360	1.336	1.343	1.374
1985	1.306	1.384	1.345	1.354	1.399

1984	1.323	1.411	1.362	1.374	1.428
1983	1.359	1.444	1.397	1.408	1.460
1982	1.385	1.465	1.418	1.428	1.479
1981	1.445	1.535	1.480	1.495	1.552
1980	1.593	1.698	1.638	1.653	1.719

YEAR	TABLE 1 Airplane Mfg.	TABLE 2 Baking	TABLE 3 Bottling	TABLE 4 Brew/Dis.	TABLE 5 Candy Confect
1999	1.000	1.000	1.000	1.000	1.000
1998	1.000	1.002	1.001	1.004	1.002
1997	1.008	1.012	1.008	1.014	1.013
1996	1.020	1.030	1.024	1.030	1.031
1995	1.034	1.045	1.039	1.049	1.047
1994	1.075	1.088	1.080	1.089	1.091
1993	1.103	1.121	1.109	1.115	1.124
1992	1.120	1.142	1.127	1.132	1.145
1991	1.128	1.158	1.139	1.144	1.161
1990	1.146	1.184	1.161	1.170	1.189
1989	1.171	1.216	1.189	1.203	1.224
1988	1.230	1.283	1.259	1.274	1.294
1987	1.286	1.341	1.319	1.331	1.353
1986	1.301	1.363	1.337	1.348	1.377
1985	1.307	1.387	1.345	1.360	1.402
1984	1.324	1.414	1.363	1.380	1.431
1983	1.360	1.447	1.398	1.414	1.464
1982	1.385	1.468	1.419	1.434	1.482
1981	1.446	1.538	1.480	1.501	1.555
1980	1.593	1.702	1.631	1.660	1.723

YEAR	TABLE 6	TABLE 7	TABLE 8	TABLE 9	TABLE 10
1998	1.000	1.000	1.000	1.000	1.000
1997	1.010	1.010	1.010	1.011	1.010
1996	1.042	1.042	1.045	1.047	1.045
1995	1.078	1.081	1.082	1.076	1.089
1994	1.102	1.103	1.107	1.103	1.118
1993	1.120	1.117	1.127	1.133	1.137
1992	1.129	1.126	1.138	1.154	1.151
1991	1.151	1.150	1.162	1.162	1.178
1990	1.182	1.180	1.197	1.220	1.212
1989	1.242	1.247	1.259	1.278	1.285
1988	1.285	1.300	1.304	1.321	1.345
1987	1.298	1.315	1.320	1.339	1.367
1986	1.307	1.321	1.331	1.350	1.380
1985	1.326	1.339	1.353	1.366	1.413
1984	1.358	1.375	1.393	1.394	1.446
1983	1.380	1.395	1.419	1.424	1.465
1982	1.455	1.468	1.499	1.506	1.535
1981	1.616	1.633	1.663	1.679	1.699
1980	1.778	1.811	1.829	1.854	1.880

YEAR	TABLE 6 Cement Mfg.	TABLE 7 Chemical	TABLE 8 Clay Products	TABLE 9 Contractor Eq.	TABLE 10 Creamer/ Dairy
1999	1.000	1.000	1.000	1.000	1.000
1998	1.003	1.004	1.002	1.006	1.002
1997	1.013	1.014	1.013	1.017	1.012
1996	1.026	1.027	1.022	1.037	1.030
1995	1.045	1.047	1.048	1.055	1.048
1994	1.082	1.086	1.084	1.083	1.091
1993	1.106	1.108	1.110	1.111	1.121
1992	1.123	1.122	1.130	1.141	1.139
1991	1.133	1.131	1.141	1.162	1.154
1990	1.155	1.155	1.165	1.190	1.182
1989	1.186	1.185	1.200	1.228	1.215
1988	1.246	1.252	1.262	1.287	1.289
1987	1.290	1.306	1.308	1.330	1.349
1986	1.302	1.321	1.324	1.348	1.371
1985	1.311	1.327	1.334	1.359	1.392
1984	1.330	1.345	1.356	1.376	1.417
1983	1.362	1.381	1.397	1.404	1.450
1982	1.385	1.401	1.423	1.434	1.469
1981	1.460	1.475	1.503	1.516	1.539
1980	1.622	1.640	1.667	1.690	1.703

YEAR	TABLE 11	TABLE 12	TABLE 13	TABLE 14	TABLE 15
1999	1.000	1.000	1.000	1.000	1.000
1997	1.002	1.005	1.010	1.009	1.009
1996	1.016	1.025	1.044	1.041	1.043
1995	1.070	1.075	1.086	1.083	1.083
1994	1.092	1.101	1.122	1.112	1.120
1993	1.099	1.113	1.143	1.130	1.147
1992	1.095	1.114	1.160	1.140	1.167
1991	1.102	1.126	1.187	1.164	1.194
1990	1.121	1.148	1.220	1.194	1.228
1989	1.109	1.214	1.290	1.260	1.297
1988	1.265	1.284	1.349	1.315	1.355
1987	1.275	1.298	1.371	1.332	1.379
1986	1.282	1.303	1.394	1.347	1.402
1985	1.294	1.320	1.421	1.368	1.427
1984	1.327	1.357	1.456	1.399	1.462
1983	1.343	1.370	1.478	1.415	1.487
1982	1.388	1.426	1.548	1.481	1.553
1981	1.518	1.563	1.710	1.638	1.712
1980	1.703	1.746	1.889	1.814	1.885
1979	1.874	1.920	2.072	1.984	2.069

YEAR	TABLE 11 Elec Pwr Eq.	TABLE 12 Elec. Eq. Mfg.	TABLE 13 Fish Cannery/ Cannery/ Fish	TABLE 14 Flour, Cer. Feed	TABLE 15 Cannery/ Fruit
1999	1.000	1.000	1.000	1.000	1.000
1998	0.996	0.996	1.001	1.003	1.001
1997	0.998	1.001	1.012	1.012	1.010
1996	1.003	1.010	1.030	1.028	1.031
1995	1.011	1.021	1.045	1.044	1.044

1994	1.065	1.070	1.088	1.086	1.084
1993	1.087	1.096	1.123	1.115	1.122
1992	1.094	1.108	1.145	1.133	1.148
1991	1.090	1.109	1.162	1.144	1.169
1990	1.097	1.122	1.189	1.167	1.196
1989	1.116	1.144	1.222	1.198	1.230
1988	1.184	1.209	1.292	1.264	1.299
1987	1.260	1.279	1.351	1.319	1.357
1986	1.269	1.293	1.374	1.336	1.381
1985	1.276	1.298	1.396	1.351	1.404
1984	1.289	1.314	1.423	1.373	1.429
1983	1.322	1.351	1.458	1.404	1.464
1982	1.337	1.372	1.480	1.420	1.489
1981	1.382	1.420	1.551	1.485	1.555
1980	1.511	1.557	1.713	1.643	1.714

YEAR	TABLE 16	TABLE 17	TABLE 18	TABLE 19	TABLE 20
1998	1.000	1.000	1.000	1.000	1.000
1997	1.000	1.000	1.000	1.011	1.009
1996	1.045	1.040	1.030	1.047	1.040
1995	1.077	1.070	1.071	1.086	1.080
1994	1.117	1.107	1.102	1.118	1.108
1993	1.150	1.128	1.126	1.140	1.124
1992	1.175	1.139	1.144	1.156	1.134
1991	1.201	1.163	1.167	1.186	1.158
1990	1.237	1.195	1.199	1.222	1.189
1989	1.304	1.259	1.254	1.289	1.248
1988	1.355	1.311	1.299	1.341	1.302
1987	1.377	1.330	1.316	1.363	1.319
1986	1.394	1.342	1.326	1.385	1.327
1985	1.414	1.362	1.343	1.413	1.351
1984	1.452	1.401	1.376	1.449	1.388
1983	1.482	1.425	1.404	1.472	1.420
1982	1.544	1.492	1.481	1.547	1.484
1981	1.700	1.643	1.646	1.715	1.645
1980	1.860	1.803	1.810	1.890	1.829

YEAR	TABLE 16 Packing/ Fruit	TABLE 17 Laundry/ Clean	TABLE 18 Logging Eq.	TABLE 19 Packing/ Meat	TABLE 20 Metal Work
1999	1.000	1.000	1.000	1.000	1.000
1998	1.002	1.000	1.003	1.003	0.999
1997	1.010	1.008	1.011	1.014	1.009
1996	1.034	1.024	1.027	1.033	1.022
1995	1.046	1.040	1.041	1.051	1.040
1994	1.079	1.078	1.074	1.090	1.080
1993	1.118	1.107	1.105	1.122	1.107
1992	1.152	1.128	1.129	1.144	1.123
1991	1.177	1.139	1.147	1.161	1.133
1990	1.203	1.163	1.171	1.190	1.157
1989	1.239	1.195	1.202	1.226	1.189
1988	1.306	1.259	1.257	1.294	1.248
1987	1.357	1.310	1.303	1.346	1.302
1986	1.380	1.330	1.319	1.368	1.318

1985	1.397	1.342	1.329	1.390	1.327
1984	1.417	1.362	1.346	1.418	1.351
1983	1.455	1.401	1.380	1.455	1.388
1982	1.484	1.425	1.408	1.477	1.420
1981	1.547	1.492	1.485	1.553	1.484
1980	1.703	1.643	1.651	1.721	1.645

YEAR	TABLE 21	TABLE 22	TABLE 23	TABLE 24	TABLE 25
1998	1.000	1.000	1.000	1.000	1.000
1997	1.011	1.009	1.013	1.004	1.008
1996	1.043	1.043	1.050	1.035	1.043
1995	1.076	1.003	1.009	1.073	1.070
1994	1.105	1.110	1.111	1.100	1.110
1993	1.129	1.120	1.122	1.117	1.136
1992	1.140	1.130	1.131	1.121	1.151
1991	1.174	1.161	1.160	1.137	1.174
1990	1.231	1.191	1.189	1.155	1.204
1989	1.276	1.258	1.250	1.210	1.270
1988	1.317	1.313	1.302	1.276	1.322
1987	1.320	1.330	1.306	1.297	1.340
1986	1.335	1.338	1.307	1.310	1.349
1985	1.351	1.357	1.322	1.320	1.364
1984	1.370	1.395	1.346	1.372	1.403
1983	1.410	1.418	1.359	1.397	1.427
1982	1.480	1.487	1.449	1.451	1.494
1981	1.652	1.643	1.623	1.592	1.649
1980	1.813	1.815	1.804	1.761	1.811

YEAR	TABLE 21 Mine Mill	TABLE 22 Paint Mfg.	TABLE 23 Petroleum	TABLE 24 Printing	TABLE 25 Paper Mfg.
1999	1.000	1.000	1.000	1.000	1.000
1998	1.002	1.001	1.004	1.001	1.001
1997	1.013	1.011	1.018	1.006	1.009
1996	1.029	1.026	1.034	1.022	1.029
1995	1.046	1.044	1.056	1.037	1.043
1994	1.078	1.085	1.094	1.076	1.079
1993	1.108	1.111	1.116	1.102	1.111
1992	1.131	1.130	1.127	1.119	1.137
1991	1.151	1.139	1.136	1.123	1.152
1990	1.177	1.163	1.165	1.139	1.175
1989	1.214	1.193	1.195	1.158	1.205
1988	1.279	1.260	1.257	1.221	1.271
1987	1.320	1.315	1.308	1.279	1.323
1986	1.331	1.332	1.313	1.300	1.341
1985	1.338	1.340	1.314	1.313	1.350
1984	1.354	1.359	1.328	1.331	1.365
1983	1.381	1.397	1.352	1.375	1.404
1982	1.413	1.420	1.365	1.400	1.428
1981	1.491	1.489	1.456	1.454	1.495
1980	1.656	1.645	1.631	1.596	1.650

YEAR	TABLE 26	TABLE 27	TABLE 28	TABLE 29	TABLE 30
1998	1.000	1.000	1.000	1.000	1.000

1997	1.010	1.010	1.007	1.007	1.005
1996	1.044	1.044	1.034	1.039	1.030
1995	1.083	1.081	1.075	1.070	1.059
1994	1.112	1.106	1.098	1.098	1.094
1993	1.134	1.120	1.111	1.119	1.120
1992	1.147	1.139	1.116	1.133	1.136
1991	1.172	1.165	1.134	1.150	1.156
1990	1.204	1.197	1.164	1.187	1.183
1989	1.270	1.259	1.233	1.247	1.236
1988	1.323	1.309	1.292	1.300	1.276
1987	1.341	1.330	1.306	1.321	1.293
1986	1.352	1.340	1.312	1.336	1.302
1985	1.372	1.365	1.332	1.355	1.317
1984	1.413	1.407	1.376	1.395	1.347
1983	1.439	1.436	1.395	1.419	1.363
1982	1.513	1.516	1.457	1.485	1.424
1981	1.674	1.680	1.611	1.638	1.576
1980	1.845	1.850	1.787	1.794	1.716

YEAR	TABLE 26 Refriger- ation	TABLE 27 Rubber	TABLE 28 Steam Power	TABLE 29 Textile	TABLE 30 Ware- Housing
1999	1.000	1.000	1.000	1.000	1.000
1998	1.002	1.003	1.000	1.001	1.000
1997	1.012	1.014	1.008	1.009	1.004
1996	1.029	1.028	1.018	1.026	1.020
1995	1.047	1.047	1.035	1.040	1.029
1994	1.086	1.084	1.076	1.072	1.058
1993	1.115	1.110	1.099	1.099	1.093
1992	1.137	1.132	1.111	1.121	1.119
1991	1.150	1.143	1.117	1.134	1.134
1990	1.175	1.169	1.135	1.160	1.155
1989	1.207	1.201	1.165	1.189	1.182
1988	1.274	1.264	1.234	1.249	1.235
1987	1.326	1.313	1.292	1.301	1.274
1986	1.345	1.334	1.307	1.323	1.292
1985	1.355	1.345	1.313	1.338	1.301
1984	1.376	1.369	1.333	1.357	1.316
1983	1.417	1.412	1.377	1.397	1.346
1982	1.443	1.440	1.396	1.421	1.362
1981	1.517	1.521	1.458	1.487	1.423
1980	1.678	1.693	1.612	1.641	1.574

YEAR	TABLE 31	TABLE 32
1998	1.008	1.008
1997	1.005	1.000
1996	1.040	1.039
1995	1.070	1.081
1994	1.106	1.106
1993	1.144	1.122
1992	1.167	1.120
1991	1.186	1.140
1990	1.210	1.176
1989	1.206	1.242

1988	1.337	1.298
1987	1.356	1.313
1986	1.364	1.320
1985	1.382	1.336
1984	1.421	1.372
1983	1.453	1.391
1982	1.515	1.455
1981	1.662	1.603
1980	1.824	1.775

YEAR	TABLE 31 Wood Working	TABLE 32 Glass Mfg.
1999	1.000	1.000
1998	0.999	1.001
1997	1.004	1.009
1996	1.028	1.022
1995	1.039	1.040
1994	1.069	1.082
1993	1.105	1.107
1992	1.143	1.123
1991	1.166	1.129
1990	1.185	1.149
1989	1.217	1.177
1988	1.284	1.243
1987	1.336	1.299
1986	1.354	1.314
1985	1.362	1.321
1984	1.381	1.337
1983	1.419	1.373
1982	1.451	1.393
1981	1.514	1.456
1980	1.660	1.604

AUTH: 15-1-201, MCA

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

42.22.1312 INDUSTRIAL MACHINERY AND EQUIPMENT DEPRECIATION SCHEDULE (1) The department ~~of revenue~~ will utilize the machinery and equipment depreciation schedule which is set forth in the following table. The depreciation schedule will be used to value industrial machinery and equipment for ad valorem tax purposes pursuant to ARM 42.22.1306.

MANUFACTURING MACHINERY AND EQUIPMENT PERCENT GOOD TABLE
Life Expectancy

The chart with the above-referenced title found on ARM page 42-2263 is deleted in its entirety and is replaced with the following chart:

MANUFACTURING MACHINERY AND EQUIPMENT PERCENT GOOD TABLE

Life Expectancy

(Age)	5	10	12	13	15	16	18	20	(Age)	40	(Age)	40
1	85	92	94	94	95	95	96	97	1	98	21	58
2	69	84	87	88	90	91	93	93	2	97	22	56
3	52	76	80	82	85	86	89	90	3	95	23	54
4	34	67	73	75	79	80	83	86	4	94	24	52
5	20	58	66	69	73	74	78	82	5	92	25	50
6		49	58	62	68	69	74	78	6	90	26	48
7		39	50	54	62	64	68	74	7	87	27	46
8		30	43	47	55	57	63	70	8	85	28	44
9		24	36	41	49	52	59	65	9	83	29	42
10		20	29	34	43	46	53	60	10	81	30	40
11			24	29	37	40	47	55	11	79	31	38
12			20	24	31	34	42	50	12	77	32	36
13				20	26	29	36	45	13	75	33	34
14					23	26	32	40	14	72	34	32
15					20	23	28	35	15	70	35	30
16						20	25	31	16	68	36	28
17							22	27	17	66	37	26
18							20	24	18	64	38	24
19								22	19	62	39	22
20								20	20	60	40	20

(2) remains the same.

AUTH: 15-1-201, MCA

IMP: 15-6-138, 15-6-156 and 15-8-111, MCA

42.31.501 DEFINITIONS The following definitions will apply to terms used in this subchapter:

~~(6)~~ (1) The term "eCarrier access service" for telephone license tax purposes, means the service a local exchange company provides to an interexchange carrier for the origination or termination of telecommunications. ~~(7)~~ The local exchange company and the local exchange carrier ~~is~~ are a telecommunications companyies that provides telephone access lines to members of the general public who are its customers.

~~(5)~~ (2) The term "eEquipment" for telephone license tax purposes, means all items generally classified as customer premise equipment such as telephone and terminal equipment. This includes, but is not limited to, telephone instruments, station sets, dialers, modems, private branch exchanges (PBX), switches, computers, wire, cable, facsimile machines, pagers and non-electronic associated items such as documentation, manuals, and furniture.

~~(4)~~ (3) The term "eGross income" for telephone license tax purposes, means all the gross operating income derived from intrastate telephone business without allowance for expenses and deductions. Gross operating income includes, but is not limited to, local revenues, private line revenues, and long

distance service revenues. Gross income does not include carrier access revenues or revenue from the sale of wholesale services as described in 15-53-101~~(2)(b)~~, MCA, or non-operating income or uncollectable accounts actually written off during the year provided recoveries of uncollectable accounts are included in gross income in the year of recovery.

~~(1)(4)~~ The term "Interexchange carrier" for telephone license tax purposes, means a telecommunications company that provides customers voice or data transmission service beyond the toll-free calling area of a local exchange company by means of owned or leased facilities, or any combination thereof. The term may include a local exchange company, which in addition to providing telephone access lines to the general public and carrier access service, also provides long distance or message toll services.

~~(2)(5)~~ The term "Non-operating income" for telephone license tax purposes, means income derived from non-transmission related services or activities. This would include income from activities that are not necessary for or directly related to the transmission of messages. Non-operating revenues must be segregated and separately identified from other charges. Examples of non-operating income are interest income, dividends, and rents.

~~(3)(6)~~ The phrase "Non-transmission related services or activities" for telephone license tax purposes includes, but is not limited to, installation, repair, maintenance, construction, termination, engineering handling, financing, interest, billings and collection, automated data storage, data retrieval and processing services, and the use of computer time or equipment if the sales or rentals of that equipment are not includable as gross income. For example, a company that provides access to an on-line computer data base would not be subject to the tax on the receipts from the data processing or inquiry, but would be subject to tax on the receipts from the separately stated transmission of the data.

(7) "Person" for telecommunications excise tax purposes, means an individual, estate, trust, receiver, cooperative association, corporation, limited liability company, firm, partnership, joint venture, syndicate or other entity.

(a) A person may not include federal government entities or their subdivisions.

(b) Native American entities including tribal offices, businesses owned by the tribe and operating on the tribal reservation, and enrolled tribal members residing on their reservation, are exempt from the tax.

(8) "Related services" for telecommunications excise tax purposes, means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing or making available information via telecommunications through, but not limited to operator and information services, directory assistance, call waiting, call forwarding, caller ID, call rejection, last call return, priority call, speed calling, three way calling, voice messaging, continuous redial and line blocking.

(9) "Telecommunications" for telecommunications excise tax purposes, means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(10) The term "Telephone business" for telephone license tax purposes, means the access and transport, for hire, of two-way communications originating from a point of access to a point of termination within the state of Montana. This includes, but is not limited to, the transmission of messages or information through use of local, toll and wide area telephone service, private line service, channel service, teletypewriter, computer exchange service, cellular mobile telecommunications service, specialized mobile radio, stationary two-way radio, enhanced paging service, or any other form of mobile and portable communications. Telephone business does not include the sale, lease, repair, installation, or maintenance of equipment or the provision of non-transmission related services.

(11) "Two-way transmission" for telecommunications excise tax purposes, means all forms of telecommunications except those forms of telecommunications that are only capable of one-way transmission and are not related services as defined in (6).

AUTH: 15-53-104 and 15-53-155, MCA

IMP: 15-53-101, 15-53-104, and 15-53-111, 15-53-145, and 15-53-147, MCA

42.31.505 ANNUAL PAYMENTS FOR SMALL FILERS (1) For the telephone license tax and the telecommunications excise tax, if the total amount of tax due is less than \$50 in each of the quarters during the preceding calendar year, the taxpayer may file an annual return in lieu of filing the quarterly returns, provided the annual return is filed along with full payment within 60 days after the close of the calendar year.

AUTH: 15-53-104 and 15-53-155, MCA

IMP: 15-53-101, 15-53-104, 15-53-111, and 15-53-155; MCA

42.31.510 PENALTY AND INTEREST (1) For the telephone license tax, penalty attaches if the tax that is deficient is not paid within ten days of notice of final determination. Thereafter interest is calculated on the amount of tax.

(2) and (3) remain the same.

AUTH: 15-53-104, MCA

IMP: 15-53-101, 15-53-104, and 15-53-111, MCA

42.31.515 EFFECTIVE DATES (1) Definitions in Rules ARM 42.31.501 that are applicable to the telephone license tax have effective dates of January 1, 1991, through December 31, 1999, or as amended during this time frame; ARM 42.31.505 is effective January 1, 1991; and ARM 42.31.510 is effective from January 1, 1991, through December 31, 1999 are effective January 1, 1991.

AUTH: 15-53-155, MCA

IMP: 15-53-127, MCA

5. The Department is proposing the adoption of the new rules and amendments to existing rules for the following reasons:

House Bill 479 of the 1999 Legislative session changed the law requiring the department to value newly acquired aircraft and equipment by the method prescribed in 15-6-403, MCA. The proposed changes to ARM 42.22.112 are required to implement the changes of HB 479. Newly acquired aircraft and equipment can be new or used property of a scheduled airline company that meet the requirements of the law. Prior to HB 479, only new aircraft and supporting equipment were valued using the formula in 15-6-403, MCA.

House Bill 174 of the 1999 Legislative session established a new tax and guidelines for payment and collection of the tax. The law created a new class of property for electrical generation facilities.

New rule I is necessary to define the terms used in new rules II and III.

New rule II is necessary to explain a line loss process which is mandated by the amendments to Title 15, chapter 72, MCA. This portion of the law recognizes the line loss that occurs when electricity is transmitted over distance. The line loss provision is only applicable to energy transmitted out of state.

New rule III clarifies the assessment of the tax which is mandated by the law. This rule clarifies when a distribution service provider of electricity can "self assess" for the tax. The language contained in the rule provides clarity that in all other circumstances the transmission service provider shall collect the tax from the distribution service provider.

House Bill 128 of the 1999 Legislative session established a new tax and guidelines for payment and collection of the tax. The new law created a new class of property for telecommunication services companies.

The proposed changes to ARM 42.22.121, 42.22.122, and 42.31.501 through 42.31.515 and the proposed adoption of new rules IV through VI are required to implement House Bill 128 and for housekeeping purposes to make the rules consistent with the legislative intent.

New rule IV establishes that the telecommunications service provider will keep records of the transactions involving the tax. It also implements the general administrative and auditing duties of the state regarding the tax.

New rule V is necessary to clarify what has to be submitted to the Department of Revenue to receive a credit. The new law created a new income tax credit for the telecommunication industry involving improvements to a company's infrastructure. The credit is administered by the Department of Commerce. In order to receive the credit on their quarterly reporting forms, a company must submit a letter from the Department of Commerce detailing the amount of their credit.

New rule VI clarifies the responsibilities of the service provider regarding collection of the tax and also establishes that the service provider is entitled to administrative review

when taxes are disputed. Furthermore, it establishes the penalty provisions that the department can enforce for non-compliance. Finally it explains that the service provider must maintain records.

New rule VII clarifies the application for reporting on an accrual basis. The telecommunication service provider must apply in writing in order to begin reporting their quarterly payments on an accrual basis. The department must respond in writing within 60 days, either accepting or denying the request to report on an accrual basis.

The amendments to ARM 42.22.101 clarify the telecommunications definitions used in this chapter.

"Telecommunications" was added to the list of centrally assessed property in ARM 42.22.102. This is an update of terminology used for the industry. "Telephone cooperatives" and "electric cooperatives" were added to the list of centrally assessed property in order to make the list more comprehensive and complete.

Amendments to ARM 42.22.121 are housekeeping. It adds terms under telecommunication that weren't in rule previously and gives direction to the sources that will be used when allocating value to these types of companies.

Amendments to ARM 42.22.122 are partly housekeeping and partly required for the clarification of the apportionment for telecommunications services companies to taxing units.

ARM 42.31.501 through 42.31.515 are a combination of housekeeping and amendments required by HB 128. Clarification was necessary to distinguish which applied to telephone license tax and the new telecommunications excise tax.

Annual trend factor updates are found in ARM 42.22.1311 and 42.22.1312. The chart change for ARM 42.22.1312 as found on page 42-2263 is necessary because we currently do not use those life depreciation years. Section 15-6-156, MCA was enacted by the 1999 Legislature.

This statute provides for a new class 13 property. Electrical generation facilities which were previously class 9 were moved to new class 13 so the department looked at the Marshall Swift Machinery Index for life expectancies on this type of property and changed the life from 20 to 40 years. A further review showed that most of the dams in Montana are currently older than 20 years today.

Senate Bill 111 of the 1999 Legislative session established a reporting requirement by the taxpayer to report the net book value of intangible personal property included in the taxpayer's accounting records. This reporting is necessary to provide appraisers with the required information to deduct the appropriate percentage of intangible personal property.

ARM 42.22.108 is amended to show the market to book ratio applied to pollution control equipment in Montana has been adjusted for the deduction of exempt intangible personal property. Both the numerator (system or unit market value) and the denominator (system net book value) of the market to book ratio must reflect the deduction of the exempt intangible personal property.

ARM 42.22.111 is amended to change the term "unit". The term "unit value" is used in SB 111 in reference to what is already termed in this administrative rule as system value. The term "unit" is defined in ARM 42.22.101(21).

House Bill 669 of the 1999 Legislative session established how to value railroads. ARM 42.22.111 and 42.22.121 were amended for HB 669 to provide for the valuation and allocation of railroad market value as prescribed in 15-23-205, MCA.

Housekeeping changes are made to ARM 42.22.102, 42.22.103, 42.22.106, 42.22.113, 42.22.115, 42.22.116, and 42.22.117. None of these changes are significant in nature but clarify the law or practice within the department regarding the process followed for these rules.

6. 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
PO Box 5805
Helena, Montana 59620-5805

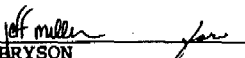
and must be received no later than November 19, 1999.

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

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 names 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 specific subject matter or matters. Such written request may be mailed or faxed to the address or number in 2. above, or may be made by completing a request form at any rules hearing held by the department of revenue.

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


CLEO ANDERSON
Rule Reviewer


MARY BRYSON
Director of Revenue

Certified to the Secretary of State October 12, 1999

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PUBLIC HEARING
proposed amendment of ARM	)	ON PROPOSED AMENDMENT OF
1.2.419 regarding scheduled	)	ARM 1.2.419 FILING,
dates for the Montana	)	COMPILING, PRINTER PICKUP
Administrative Register	)	AND PUBLICATION OF THE
	)	MONTANA ADMINISTRATIVE
	)	REGISTER

TO: All Concerned Persons

1. On November 15, 1999, a public hearing will be held at 10:00 a.m. in the Secretary of State's Office Conference Room at room 225 of the Capitol Building at Helena, Montana, to consider the proposed amendment of ARM 1.2.419 regarding the scheduled dates for the Montana Administrative Register.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you request an accommodation, contact the Secretary of State no later than 5:00 p.m. on November 1, 1999, to advise us of the nature of the accommodation that you need. Please contact Kathy Lubke, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-2055; FAX (406) 444-5833.

3. The rule as proposed to be amended provides as follows:

1.2.419 FILING, COMPILING, PRINTER PICKUP AND PUBLICATION SCHEDULE FOR THE MONTANA ADMINISTRATIVE REGISTER (1) The scheduled filing dates, time deadlines, compiling dates, printer pickup dates and publication dates for material to be published in the Montana Administrative Register are listed below:

1999-2000 Schedule

<u>Filing</u>	<u>Compiling</u>	<u>Printer Pickup</u>	<u>Publication</u>
January 43	January 54	January 65	January 1413
January 1514	January 1918	January 2019	January 2027
January 2931	February 1	February 32	February 1110
February 1214	February 1615	February 1716	February 2524
February 26			
March 6	March 17	March 38	March 1116
March 1220	March 1521	March 1722	March 2530
March 26	March 29	March 31	April 8
April 93	April 124	April 145	April 2213
April 2317	April 2618	April 2819	May 6 April 27

May 71	May 102	May 123	May 2011
May 2115	May 2416	May 2617	June 3 May 25
June 45	June 76	June 97	June 1715
June 1019	June 2120	June 2321	July 1 June 29
July 123	July 135	July 146	July 2213
August 2	August 3	August 4	August 12
July 17	July 18	July 19	July 27
August 16			
July 31	August 171	August 102	August 2610
August 14	August 15	August 16	August 24
August 3028	August 3129	September 1	September 97
		August 30	
September 1311	September 1412	September 1513	September 2321
September 2725	September 2026	September 2927	October 75
October 1216	October 1317	October 1418	October 2126
October 2530	October 2631	October 27	November 49
		November 1	
November 013	November 914	November 1015	November 1022
November 2227	November 2328	November 2429	December 27
December 611	December 712	December 013	December 1621

(2) All material to be published must be submitted by 5:00 1:00 p.m. on the scheduled filing date. All material submitted after the scheduled filing deadline will not be published until the next scheduled publication date.

(3) In the event of "Y2K" (year 2000) computer problems, the secretary of state reserves the right to modify the January schedule. After consultation with agencies that submit information for the issue number one filing, this issue may be postponed or combined with issue number two if computer breakdowns or other serious technical problems are experienced.

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

4. The rule is proposed to be amended to set dates pertinent to the publication of the Montana Administrative Register during 2000. The process of filing notices electronically has increased the time required for processing documents, largely due to the nonstandardization of documents submitted by state agencies. In addition, over the course of the last year the Bureau received an increasing number of requests from agencies to submit notices after the specified filing deadline. For these reasons, the filing deadline is proposed to be changed from 5:00 p.m. to 1:00 p.m.

5. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Kathy Lubke, Administrative Rules Bureau, Secretary of State's Office, 1236 Sixth Avenue, P.O. Box 202801, Helena, Montana 59620-2801, and must be received no later than November 18, 1999.

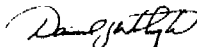
6. Kathy Lubke, address given in paragraph 5 above, has been designated to preside over and conduct the hearing.

7. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Bureau, 1236 Sixth Avenue, P.O. Box 202801, Helena, MT 59620-2801, faxed to the office at (406) 444-5833, or may be made by completing a request form at any rules hearing held by the Secretary of State's Office.

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



MIKE COONEY
Secretary of State



DANIEL J. WHYTE
Rule Reviewer

Dated this 12th day of October 1999

BEFORE THE DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT OF
a rule pertaining to renewal,) 8.2.208 RENEWAL DATES
dates)

TO: All Concerned Persons

1. On August 12, 1999, the Department of Commerce published notice of a public hearing on the proposed amendment of ARM 8.2.208 Renewal Dates at page 1719, of the 1999 Montana Administrative Register, issue number 15. The hearing was held in Helena, Montana on September 7, 1999.

2. The Department has adopted ARM 8.2.208 with the following changes, stricken matter interlined, new matter underlined.

"8.2.208 RENEWAL DATES (1) through (2)(c) will remain the same as proposed.

(d) March 31 is the renewal date for licenses and other authorities granted by the boards of barbers, medical examiners and real estate appraisers ~~and is the renewal date for pharmacists (regulated by the board of pharmacy);~~

(e) through (h) will remain the same as proposed.

(i) June 30 is the renewal date for licenses and other authorities granted by the boards of hearing aid dispensers, landscape architects, professional engineers and land surveyors (every even-numbered year), ~~pharmacists and pharmacists (regulated by the board of pharmacy)~~ and sanitarians;

(j) through (r) will remain the same as proposed."

AUTH: Sec. 37-1-101, MCA

IMP: Sec. 37-1-101, MCA

3. No oral testimony was presented at the hearing. One written comment was received and appears with the Department's response:

COMMENT #1: The commentor opposed changing the renewal date for pharmacists to March 31. She stated that moving the renewal date would severely restrict the period in which Montana pharmacists usually earn their C.E. credits.

RESPONSE: The Department and the Board concurred. The renewal date for pharmacists will remain June 30.

DIVISION OF PROFESSIONAL AND
OCCUPATIONAL LICENSING

BY: Annie M. Bartos

ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

BY: Annie M. Bartos

ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State October 12, 1999.

BEFORE THE BOARD OF NURSING
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT OF ARM
of a rule pertaining to) 8.32.1409 PROHIBITED IV
prohibited IV therapies) THERAPIES

TO: All Concerned Persons

1. On April 22, 1999, the Board of Nursing published a notice of proposed amendment to the above-stated rule at page 680, 1999 Montana Administrative Register, issue number 8.

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

3. No comments were received.

BOARD OF NURSING
KIM POWELL, RN, BSN, PRESIDENT

BY:



ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

BY:



ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State October 12, 1999.

BEFORE THE BOARD OF PHARMACY
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT OF
of rules pertaining to renewal,) 8.40.608 ANNUAL RENEWAL,
non-compliance, application for) 8.40.1004 RENEWAL NOTICE AND
registration and wholesale drug) APPLICATION, 8.40.1005 NON-
distributor licensing) COMPLIANCE, 8.40.1207
) APPLICATION FOR REGISTRATION
) OR RE-REGISTRATION AND
) 8.40.1401 WHOLESALE DRUG
) DISTRIBUTOR LICENSING

TO: All Concerned Persons

1. On August 12, 1999, the Board of Pharmacy published a notice of the proposed amendment of the above-stated rules at page 1721, 1999 Montana Administrative Register, issue number 15.

2. The Board has amended ARM 8.40.608, 8.40.1004, 8.40.1207 and 8.40.1401 exactly as proposed, and has amended ARM 8.40.1005 with the following changes, stricken matter interlined, new matter underlined.

"8.40.1005 NON-COMPLIANCE (1) Failure to meet the annual license renewal requirements set forth in ARM 8.2.208 will be cause for the license to lapse. Reinstatement may be considered as provided in 37-7-303, MCA, as amended. For reinstatement after ~~March 31~~ June 30 and before ~~April~~ July 1 of the next year, the applicant shall have completed the continuing education requirements and certify that fact to the board as stated in ARM 8.40.1004."

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

3. The Board received one written comment. The comment received and the Board's response is as follows:

COMMENT #1: The commentor opposed changing the renewal date for pharmacists to March 31 as proposed in MAR Notice 8-2-6. She stated that moving the renewal date would severely restrict the period in which Montana pharmacists usually earn their C.E. credits.

RESPONSE: In the adoption notice for MAR Notice 8-2-6, the Department and the Board concurred with the commentor and the pharmacists' renewal date was not changed to March 31. The Board allows for the reinstatement of a non-renewed license up to one year. Therefore, the reinstatement date of July as originally contained in 8.40.1005 cannot be changed to April 1.

BOARD OF PHARMACY
JOHN POUSH, R.Ph., CHAIRMAN

BY: Annie M. Bartos

ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

BY: Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State October 12, 1999.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF AMENDMENT AND
amendment and adoption of	)	ADOPTION OF RULES RELATING
rules relating to content	)	TO CONTENT AND PERFORMANCE
and performance standards	)	STANDARDS FOR LITERATURE,
for literature, writing,	)	WRITING, SPEAKING AND
speaking and listening,	)	LISTENING, MEDIA LITERACY,
media literacy, science,	)	SCIENCE, HEALTH, TECHNOLOGY,
health, technology, world	)	WORLD LANGUAGES, READING,
languages, reading, and	)	AND MATHEMATICS.
mathematics.)	

TO: All Concerned Persons

1. On May 20, 1999, the Board of Public Education published notice of public hearings on the proposed amendment and adoption of the rules referenced above at page 1030 of the 1999 Montana Administrative Register, Issue No. 10.

2. Public hearings were held in Glasgow on June 21, 1999, Lewistown on June 22, 1999, Billings on June 23, 1999, Kalispell on June 28, 1999, and Bozeman on June 30, 1999. The hearings were recorded and the tapes are included in the file on this matter. In addition, written comments were received at the hearing and prior to the closing of the comment period.

3. After consideration of the comments received, the following rules are being amended as proposed: 10.54.3087, 10.54.3094 and 10.54.4088.

4. After consideration of the comments received, the following rules are being adopted as proposed and codified as follows:

RULE I	(10.54.3210),	RULE XVII	(10.54.3250),
RULE II	(10.54.3211),	RULE XVIII	(10.54.3251),
RULE III	(10.54.3212),	RULE XIX	(10.54.3252),
RULE IV	(10.54.3213),	RULE XX	(10.54.3253),
RULE V	(10.54.3220),	RULE XXI	(10.54.3287),
RULE VI	(10.54.3221),	RULE XXII	(10.54.3288),
RULE VII	(10.54.3222),	RULE XXIII	(10.54.3289),
RULE VIII	(10.54.3223),	RULE XXIV	(10.54.3290),
RULE IX	(10.54.3230),	RULE XXV	(10.54.3291),
RULE X	(10.54.3231),	RULE XXVI	(10.54.3292),
RULE XI	(10.54.3232),	RULE XXVII	(10.54.3293),
RULE XII	(10.54.3233),	RULE XXVIII	(10.54.3294),
RULE XIII	(10.54.3240),	RULE XXIX	(10.54.3295),
RULE XIV	(10.54.3241),	RULE XXX	(10.54.3296),
RULE XV	(10.54.3242),	RULE XXXI	(10.54.3297),
RULE XVI	(10.54.3243),	RULE XXXII	(10.54.3298),

RULE XXXIII	(10.54.3410),	RULE LXXXVII	(10.54.3689),
RULE XXXIV	(10.54.3411),	RULE LXXXVIII	(10.54.3690),
RULE XXXV	(10.54.3412),	RULE LXXXIX	(10.54.3691),
RULE XXXVI	(10.54.3413),	RULE XC	(10.54.3692),
RULE XXXVII	(10.54.3420),	RULE XCI	(10.54.3693),
RULE XXXVIII	(10.54.3421),	RULE XCII	(10.54.3694),
RULE XXXIX	(10.54.3422),	RULE XCIII	(10.54.3695),
RULE XL	(10.54.3423),	RULE XCIV	(10.54.3696),
RULE XLI	(10.54.3430),	RULE XCV	(10.54.3697),
RULE XLII	(10.54.3431),	RULE XCVI	(10.54.3698),
RULE XLIII	(10.54.3432),	RULE XCVII	(10.54.3810),
RULE XLIV	(10.54.3433),	RULE XCVIII	(10.54.3811),
RULE XLV	(10.54.3440),	RULE XCIX	(10.54.3812),
RULE XLVI	(10.54.3441),	RULE C	(10.54.3813),
RULE XLVII	(10.54.3442),	RULE CI	(10.54.3820),
RULE XLVIII	(10.54.3443),	RULE CII	(10.54.3821),
RULE XLIX	(10.54.3450),	RULE CIII	(10.54.3822),
RULE L	(10.54.3451),	RULE CIV	(10.54.3823),
RULE LI	(10.54.3452),	RULE CV	(10.54.3830),
RULE LII	(10.54.3453),	RULE CVI	(10.54.3831),
RULE LIII	(10.54.3460),	RULE CVII	(10.54.3832),
RULE LIV	(10.54.3461),	RULE CVIII	(10.54.3833),
RULE LV	(10.54.3462),	RULE CIX	(10.54.3840),
RULE LVI	(10.54.3463),	RULE CX	(10.54.3841),
RULE LVII	(10.54.3487),	RULE CXI	(10.54.3842),
RULE LVIII	(10.54.3488),	RULE CXII	(10.54.3843),
RULE LIX	(10.54.3489),	RULE CXIII	(10.54.3887),
RULE LX	(10.54.3490),	RULE CXIV	(10.54.3888),
RULE LXI	(10.54.3491),	RULE CXV	(10.54.3889),
RULE LXII	(10.54.3492),	RULE CXVI	(10.54.3890),
RULE LXIII	(10.54.3493),	RULE CXVII	(10.54.3891),
RULE LXIV	(10.54.3494),	RULE CXVIII	(10.54.3892),
RULE LXV	(10.54.3495),	RULE CXIX	(10.54.3893),
RULE LXVI	(10.54.3496),	RULE CXX	(10.54.3894),
RULE LXVII	(10.54.3497),	RULE CXXI	(10.54.3895),
RULE LXVIII	(10.54.3498),	RULE CXXII	(10.54.3896),
RULE LXIX	(10.54.3610),	RULE CXXIII	(10.54.3897),
RULE LXX	(10.54.3611),	RULE CXXIV	(10.54.3898),
RULE LXXI	(10.54.3612),	RULE CXXV	(10.54.5010),
RULE LXXII	(10.54.3613),	RULE CXXIX	(10.54.5020),
RULE LXXIII	(10.54.3620),	RULE CXXX	(10.54.5021),
RULE LXXIV	(10.54.3621),	RULE CXXXI	(10.54.5022),
RULE LXXV	(10.54.3622),	RULE CXXXII	(10.54.5023),
RULE LXXVI	(10.54.3623),	RULE CXXXIII	(10.54.5030),
RULE LXXVII	(10.54.3630),	RULE CXXXIV	(10.54.5031),
RULE LXXVIII	(10.54.3631),	RULE CXXXV	(10.54.5032),
RULE LXXIX	(10.54.3632),	RULE CXXXVI	(10.54.5033),
RULE LXXX	(10.54.3633),	RULE CXXXVII	(10.54.5040),
RULE LXXXI	(10.54.3640),	RULE CXXXVIII	(10.54.5041),
RULE LXXXII	(10.54.3641),	RULE CXXXIX	(10.54.5042),
RULE LXXXIII	(10.54.3642),	RULE CXL	(10.54.5043),
RULE LXXXIV	(10.54.3643),	RULE CXLI	(10.54.5050),
RULE LXXXV	(10.54.3687),	RULE CXLII	(10.54.5051),
RULE LXXXVI	(10.54.3688),	RULE CXLIII	(10.54.5052),

RULE CXLIV	(10.54.5053),	RULE CXCVII	(10.54.7095),
RULE CXLV	(10.54.5060),	RULE CXCVIII	(10.54.7096),
RULE CXLVI	(10.54.5061),	RULE CXCIX	(10.54.7097),
RULE CXLVII	(10.54.5062),	RULE CC	(10.54.7098),
RULE CXLVIII	(10.54.5063),	RULE CCI	(10.54.7510),
RULE CXLIX	(10.54.5087),	RULE CCII	(10.54.7511),
RULE CL	(10.54.5088),	RULE CCIII	(10.54.7512),
RULE CLI	(10.54.5089),	RULE CCIV	(10.54.7513),
RULE CLII	(10.54.5090),	RULE CCV	(10.54.7520),
RULE CLIII	(10.54.5091),	RULE CCVI	(10.54.7521),
RULE CLIV	(10.54.5092),	RULE CCVII	(10.54.7522),
RULE CLV	(10.54.5093),	RULE CCVIII	(10.54.7523),
RULE CLVI	(10.54.5094),	RULE CCIX	(10.54.7530),
RULE CLVII	(10.54.5095),	RULE CCX	(10.54.7531),
RULE CLVIII	(10.54.5096),	RULE CCXI	(10.54.7532),
RULE CLIX	(10.54.5097),	RULE CCXII	(10.54.7533),
RULE CLX	(10.54.5098),	RULE CCXIII	(10.54.7540),
RULE CLXI	(10.54.7010),	RULE CCXIV	(10.54.7541),
RULE CLXII	(10.54.7011),	RULE CCXV	(10.54.7542),
RULE CLXIII	(10.54.7012),	RULE CCXVI	(10.54.7543),
RULE CLXIV	(10.54.7013),	RULE CCXVII	(10.54.7550),
RULE CLXV	(10.54.7020),	RULE CCXVIII	(10.54.7551),
RULE CLXVI	(10.54.7021),	RULE CCXIX	(10.54.7552),
RULE CLXVII	(10.54.7022),	RULE CCXX	(10.54.7553),
RULE CLXVIII	(10.54.7023),	RULE CCXXI	(10.54.7560),
RULE CLXIX	(10.54.7030),	RULE CCXXII	(10.54.7561),
RULE CLXX	(10.54.7031),	RULE CCXXIII	(10.54.7562),
RULE CLXXI	(10.54.7032),	RULE CCXXIV	(10.54.7563),
RULE CLXXII	(10.54.7033),	RULE CCXXV	(10.54.7587),
RULE CLXXIII	(10.54.7040),	RULE CCXXVI	(10.54.7588),
RULE CLXXIV	(10.54.7041),	RULE CCXXVII	(10.54.7589),
RULE CLXXV	(10.54.7042),	RULE CCXXVIII	(10.54.7590),
RULE CLXXVI	(10.54.7043),	RULE CCXXIX	(10.54.7591),
RULE CLXXVII	(10.54.7050),	RULE CCXXX	(10.54.7592),
RULE CLXXVIII	(10.54.7051),	RULE CCXXXI	(10.54.7593),
RULE CLXXIX	(10.54.7052),	RULE CCXXXII	(10.54.7594),
RULE CLXXX	(10.54.7053),	RULE CCXXXIII	(10.54.7595),
RULE CLXXXI	(10.54.7060),	RULE CCXXXIV	(10.54.7596),
RULE CLXXXII	(10.54.7061),	RULE CCXXXV	(10.54.7597),
RULE CLXXXIII	(10.54.7062),	RULE CCXXXVI	(10.54.7598),
RULE CLXXXIV	(10.54.7063),	RULE CCXXXVII	(10.54.8510),
RULE CLXXXV	(10.54.7070),	RULE CCXXXVIII	(10.54.8511),
RULE CLXXXVI	(10.54.7071),	RULE CCXXXIX	(10.54.8512),
RULE CLXXXVII	(10.54.7072),	RULE CCXL	(10.54.8513),
RULE CLXXXVIII	(10.54.7073),	RULE CCXLI	(10.54.8520),
RULE CLXXXIX	(10.54.7087),	RULE CCXLII	(10.54.8521),
RULE CXC	(10.54.7088),	RULE CCXLIII	(10.54.8522),
RULE CXCI	(10.54.7089),	RULE CCXLIV	(10.54.8523),
RULE CXCII	(10.54.7090),	RULE CCXLV	(10.54.8530),
RULE CXCIII	(10.54.7091),	RULE CCXLVI	(10.54.8531),
RULE CXCIV	(10.54.7092),	RULE CCXLVII	(10.54.8532),
RULE CXCV	(10.54.7093),	RULE CCXLVIII	(10.54.8533),
RULE CXCVI	(10.54.7094),	RULE CCXLIX	(10.54.8540),

RULE CCL	(10.54.8541),	RULE CCLXV	(10.54.8580),
RULE CCLI	(10.54.8542),	RULE CCLXVI	(10.54.8581),
RULE CCLII	(10.54.8543),	RULE CCLXVII	(10.54.8582),
RULE CCLIII	(10.54.8550),	RULE CCLXVIII	(10.54.8583),
RULE CCLIV	(10.54.8551),	RULE CCLXIX	(10.54.8590),
RULE CCLV	(10.54.8552),	RULE CCLXX	(10.54.8591),
RULE CCLVI	(10.54.8553),	RULE CCLXXI	(10.54.8592),
RULE CCLVII	(10.54.8560),	RULE CCLXXII	(10.54.8593),
RULE CCLVIII	(10.54.8561),	RULE CCLXXIV	(10.54.8608),
RULE CCLIX	(10.54.8562),	RULE CCLXXVII	(10.54.8611),
RULE CCLX	(10.54.8563),	RULE CCLXXXI	(10.54.8615),
RULE CCLXI	(10.54.8570),	RULE CCLXXXII	(10.54.8616),
RULE CCLXII	(10.54.8571),	RULE CCLXXXIII	(10.54.8617),
RULE CCLXIII	(10.54.8572),	RULE CCLXXXIV	(10.54.8618)
RULE CCLXIV	(10.54.8573),		

5. After consideration of the comments received, the following rules are being adopted as proposed with those changes given below, new material underlined, deleted material interlined.

RULE CXXVI (10.54.5011) BENCHMARK FOR SCIENCE CONTENT STANDARD 1 FOR END OF GRADE 4 (1) The benchmark for science content standard 1 at the end of grade 4 is the ability to:

- (a) through (c) remain the same as proposed.
- (d) describe relationships among parts of a familiar system (e.g., digestive system, simple machines) and identify and record changes and patterns of changes in the system;
- (e) and (f) remain the same as proposed.

COMMENT 1: Roger Brewer, commenting on behalf of White Sulphur Springs School District, wants the term "system" in Rule CXXVI (1) (d) clarified.

RESPONSE 1: The Board of Public Education (Board) and the Office of Public Instruction (OPT) agree with the comment and have made the changes to the rules pertaining to benchmarks for science content standard 1, to provide consistent examples of the term "system."

RULE CXXVII (10.54.5012) BENCHMARK FOR SCIENCE CONTENT STANDARD 1 FOR END OF GRADE 8 (1) The benchmark for science content standard 1 at the end of grade 8 is the ability to:

- (a) through (c) remain the same as proposed.
- (d) analyze the processes, parts and sub-systems of familiar systems (e.g., electrical circuits, bacteria) and infer cause and effect relationships among components of the system;
- (e) and (f) remain the same as proposed.

COMMENT: See Comment and Response No. 1.

RULE CXXVIII (10.54.5013) BENCHMARK FOR SCIENCE CONTENT STANDARD 1 UPON GRADUATION (1) The benchmark for science

content standard 1 upon graduation is the ability to:

- (a) through (c) remain the same as proposed.
- (d) analyze and apply the concepts of change and equilibrium in a variety of systems (e.g., geochemical systems, global climate);
- (e) and (f) remain the same as proposed.

COMMENT: See Comment and Response No. 1.

RULE CCLXXIII (10.54.8607) ADVANCED WORLD LANGUAGES PERFORMANCE STANDARDS FOR THE END OF BENCHMARK 1 (1) A student at the end of benchmark 1, at the advanced level of world languages demonstrates superior performance. He/she:

- (a) through (d) remain the same as proposed.
- (e) consistently ~~identifies and applies~~ recognizes culturally embedded behaviors and acts appropriately, within familiar contexts, target language information knowledge and skills, and cultural understanding;
- (f) and (g) remain the same as proposed.
- (h) identifies and compares significant similarities and differences among target cultures with his/her culture; and
- (i) identifies and ~~thoroughly describes language and culture connections~~ expands understanding and information gained through world language study within and outside the classroom.

COMMENT 2: Jan Jamruszka-Wilson commented that in several of the World Language rules the word "assistance" should be changed to "prompting," the term "basic survival situations" should be changed to "survival situations" and a more detailed description of the survival situation language should be added.

RESPONSE 2: The Board and OPI agree with the comments and have made the changes to the rules.

RULE CCLXXV (10.54.8609) NEARING PROFICIENCY WORLD LANGUAGES PERFORMANCE STANDARDS FOR THE END OF BENCHMARK 1

(1) A student at the end of benchmark 1, at the nearing proficiency level of world languages demonstrates partial mastery of prerequisite knowledge and skills fundamental for proficiency in world languages. He/she:

- (a) exchanges simple information, with ~~assistance, prompting~~ (e.g., likes and dislikes, basic needs, familiar topics);
- (b) through (i) remain the same as proposed.

COMMENT: See Comment and Response No. 2.

RULE CCLXXVI (10.54.8610) NOVICE WORLD LANGUAGES PERFORMANCE STANDARDS FOR THE END OF BENCHMARK 1 (1) A student at the end of benchmark 1, at the novice level of world languages is beginning to attain the prerequisite

knowledge and skills that are fundamental at each benchmark in world languages. He/she:

- (a) exchanges basic information, with ~~assistance,~~ prompting (e.g., likes and dislikes, basic needs);
- (b) through (i) remain the same as proposed.

COMMENT: See Comment and Response No. 2.

RULE CCLXXVIII (10.54.8612) PROFICIENT WORLD LANGUAGES PERFORMANCE STANDARDS FOR THE END OF BENCHMARK 2 (1) A student at the end of benchmark 2, at the proficient level of world languages demonstrates solid academic performance. He/she:

- (a) exchanges information on familiar topics in survival situations verbally and/or in writing and usually understands and produces speech at normal speed;
- (b) through (i) remain the same as proposed.

COMMENT: See Comment and Response No. 2.

RULE CCLXXIX (10.54.8613) NEARING PROFICIENCY WORLD LANGUAGES PERFORMANCE STANDARDS FOR THE END OF BENCHMARK 2 (1) A student at the end of benchmark 2, at the nearing proficiency level of world languages demonstrates partial mastery of prerequisite knowledge and skills fundamental for proficiency in world languages. He/she:

- (a) often exchanges information on familiar topics in survival situations verbally and/or in writing and usually understands and produces speech at near-normal speed;
- (b) through (i) remain the same as proposed.

COMMENT: See Comment and Response No. 2.

RULE CCLXXX (10.54.8614) NOVICE WORLD LANGUAGES PERFORMANCE STANDARDS FOR THE END OF BENCHMARK 2 (1) A student at the end of benchmark 2, at the novice level of world languages is beginning to attain the prerequisite knowledge and skills that are fundamental at each benchmark in world languages. He/she:

- (a) and (b) remain the same as proposed.
- (c) describes familiar topics, but rarely elaborates on these topics in basic survival situations;
- (d) through (i) remain the same as proposed.

COMMENT: See Comment and Response No. 2.

6. The Board of Public Education and the Office of Public Instruction have thoroughly considered the comments and testimony received on the proposed rules. The following is a summary of the comments received and responses that do not result in a change in wording of the proposed rules.

Comments Regarding Detail

COMMENT 3: R. C. Parker, Billings, supports state standards but opposes the proposed standards as vague, lacking in teacher accountability, and unenforceable. The state should require students to take a Montana history course. Also, the state should hold teachers accountable for their students' academic performance as measured by standardized tests. (See also response to comments 5-7 regarding assessment.)

COMMENT 4: Anne Yeager, Billings, supports state standards but the proposed standards are poorly written. The standards do not provide clear guidance on what the state expects a student to learn in a particular subject area. The proposed standards are vague in subject areas in which guidance would be welcome, but in health enhancement - a subject in which strong local opinion is likely - the state standards are too specific. Also, assessment methods should be established by rule and she strongly objects to using standardized tests to assess either student or teacher achievement. (See also response to comments 5-7 regarding assessment.)

RESPONSE: The Board and OPI considered several approaches to revising academic standards. Standards documents and processes from other states, national standards projects, reports and criteria from professional organizations, and best practices of Montana teachers were studied. Based upon this research, the Board made a reasoned decision to develop a standards framework that would assure Montana citizens that its public schools provide all children with challenging academic expectations.

The standards are intended to provide guidance to school districts, but the districts remain responsible for developing curriculum and instructional programs that are locally meaningful. Written without excessive detail, the standards allow teachers and administrators flexibility to meet the needs of their students and to continue Montana's tradition of local control of school districts by local communities. The proposed rules are intended to give citizens living anywhere in Montana assurance that a district following the standards is providing a quality education program consistent with other districts.

The standards alone, however, will not bring about improvements in individual schools or classrooms. Montana's good schools will continue to improve through focused implementation, sustained, high-quality, and relevant professional development opportunities, comprehensive state and local assessment, research-based instructional methods, and parent and community involvement.

In 1999, in HB2, the Montana Legislature funded OPI to complete and implement the school improvement projects begun in the 1999 biennium. Tasks for the 2001 biennium include: the

revision of the academic standards for social studies, arts, library media, and work place competencies; implementation of standards and a system of statewide assessment; a review of Montana's accreditation process; and the continuation of the Montana Statewide Education Profile.

As with all the other standards, the health enhancement standards were revised by K-16 teachers and administrators from across Montana. This writing team based its work on the Montana Accreditation Standards Model Learner Goals (Project Excellence 1987), professional organization standards, and best practices in Montana's schools. This process included broad public input. The work of the standards constitutes a "blend" of what Montanans want for their children and, based on research, what the health enhancement professionals think is important. Research findings suggest that the health enhancement curriculum develops a sensitization toward personal and community responsibility for health issues, not desensitization.

Comments Regarding Assessment

COMMENT 5: Dan Zorn commented on behalf of Kalispell School District No. 5. He supports statewide standards. He is concerned about how the assessment provisions will be implemented. In his opinion, data from standardized tests is often misused. Standardized testing measures little of the activity going on in a school and should not be overemphasized as the assessment tool.

COMMENT 6: Doug Reisig commented on behalf of the Anaconda School District. In his opinion, the state does not have the authority to establish statewide standards. (See also response to Comments 9-11 regarding legal authority of the State to establish statewide standards.) The proposed standards do not address how a district's compliance with the standards will be measured. He thinks national standardized tests will be used and the system will reward school districts that teach students how to pass the test rather than teaching to achieve actual mastery of the subject area.

COMMENT 7: Al McMillan commented on behalf of the Laurel School District. He supports statewide standards and assessment. He is concerned that OPI and the Board have wavered in their commitment to establishing and enforcing statewide standards.

RESPONSE: The Board and OPI agree that standardized test results are not the only indicators of quality schools. In addition to recommending the review of the standards, the Governor's Office and OPI also recommended to the Montana Legislature that the public be provided with a means of assessing the quality and achievements of the K-12 education system in Montana. The Legislature, in HB2, directed OPI to develop and disseminate a Montana statewide education profile

that would "be developed with assistance and advice from educators, parents, and the public, and would contain indicators and measures of the effectiveness of Montana's K-12 system." Superintendent Keenan and OPI staff conducted 15 statewide town meetings to identify those indicators that Montanans believe will improve their understanding of the quality and achievement of the K-12 education system in Montana. The OPI staff, with assistance and advice, identified the data that responds to the indicators of highest interest and improves the public understanding of the quality and achievement of Montana schools. Those indicators include program offerings and courses, environment for learning, student achievement, school success, student services and activities, school finance, school staffing and teacher characteristics, student involvement in learning, school facilities, and background characteristics of students. The Montana Statewide Education Profile: Indicators of Quality in Education was published in the spring of 1999 and disseminated throughout the state and is available on the OPI Web Site at www.metnet.state.mt.us. The State Superintendent has consistently held that test scores are only one indicator of quality education and should not be used in isolation in measuring school success.

Comment Regarding Realistic Accreditation Standards

COMMENT 8: Conrad Robertson commented on behalf of the Lewistown School District. He supports statewide academic standards that are clearly stated, accurately assessed, and fairly enforced. He opposes the state imposing unrealistic or unnecessary accreditation standards on school districts. Accreditation standards for districts must be realistic and reasonable or the districts are forced to choose between ignoring the standards or allocating money away from productive programs to comply with accreditation standards. He is also concerned that the State's rulemaking process is overly responsive to the opinions of well-organized professional associations, such as librarians.

RESPONSE: The Board and OPI recognize the importance of realistic and reasonable accreditation standards fairly enforced through a comprehensive accreditation system. In 1999, the Montana Legislature, through HB2, directed OPI to complete the school improvement projects. One of the tasks for the 2001 biennium includes a review of Montana's accreditation practices and process. The Board and OPI have appointed an Accreditation Task Force to complete the review to facilitate a school accreditation process to make schools in Montana even better; to increase flexibility of accreditation standards for local schools while maintaining high standards; and to create an accountable, predictable, understandable, and manageable system of accreditation.

Comments Regarding Legal Authority of the State to Establish
Statewide Standards

COMMENT 9: Jim Miller, commenting on behalf of the Alzada School Board, opposes statewide education standards. The money spent to comply with state standards would be better spent on other aspects of education. Also, districts no longer teach the fundamental beliefs on which the country was founded. Each district should set its own standards based on the standards of the parents in the district, not the State.

COMMENT 10: Wade Schnabel opposes the statewide standards. Evolution should not be required as part of a science curriculum, health education and sex education should not be taught, and world languages should not be emphasized over English. (See also response to comments 3 and 4 regarding detail.) Public schools no longer support traditional value systems and do not treat people who hold traditional values with respect. People generally have become desensitized to immoral conduct, in part because of the curriculum in schools.

COMMENT 11: Steve White, Bozeman, opposes applying state standards to non-public schools. State involvement in education, which should only apply to public school education, should be limited to ensuring, through testing, that children have mastered basic skills. Otherwise, parents should be free to determine what their children learn. (See also response to comments 5-7 regarding assessment.)

RESPONSE: Statewide education standards are a proper function of state government. Montana's Constitution establishes a statewide system of public education and states that "equality of educational opportunity is guaranteed to each person of the state." Article X, § 1. Montana statutes require statewide standards (20-7-111, MCA). This is not a new requirement. Montana's current accreditation standards were reviewed, revised and adopted in 1989. The Board and OPI agree that control of a school district is vested in locally elected officials. The standards provide general guidelines on what a student's knowledge, skills, and ability should be in a subject area at grades 4, 8 and 12. The local trustees control how a school district provides the student's education. The Board and OPI also agree that state standards only apply to non-public schools on a voluntary basis.

Comments Regarding Interdisciplinary Approach

COMMENT 12: J. Roger Brewer, commenting on behalf of White Sulphur Springs School District, supports the proposed standards, particularly science. He would like a greater emphasis on an interdisciplinary approach to education. For example, science and health enhancement should have complimentary and correlated standards. Also, he has reviewed

national standards and thinks Montana should adopt those. The national health education standards are more detailed and he is concerned that the State is omitting standards to avoid controversy. (See also response to comments 3 and 4 regarding detail.)

RESPONSE: The Board and OPI agree that the integration of a school's education program enhances student learning and student motivation to learn. All students are expected to meet the standards by the time they leave the K-12 education system, and teachers and administrators may use innovative schedules, interdisciplinary approaches, and/or traditional practices to accomplish that task. As an example, the concepts of the health-related standards could be included in the health enhancement, science, and/or social studies curricula. The standards were written with the intent to avoid unnecessary duplication. Local districts will determine how best to deliver the learning programs to ensure that all students meet all academic standards. (See also responses to comments 3 and 4 on Detail and comments 9-11 on legal authority of the State to establish statewide standards.)

Comment on Rule CLXXXI

COMMENT 13: Eileen Sheehey, Billings, objects to health enhancement content standard 6. She questions what would qualify a P. E. teacher (or any teacher) to teach "interpersonal communication skills to enhance health."

RESPONSE: The Board and OPI agree that teachers, through teacher education programs and experience, are qualified to both teach and exemplify "interpersonal communication skills to enhance health." This may be simply demonstrated by working with students to discuss minor differences rather than to "fight it out."

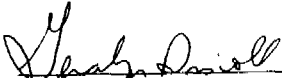
Comment on World Language Standards

COMMENT 14: Hendrik A. Mills, a teacher at Turner Public School, commented that, based on his experience as a Spanish teacher in a small district, the world language standards are unrealistically high for small, rural schools. Rural schools will find it very difficult to implement the proposed standards because of the small size of their faculty.

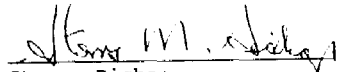
RESPONSE: The current accreditation standards already require that middle school, junior high school, and high school basic education programs provide students with the opportunity to take a second language (ARM 10.55.902 through 10.55.904). While implementation is important, the issue is that the standards are for all children in Montana, rural and urban. For small districts, distance learning may be a possible strategy to increase the programs offered to students.

The Board and OPI recognize the importance of providing teachers and administrators the appropriate content knowledge and instructional strategies necessary to successfully implement and assess the standards. In 1999, in HB2, the Montana Legislature provided continued funding for the next biennium to the OPI school improvement initiative to complete several tasks. One of the tasks for the 2001 biennium includes the implementation of the standards and a comprehensive statewide assessment system.

7. Based on the foregoing, the Board of Public Education hereby amends and adopts the rules as proposed, with changes noted above.



Geraldyn Priscoll
Rule Reviewer



Storrs Bishop
Chairperson

Certified to the Secretary of State October 12, 1999.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the adoption) NOTICE OF ADOPTION
of new rules I through IV)
pertaining to payment of)
certain abandoned vehicle)
removal charges) (SOLID WASTE)

TO: All Concerned Persons

1. On August 26, 1999, the Department of Environmental Quality published notice of the proposed adoption of new rules I through IV pertaining to payment of certain abandoned vehicle removal charges at page 1791 of the 1999 Montana Administrative Register, Issue No. 16.

2. The Department has adopted new Rule II (ARM 17.50.212) and IV (ARM 17.50.214) as proposed.

3. The Department has adopted new Rule I (ARM 17.50.211) and III (ARM 17.50.213) with the following changes:

NEW RULE I (17.50.211) REIMBURSEMENT OF HIRED ABANDONED VEHICLE REMOVAL CHARGES (1) remains as proposed.

(2) Upon hiring a hired vehicle remover, the authorized law enforcement agency representative may submit to the department a request for the reimbursement provided for in 75-10-503, MCA, or may authorize the hired vehicle remover to submit directly to the department a claim for payment to be made directly to the hired vehicle remover.

AUTH: 75-10-503, MCA

IMP: 75-10-532, MCA

NEW RULE III (17.50.213) PAYMENT REQUESTS (1) Payment requests shall consist of:

(a) the ~~hired vehicle remover's~~ standard billing document; and

(b) through (8) remain as proposed.

AUTH: 75-10-503, MCA

IMP: 75-10-532, MCA

4. The Department received the following comments; Department responses follow:

COMMENT #1: The proposed New Rule I, second paragraph was worded in such a fashion that the towers would have been requesting payment from themselves.

RESPONSE: The Department concurs with the commentor and incorporates that change into New Rule I. This change clarifies that the hired vehicle remover will be able to directly request from the Department and receive from the Department the hired

removal charge.

COMMENT #2: Taking claims from only one district each month will not reduce the number of claims submitted during the year. The commentators noted that the average number of claims processed by the Department will not be reduced by accepting claims from only one district each month.

RESPONSE: The Department concurs that the total number of claims submitted during the year will not change as a result of dividing the state into districts. However, the Department notes that the Legislature provided only one quarter (1/4) full time equivalent (FTE) employee to undertake the processing of the claims. This equates to approximately 512 work hours per year, or roughly 42 hours per month. Essentially the Department will have the services of one person for one week of each month to perform the processing of the claims. The Department anticipates the submittal of over 230 claims per month from each district. This number of claims must be received, logged, validated, recorded, and payment authorized each month.

By dividing the state into districts and assigning the districts a quarterly payment time frame, one week of work per month can accommodate the receipt and processing of the claims in a timely manner. If the claims were submitted and processed as and when they were received without any form of time submittal structure, there would be no assurance that there would be adequate staff or allowable work hours available to perform this effort.

Although the Department would prefer to process each claim on an "as submitted, whenever submitted" basis, there are inadequate resources authorized and available to do so, as discussed earlier.

DEPARTMENT OF ENVIRONMENTAL QUALITY

by: Mark A. Simonich

MARK A. SIMONICH, Director

Reviewed by:

John F. North

John F. North, Rule Reviewer

Certified to the Secretary of State October 12, 1999.

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

In the matter of the	)	NOTICE OF AMENDMENT
amendment of ARM 37.80.201,)	
37.80.202, 37.80.206,)	
37.80.315 and 37.80.501)	
pertaining to child care)	
subsidy programs)	

TO: All Interested Persons

1. On August 26, 1999, the Department of Public Health and Human Services published notice of the proposed amendment of the above-stated rules at page 1798 of the 1999 Montana Administrative Register, issue number 16.
2. The Department has amended the rules as proposed.
3. No comments or testimony were received.

Dawn Silva
Rule Reviewer

Laurie Thangar
Director, Public Health and
Human Services

Certified to the Secretary of State October 12, 1999.

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

In the Matter of the Proposed) NOTICE OF ADOPTION
Adoption of Rules Establishing)
The Meaning and Effect of the)
"Landfill Closure Provision")
in Class D Motor Carrier)
Authorities)

TO: All Concerned Persons

1. On June 17, 1999, the Department of Public Service Regulation, Public Service Commission (PSC), published notice of public hearing on the proposed adoption of alternative A or B of a rule pertaining to the meaning and effect of the landfill closure provision in Class D motor carrier certificates, at page 1291A of the 1999 Montana Administrative Register, Issue Number 12.

2. The PSC has adopted Alternative A of the rule as proposed, but with the following changes:

NEW RULE I (38.3.130) MEANING AND EFFECT OF CLASS D LANDFILL CLOSURE PROVISION (1) For purposes of this rule "landfill closure provision" means a provision within a Class D motor carrier authority which states "carrier is allowed to transport authorized commodities to certified landfills from the territory authorized," or a reasonable variation of that specific statement, and which has been inserted into a Class D authority on the commission's own motion or on request, and which has the purpose of preventing the underlying Class D authority from becoming meaningless in the event that, through closure or other restriction, a landfill within the territory authorized in the underlying Class D authority becomes unavailable to accept solid waste transported by the Class D carrier.

~~{ALTERNATIVE A}~~ (2) A landfill closure provision does not negate or modify any origination point, termination point, or other point-specific terms, route-specific terms, or other specific terms and conditions of the underlying authority, such as "between" and "to-and-from" requirements, whether the terms are stated in the body of the Class D authority or in limitations attached to the Class D authority. A landfill closure provision merely allows a transportation movement, otherwise authorized by the underlying Class D authority and executed in strict compliance with the underlying Class D authority, which would have been a lawful transportation movement to a certified landfill but for closure or restriction of that landfill, to extend to and terminate at any certified landfill.

~~{ALTERNATIVE B}~~ (2) A landfill closure provision negates all origination point, termination point, or other point-

~~specific terms, route specific terms, or other specific terms and conditions of the authority, such as "between" and "to and from" requirements, whether the terms are stated in the body of the Class D authority or in limitations attached to the Class D authority. A landfill closure provision allows a transportation movement commenced at any point within the geographical boundaries authorized in the underlying Class D authority or at any point on a designated route authorized in the underlying Class D authority to proceed directly to and terminate at any certified landfill.~~

(3). This rule is effective on and after January 1, 2000.

AUTH: 69-12-201, MCA

IMP: 69-12-201, MCA

3. Comments received and responses by the Commission:

City-County Sanitation, Ben Cohen, Wee-Haul Garbage, T&R Trucking, BFI, Bitter Root Disposal, Guilio Disposal, Montana Solid Waste Contractors, Anaconda Disposal, Martz Disposal Service, and Dillon Disposal Service support alternative A (i.e., sub 2 adopted, above). However, several of these persons also comment that no rule on the subject matter appears to be necessary at all.

COMMENT 1: Sanitation Inc. supports alternative B (i.e., sub 2 rejected, above), commenting that it is difficult to conceive how the industry, the public, and the consumers, would benefit through alternative A. Sanitation Inc. argues that alternative A would cause unnecessary expense, wasted fuel, have a negative effect on rates and public convenience, and would create artificial and unnecessary burdens and penalize existing motor carriers.

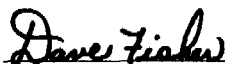
COMMENT 2: McGree Trucking supports alternative B, commenting that alternative B makes more sense from the standpoint of providing better service and reducing costs of service and charges to customers. McGree comments that there is no record of the intent of the PSC when the PSC included the landfill closure provision in Class D authorities, but the wording of the provision clearly allows direct service from points within the territorial scope of Class D authorities for transportation of waste which was historically handled by the carrier, even though the point of delivery would be new. McGree comments that many carriers have been transporting waste directly from points within the geographic area of their authorities, which is both economical and protects public health, and change would result in a chaotic situation to existing and long-standing service to the public. McGree suggests the PSC apply the "follow the traffic rule," which would allow existing carriers to continue to transport when origination or termination points change in the natural course of business and political decisions (e.g., landfills closing). McGree comments that it and its customers have relied for an extensive period on a literal interpretation of the landfill

closure provision and will be irreparably harmed by adoption of alternative A. McGree also argues that the complainants in the proceeding underlying this proposed rulemaking have slept on their rights to complain or seek a formal opinion from the PSC (i.e., 22 years since landfill closure provision adopted) and equity demands affirmance of alternative B.

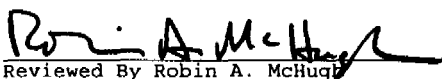
COMMENT 3: Thomas Kenneally comments that the PSC has followed alternative B since a staff opinion applying that alternative was issued in 1991. Kenneally comments that there are 14 Class D certificates, out of the 110 Class D certificates statewide, that are affected by the proposed rule, and because of the way in which certificates were originally created through legislation and PSC implementation in the late 1970s (i.e., ad hoc, expedited, property to waste authority conversion procedure, without carrier participation, and allowing insufficient time to properly recognize and address distinctions between property and waste transportation), these 14 certificates should be interpreted the same way as the 96 remaining certificates, which are not affected by the rule. Kenneally argues that investment has been made by carriers in reliance with the staff opinion favoring alternative B. Kenneally argues that uneconomic and impractical interpretations, such as alternative A, should give way to an economical and practical interpretation which would allow all carriers to be regulated in an even-handed manner. Kenneally argues that transportation of waste is suitable to linear movements, not round trip, and requiring round trip movements is senseless. Kenneally argues that alternative B will not harm the large carriers, but alternative B will harm small carriers and their customers, by driving costs up.

RESPONSE: The PSC determines the proposed rule is necessary and alternative A of the proposed rule is the appropriate choice. Carriers, relying on informal PSC staff opinions or otherwise, may have assigned a meaning to certificates or the landfill closure provision in a way other than that which is affirmed through this rulemaking. Therefore, the PSC amends the proposed rule to include an effective date of January 1, 2000, which will allow adequate time for carriers to make arrangements, including with their customers, which will be necessary to bring operations into compliance with the rule. The PSC also determines that, although comments in support of alternative B (e.g., practicalities, economies, literal wording of the landfill closure provision, follow the traffic rule, nature of transportation of waste) may have some legal and practical appeal, it is inescapable that there will be instances in which alternative B, if adopted, would allow a carrier to conduct operations in a way adversely affecting other carriers, a situation, the design of motor carrier regulation in Montana indicates, is to be addressed through an application process in which the affected carriers have an opportunity to enter protests. The PSC also anticipates that there are situations in which a carrier's operations under alternative B, if adopted,

would not affect other carriers. In such situations applications to operate in a manner equivalent to that which would have been allowed under alternative B would likely be a fairly routine event, as it is doubtful that a valid protest to an application could be made.



Dave Fisher, Chairman



Reviewed By Robin A. McHugh

CERTIFIED TO THE SECRETARY OF STATE OCTOBER 7, 1999.

**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.

Business and Labor Interim Committee:

- ▶ Department of Agriculture;
- ▶ Department of Commerce;
- ▶ Department of Labor and Industry;
- ▶ Department of Livestock;
- ▶ Department of Public Service Regulation; and
- ▶ Office of the State Auditor and Insurance Commissioner.

Education 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, Justice, and Indian Affairs Interim Committee:

- ▶ Department of Corrections; and
- ▶ Department of Justice.

Revenue and Taxation Interim Committee:

- ▶ Department of Revenue; and
- ▶ Department of Transportation.

State Administration, Public Retirement Systems, 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 | 1. | Consult ARM topical index. |
| Subject | | Update the rule by checking the accumulative |
| Matter | | table and the table of contents in the last |
| | | Montana Administrative Register issued. |
| Statute | 2. | Go to cross reference table at end of each |
| Number and | | title which lists MCA section numbers and |
| Department | | corresponding ARM rule numbers. |

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies which have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 1999. This table includes those rules adopted during the period July 1, 1999 through September 30, 1999 and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within 6 months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through June 30, 1999, 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 1998 and 1999 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. These will fall alphabetically after department rulemaking actions.

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BOARD APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the *Montana Administrative Register* a list of appointees and upcoming or current vacancies on those boards and councils.

In this issue, appointments effective in September 1999, appear. Vacancies scheduled to appear from November 1, 1999, through January 31, 2000, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

Each month, the previous month's appointees are printed, and current and upcoming vacancies for the next three months are published.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of October 13, 1999.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Alternative Health Care Board	(Commerce)		
Dr. Nancy Dunne-Boggs	Governor	reappointed	9/8/1999
Missoula			9/1/2003
Qualifications (if required):	doctor of naturopathic medicine		
Dr. Marshall White, Jr.	Governor	Stevens	9/8/1999
Hamilton			9/1/2003
Qualifications (if required):	physician whose practice includes obstetrics		
Board of Hearing Aid Dispensers	(Commerce)		
Dr. Paul J. Byorth	Governor	Pargot	9/21/1999
Billings			7/1/2000
Qualifications (if required):	otolaryngologist		
Mr. John Delano	Governor	not listed	9/21/1999
Helena			7/1/2002
Qualifications (if required):	public member who uses a hearing aid		
Ms. Stacia Moore	Governor	not listed	9/21/1999
Kalispell			7/1/2002
Qualifications (if required):	national certified hearing aid dispenser with a masters degree		
Board of Medical Examiners	(Commerce)		
Dr. Faust Alvarez	Governor	not listed	9/1/1999
Helena			9/1/2003
Qualifications (if required):	doctor of medicine		
Dr. Lawrence McEvoy	Governor	not listed	9/1/1999
Clancy			9/1/2003
Qualifications (if required):	doctor of medicine		

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Psychologists (Commerce)			
Dr. Dawn Birk	Governor	not listed	9/27/1999
Miles City			9/1/2004
Qualifications (if required):	licensed psychologist in private practice		
Dr. Michael J. McLaughlin	Governor	Birk	9/27/1999
Great Falls			9/1/2001
Qualifications (if required):	licensed psychologist in public health		
Dr. Paul Silverman	Governor	reappointed	9/27/1999
Missoula			9/1/2004
Qualifications (if required):	licensed psychologist engaged in the teaching of psychology		
Governor's Council on Tobacco Use Prevention (Public Health and Human Services)			
Mr. Gordon Belcourt	Governor	not listed	9/22/1999
Browning			9/22/2001
Qualifications (if required):	representing Montana's American Indians		
Sen. Dale E. Berry	Governor	not listed	9/22/1999
Hamilton			9/22/2001
Qualifications (if required):	representing the Montana Senate		
Rep. Verner L. Bertelsen	Governor	not listed	9/22/1999
Helena			9/22/2001
Qualifications (if required):	representing senior citizens		
Ms. Nancy Davis Walker	Governor	not listed	9/22/1999
Great Falls			9/22/2001
Qualifications (if required):	representing Tobacco Free Montana Coalition		

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Governor's Council on Tobacco Use Prevention (Public Health and Human Services) cont.			
Ms. Jeri Domme	Governor	not listed	9/22/1999
Helena			9/22/2001
Qualifications (if required):	representing the American Heart Association		
Ms. Dana Donovan	Governor	not listed	9/22/1999
Larslan			9/22/2001
Qualifications (if required):	representing Montana's youth		
Ms. Nancy Ellery	Governor	not listed	9/22/1999
Helena			9/22/2001
Qualifications (if required):	represents director of the Department of Public Health and Human Services		
Ms. Laura Gebhart	Governor	not listed	9/22/1999
Kalispell			9/22/2001
Qualifications (if required):	representing the Montana Public Health Association		
Dr. Jon Hauxwell	Governor	not listed	9/22/1999
Billings			9/22/2001
Qualifications (if required):	representing Indian Health Service		
Mr. David Hemion	Governor	not listed	9/22/1999
Helena			9/22/2001
Qualifications (if required):	representing the Montana Dental Association		
Mr. Russell Hill	Governor	not listed	9/22/1999
Helena			9/22/2001
Qualifications (if required):	representing private business		
Ms. Linda Lee	Governor	not listed	9/22/1999
Missoula			9/22/2001
Qualifications (if required):	representing the Montana Campaign for Tobacco Free Kids		

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER, 1999

Appointee	Appointed by	Succeeds	Appointment/End Date
Governor's Council on Tobacco Use Prevention (Public Health and Human Services) cont.			
Ms. Gail M. Michelotti	Governor	not listed	9/22/1999
Great Falls			9/22/2001
Qualifications (if required):	representing the American Cancer Society		
Ms. Joan Miles	Governor	not listed	9/22/1999
Helena			9/22/2001
Qualifications (if required):	representing county health officers		
Ms. Connie Olson	Governor	not listed	9/22/1999
Glendive			9/22/2001
Qualifications (if required):	representing local tobacco coalitions		
Dr. J. Bruce Robertson	Governor	not listed	9/22/1999
Bozeman			9/22/2001
Qualifications (if required):	representing the Montana Medical Association		
Commissioner Dale Sheldon	Governor	not listed	9/22/1999
Conrad			9/22/2001
Qualifications (if required):	representing the Montana Association of County Officials		
Dr. Robert M. Shepard	Governor	not listed	9/22/1999
Helena			9/22/2001
Qualifications (if required):	representing the American Lung Association		
Rep. Loren Soft	Governor	not listed	9/22/1999
Billings			9/22/2001
Qualifications (if required):	representing the Montana House of Representatives		
Mr. Tim Solomon	Governor	not listed	9/22/1999
Havre			9/22/2001
Qualifications (if required):	representing Montana Law Enforcement		

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER, 1999

Appointee	Appointed by	Succeeds	Appointment/End Date
Governor's Council on Tobacco Use Prevention	Governor	(Public Health and Human Services) cont.	
Mr. Todd Thun		not listed	9/22/1999
Deer Lodge			9/22/2001
Qualifications (if required):	representing the Montana Nurses Association		
Ms. Kristianne Wilson	Governor	not listed	9/22/1999
Billings			9/22/2001
Qualifications (if required):	representing the MHA (association of Health Care Providers)		
Montana Reserved Water Rights Compact Commission (Justice)			
Mr. Chris D. Twesten	Attorney General	reappointed	9/13/1999
Helena			9/13/2001
Qualifications (if required):	none specified		
Noxious Weed Seed Free Forage Advisory Council (Agriculture)			
Mr. Robert Carlson	Director	not listed	9/18/1999
Butte			9/18/2001
Qualifications (if required):	weed districts		
Mr. Dennis Cash	Director	not listed	9/18/1999
Bozeman			9/18/2001
Qualifications (if required):	extension service		
Mr. Ray Ditterline	Director	not listed	9/18/1999
Bozeman			9/18/2001
Qualifications (if required):	agricultural experiment station		
Mr. Kerry Kovanda	Director	not listed	9/18/1999
Columbus			9/18/2001
Qualifications (if required):	forage producer		

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Noxious Weed Seed Free Forage Advisory Council (Agriculture) cont.			
Mr. Bob McNeill	Director	not listed	9/18/1999
Dillon			9/18/2001
Qualifications (if required):	outfitters and guides		
Mr. W. Ralph Peck	Director	not listed	9/18/1999
Helena			9/18/2001
Qualifications (if required):	Director of Department of Agriculture		
Mr. Dennis Perry	Director	not listed	9/18/1999
Choteau			9/18/2001
Qualifications (if required):	feed pellets/cubes products		
Mr. LaMonte Schnur	Director	not listed	9/18/1999
Townsend			9/18/2001
Qualifications (if required):	forage producer		
Ms. Marjorie Schuler	Director	not listed	9/18/1999
Carter			9/18/2001
Qualifications (if required):	livestock/agriculture		
Mr. Don Walker	Director	not listed	9/18/1999
Glendive			9/18/2001
Qualifications (if required):	forage producer		
Mr. Clay Williams	Director	not listed	9/18/1999
Livingston			9/18/2001
Qualifications (if required):	weed districts		
Mr. Harry Woll	Director	not listed	9/18/1999
Kalispell			9/18/2001
Qualifications (if required):	forage producer		

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER, 1999

Appointee	Appointed by	Succeeds	Appointment/End Date
State-Tribal Economic Development Commission (Indian Affairs)			
Dr. Peter Blouke	Governor	not listed	9/9/1999
Helena			6/30/2001
Qualifications (if required):	representing the Department of Commerce		
Ms. Melissa G. Buckles	Governor	not listed	9/9/1999
Wolf Point			6/30/2001
Qualifications (if required):	representing the Fort Peck Assiniboine and Sioux Tribe		
Ms. Emorie Davis Bird	Governor	not listed	9/9/1999
East Glacier Park			6/30/2001
Qualifications (if required):	representing the Blackfeet Tribe		
Ms. Jami Hamel	Governor	not listed	9/9/1999
Pablo			6/30/2001
Qualifications (if required):	representing the Salish and Kootenai Tribes		
Mr. Wyman McDonald	Governor	not listed	9/9/1999
Helena			6/30/2001
Qualifications (if required):	representing the Office of Indian Affairs		
Ms. Velma Pretty On Top-Holeman	Governor	not listed	9/9/1999
Crow Agency			6/30/2001
Qualifications (if required):	representing the Crow Tribe		
Mr. Ben Speakthunder	Governor	not listed	9/9/1999
Harlem			6/30/2001
Qualifications (if required):	representing the Fort Belknap Gros Ventre and Assiniboine Tribe		
Mr. Jonathan Windy Boy	Governor	not listed	9/9/1999
Box Elder			6/30/2001
Qualifications (if required):	representing the Chippewa Cree Tribe		

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER, 1999

Appointee	Appointed by	Succeeds	Appointment/End Date
Telecommunications Access Services/Persons with Disabilities (Public Health and Human Services)			
Ms. Flo Ellen Hippe	Governor	reappointed	9/7/1999
Great Falls			7/1/2002
Qualifications (if required):	person with a disability		
Ms. Chris Huth	Governor	Griffin	9/7/1999
Helena			7/1/2001
Qualifications (if required):	non-disabled businessperson		
Mr. Thomas P. McGree	Governor	Brightwell	9/7/1999
Helena			7/1/2002
Qualifications (if required):	representative of interLATA interexchange carrier		
Mr. Jack Sterling	Governor	reappointed	9/7/1999
Billings			7/1/2002
Qualifications (if required):	representative of an independent local exchange company		
Mr. Edward Van Tighem	Governor	reappointed	9/7/1999
Great Falls			7/1/2002
Qualifications (if required):	deaf		
Water Pollution Control Advisory Council (Environmental Quality)			
Mr. Roger Noble	Governor	Deluca	9/1/1999
Kalispell			0/0/0
Qualifications (if required):	representative of the organic waste disposal industry		
Workers' Compensation Judge (Governor)			
Mr. Michael McCarter	Governor	reappointed	9/6/1999
Helena			9/6/2005
Qualifications (if required):	none specified		

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER, 1999

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Youth Justice Advisory Council (Justice)			
Mr. Michael Larson	Governor	not listed	9/8/1999
Billings			6/14/2001
Qualifications (if required): youth recreation representative			
Rep. Jeff Mangan	Governor	not listed	9/8/1999
Great Falls			6/14/2001
Qualifications (if required): legislator			
Mr. Mike McGrath	Governor	not listed	9/8/1999
Helena			6/14/2001
Qualifications (if required): county attorney			
Ms. Misti Robertson	Governor	not listed	9/8/1999
Billings			6/14/2001
Qualifications (if required): law enforcement officer			
Ms. Nicole Tollefson	Governor	not listed	9/24/1999
Bonner			6/14/2001
Qualifications (if required): youth representative			
Mr. Ron Whitmoyer	Governor	not listed	9/8/1999
East Helena			6/14/2001
Qualifications (if required): school principal			

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 1999 through JANUARY 31, 2000

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Alfalfa Seed Committee (Agriculture)		
Mr. Tom Helm, Toston	Governor	12/21/1999
Qualifications (if required): alfalfa seed grower		
Mr. Kenneth M. Sagmiller, Ronan		
Qualifications (if required): alfalfa seed grower	Governor	12/21/1999
Appellate Defender Commission (Administration)		
Judge Dorothy B. McCarter, Helena	Governor	1/1/2000
Qualifications (if required): district judge		
Board of Chiropractors (Commerce)		
Ms. Patti Mitchell, Dillon	Governor	1/1/2000
Qualifications (if required): public member		
Dr. Karlene Berish, Billings		
Qualifications (if required): licensed chiropractor	Governor	1/1/2000
Board of Hail Insurance (Agriculture)		
Mr. W. Ralph Peck, Helena	Governor	1/1/2000
Qualifications (if required): Director of the Department of Agriculture		
Auditor Mark O'Keefe, Helena		
Qualifications (if required): State Auditor	Governor	1/1/2000
Board of Horse Racing (Commerce)		
Ms. Isabelle Devlin, Terry	Governor	1/20/2000
Qualifications (if required): resident of District 1		
Dr. James A. Scott, Great Falls		
Qualifications (if required): resident of District 3	Governor	1/20/2000

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 1999 through JANUARY 31, 2000

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Occupational Therapy Practice (Commerce)		
Ms. Diana Margaret Leonard, Great Falls	Governor	12/31/1999
Qualifications (if required): occupational therapist		
Board of Personnel Appeals (Labor and Industry)		
Rep. Jim Rice, Helena	Governor	1/1/2000
Qualifications (if required): labor/management experience and an attorney		
Board of Respiratory Care Practitioners (Commerce)		
Mr. Rich Lundy, Billings	Governor	1/1/2000
Qualifications (if required): respiratory care practitioner		
Dr. Richard Blevins, Great Falls		
Qualifications (if required): physician	Governor	1/1/2000
Board of Speech Pathologists and Audiologists (Commerce)		
Ms. Lynn Harris, Miles City	Governor	12/31/1999
Qualifications (if required): audiologist		
Ms. Linda Solem, Kalispell		
Qualifications (if required): speech-language pathologist	Governor	12/31/1999
Capitol Restoration Commission (Administration)		
Ms. Gayle Shanahan, Helena	Governor	12/3/1999
Qualifications (if required): Governor's appointee		
Ms. Jeanne Michael, Billings		
Qualifications (if required): public member	Lt. Governor	12/3/1999

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 1999 through JANUARY 31, 2000

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Capitol Restoration Commission (Administration) cont. Mr. Walter (Howdie) S. Murfitt, Helena Qualifications (if required): Governor's appointee	Governor	12/3/1999
Mr. Loren Smith, Great Falls Qualifications (if required): public member	Lt. Governor	12/3/1999
Developmental Disabilities Planning and Advisory Council (Public Health and Human Services) Rep. Bea McCarthy, Anaconda Qualifications (if required): State Senator	Governor	1/1/2000
Judicial Nomination Commission (Supreme Court) Mr. Tony Harbaugh, Miles City Qualifications (if required): public member	Governor	1/1/2000
Local Government Records Committee (Secretary of State) Ms. Bonnie Ramey, Boulder Qualifications (if required): none specified	Secretary of State	12/31/1999
Ms. Marcia Porter, Missoula Qualifications (if required): none specified	Director	12/31/1999
Ms. Lorraine Van Ausdol, Helena Qualifications (if required): none specified	Secretary of State	12/31/1999
Martin Luther King Holiday Commemorative Commission (Commerce) Ms. Kay Maloney, Great Falls Qualifications (if required): public member	Governor	1/20/2000

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 1999 through JANUARY 31, 2000

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Martin Luther King Holiday Commemorative Commission	(Commerce) cont.	
Ms. Cristina Medina, Helena	Governor	1/20/2000
Qualifications (if required): public member		
Ms. Carol Murray, Browning	Governor	1/20/2000
Qualifications (if required): public member		
Mr. Brian Schnitzer, Billings	Governor	1/20/2000
Qualifications (if required): public member		
Ms. Michelle Wilkerson, Great Falls	Governor	1/20/2000
Qualifications (if required): public member		
Mr. Robert Fourstar, Wolf Point	Governor	1/20/2000
Qualifications (if required): public member		
Mrs. Pat Ojo, Missoula	Governor	1/20/2000
Qualifications (if required): public member		
Dr. Frederick Gilliard, Great Falls	Governor	1/20/2000
Qualifications (if required): public member		
Mr. Benjamin Pease, Jr., Billings	Governor	1/20/2000
Qualifications (if required): public member		
Mr. Anthony Caldwell, Great Falls	Governor	1/20/2000
Qualifications (if required): public member		
Ms. Angelina Vallejo Cormier, Billings	Governor	1/20/2000
Qualifications (if required): public member		

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 1999 through JANUARY 31, 2000

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Martin Luther King Holiday Commemorative Commission Mr. Gary Conti, Bozeman Qualifications (if required): public member	(Commerce) cont. Governor	1/20/2000
Montana Higher Education Student Assistance Corporation Ms. Shirley Warehime, Helena Qualifications (if required): public member	(Education) Governor	1/1/2000
Montana Public Safety Communications Council Ms. Lois A. Menzies, Helena Qualifications (if required): Director of the Department of Administration	(Administration) Governor	11/13/1999
Sheriff Bill Slaughter, Bozeman Qualifications (if required): representative of law enforcement and Sheriffs and Peace Officers Association	Governor	11/13/1999
Mr. Mike Meldahl, Butte Qualifications (if required): representative of Montana Power Company and other private utilities	Governor	11/13/1999
Mr. Lloyd Jackson, Pablo Qualifications (if required): tribal representative	Governor	11/13/1999
Mr. Dennis M. Taylor, Helena Qualifications (if required): representative of local government	Governor	11/13/1999
Resource Conservation Advisory Council Mr. Dennis L. Devries, Polson Qualifications (if required): conservation districts	(Natural Resources and Conservation) Director	1/30/2000

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 1999 through JANUARY 31, 2000

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Resource Conservation Advisory Council (Natural Resources and Conservation) cont. Ms. Jamie Doggett, White Sulphur Springs Qualifications (if required): Western Montana	Director	1/30/2000
Mr. Sever Enkerud, Glasgow Qualifications (if required): grazing districts	Director	1/30/2000
Mr. Robert Fossum, Richland Qualifications (if required): Eastern Montana	Director	1/30/2000
Mr. Tom Stelling, Fort Shaw Qualifications (if required): North Central Montana	Director	1/30/2000
Mr. Ellis Hagen, Westby Qualifications (if required): general public	Director	1/30/2000
Ms. Marieanne Hanser, Billings Qualifications (if required): South Central Montana	Director	1/30/2000