

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 42.18.121, 42.18.127,	)	PROPOSED AMENDMENT AND
42.18.128, and 42.20.455, and the	)	REPEAL
repeal of ARM 42.18.122, 42.18.124,	)	
42.18.129, 42.18.134, 42.18.135,	)	
42.18.136, and 42.18.137 pertaining	)	
to the reappraisal cycles for	)	
residential, commercial, forest, and	)	
agricultural properties, and	)	
development of a reappraisal plan	)	
and valuation manuals	)	

TO: All Concerned Persons

1. On November 9, 2018, at 10:00 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please contact the Department of Revenue no later than 5 p.m. on October 26, 2018, to advise us of the nature of the accommodation you need. Please contact Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or email todd.olson@mt.gov.

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

42.18.121 PURPOSE; ADOPTION OF MONTANA REAPPRAISAL PLAN AND MANUALS; VALUATION CYCLES (1) ~~For each reappraisal period the department shall develop and adopt the Montana Reappraisal Plan, the Montana Agricultural Land Classification Manual, and the Montana Forest Land Classification Manual to be used during the reappraisal cycle. The plan and manuals will be used for valuing residential land and improvements, commercial land and improvements, industrial land and improvements, new construction, use changes, agricultural land, and forest land.~~ This chapter pertains to the department's statutorily required reappraisal plan and related property classification and valuation manuals for each valuation cycle. The Montana Reappraisal Plan (Plan) provides an overview of the department's duty to complete uniform valuations of all taxable real property. The manuals referenced in (3) describe department processes used in the classification

and valuation of residential land and improvements, commercial land and improvements, industrial land and improvements, agricultural land, and forest land.

~~(2) The plan and manuals provide detail on the valuation processes the department uses.~~

~~(3) (2) The plan and manuals incorporate the department's duties as provided in 15-1-701 through 15-7-103, MCA, and the department shall consider them when performing these duties. The department will use its CAMA system to assist in its valuation processes and will consider the sales comparison approach, cost approach, and income approach in its determination of a property's market value. The department shall use the approach or approaches based on the type of property and the quantity and quality of data available.~~

(3) The department adopts and incorporates by reference the Plan, the Montana Residential, Commercial, and Industrial Property Classification and Valuation Manual, and the Montana Agricultural Land Classification and Valuation Manual, all dated January 1, 2019. The department also adopts and incorporates by reference the Montana Forest Land Classification and Valuation Manual dated October 10, 2014 (revised October 4, 2018). Each manual explains how the department classifies and values subject property types. A copy of the Plan and the manuals may be obtained from the Department of Revenue, Property Assessment Division, P.O. Box 8018, Helena, MT 59604-8018, and on the department's web site at <https://mtrevenue.gov/publications/property-reappraisal-plan-manuals>.

~~(4) The plan and manuals shall guide department appraisers in the application of approved appraisal practices, including but not limited to the three approaches to property valuation: market, cost, and income. Class four residential, commercial, and industrial property is appraised at its market value as of January 1, 2018, for the 2019-2020 valuation cycle.~~

~~(5) The publication date and use for each is set forth in ARM 42.18.122. Class three agricultural land is appraised at its productivity value as of January 1, 2018, for the 2019-2020 valuation cycle. Agricultural land values reflect productivity values in accordance with 15-7-201 and 15-44-103, MCA.~~

~~(6) Class ten forest land is appraised at its productivity value as of January 1, 2014, for the 2015-2020 valuation cycle. Forest land values reflect productivity values in accordance with 15-7-201 and 15-44-103, MCA.~~

~~(7) For the purposes of these rules, the terms "reappraisal cycle" and "valuation cycle" are considered synonymous and interchangeable.~~

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

IMP: 15-7-101, 15-7-103, 15-7-111, 15-7-112, 15-7-201, 15-44-103, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.18.121 to remove unnecessary language and incorporate relevant language from other rules being repealed in this same rulemaking notice. The intent is to place similar content together in a single rule for efficiency and ease of locating. The department proposes to amend the rule to provide a statement of purpose for the chapter regarding the authority and execution of the department's property classification and valuation duties and the resources it will use in carrying out these duties.

The department proposes replacing certain internal references to "reappraisal cycle" with "valuation cycle," to better describe what the cycle refers to; to correspond with alternating use of the terms in statute; and proposes a new (7) to clarify that the department considers these two terms interchangeable. The department proposes striking incorrect or unnecessary statute references and language from former (3), adding a relevant reference to CAMA, and renumbering the section to (2). The department further proposes to strike the first two sentences of (1) and alternatively adopt and incorporate by reference into rule the Plan and manuals described in proposed (3), which is a more specific statement and better meets the Plan requirements of 15-7-111 and 15-7-201, MCA, and the manual adoption requirements of 2-4-307, MCA, and ARM 1.2.210. Section (4) is proposed to be restructured to incorporate language that better describes the department's process for determining market value for commercial, industrial, and residential properties and to include the valuation date for the 2019-2020 valuation cycle. The valuation date has historically been provided in ARM 42.18.124, which is being proposed for repeal.

The department proposes striking the first sentence in (5), because it merely references a rule proposed for repeal. The language proposed for new (5) provides statutory references for the valuation of agricultural land, and the valuation date for the 2019-2020 agricultural land valuation cycle. This information has historically been provided in ARM 42.18.137, which is proposed for repeal. Likewise, the language proposed for (6) provides statutory references for the valuation of forest land, and the valuation date for the 2015-2020 forest land valuation cycle. This information has historically been provided in ARM 42.18.135, which is proposed for repeal.

The department further proposes adding 15-7-111 and 15-7-201, MCA, as rulemaking authority, as they pertain to the required adoptions of the reappraisal plan and the agricultural land valuation manual by rule, respectively. The department is also updating the implementing citations to correspond with the relocation of language into this rule from repealed rules to ensure that the relevant statutes are cited both as a reference for users and as support for the rule content.

42.18.127 PROPERTY TAX FEE APPRAISAL REQUIREMENTS WHEN TAXPAYER DENIES THE DEPARTMENT ACCESS TO PROPERTY TO CONDUCT AN APPRAISAL AND/OR AUDIT (1) ~~The~~ For the department to consider a fee appraisal as an estimate of market value, as provided in 15-7-139, MCA, the appraisal must:

(a) be completed by an appraiser who is licensed or certified by the Montana Board of Real Estate Appraisers- under Title 37, chapter 54, MCA;

~~(2) The appraisal must~~

(b) be conducted in accordance with current uniform standards of professional appraisal practice (USPAP) as set forth for licensed or certified real estate appraisers under 37-54-403, MCA;

(c) be conducted within one year of the valuation date provided in 15-7-103, MCA, and ARM 42.18.121. This one-year requirement may necessitate that a fee appraiser conduct a retroactive appraisal, in accordance with USPAP. In this situation, the effective date of the appraisal may be prior to the date of the appraisal

report. If an appraisal has already been conducted, and it was conducted prior to the valuation date, then:

(i) a recertification or update of value may be required as an addendum to the original appraisal; and

(ii) the recertification or update of value must be completed by the same appraiser who conducted the original appraisal; and

~~(3) The appraisal must~~

~~(d) establish a separate market value for each improvement and the land;~~

~~(a) (i) If the appraisal was conducted for a ~~single family~~ single-family dwelling, the sales comparison approach and cost approach must be included. The cost approach must document the land value, the value of each ~~single family~~ single-family residence dwelling, and all outbuildings. If the appraiser chooses the sales comparison approach as the best indicator of value, then the appraiser must specifically state the contributory value of the land to the reconciled value.~~

~~(b) (ii) If the appraisal was conducted for a commercial property, the income approach, sales comparison approach, and the cost approach must all be included. The cost approach must document the land value, the value of each commercial structure, and all ancillary buildings and site improvements. If the appraiser chooses either the income approach or the sales comparison approach as the best indicator of value, then the appraiser must specifically state the contributory value of the land to the reconciled value.~~

~~(4) The appraisal must be conducted within one year of the reappraisal base year provided for in 15-7-103, MCA, and ARM 42.18.124, which means the appraisal must be adjusted to the market value as it would have been in the base year provided for in 15-7-103, MCA, and ARM 42.18.124. This may require the appraiser to make a retrospective appraisal, in accordance with the uniform standards of professional appraisal practice, which means the effective date of the appraisal may be prior to the date of the appraisal report. If the appraisal has already been conducted, and it was conducted after the base year provided for in 15-7-103, MCA, and ARM 42.18.124, then a recertification or update of value will be required as an addendum to the original appraisal. The recertification or update must be completed by the same appraiser who conducted the original appraisal.~~

AUTH: 15-1-201, 15-7-139, MCA

IMP: 15-7-139, 37-54-403, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.18.127 to remove unnecessary language and reformat the rule into subsections under (1) to eliminate redundancy. The department is also inserting missing language and reference details to make the rule more informative and easier to understand.

The department proposes adding 15-7-139, MCA, into the lead-in statement in (1) as a reference to details for when a fee appraisal would apply. The word "licensed" is also being inserted in newly numbered (1)(a) and (b) for clarification as to the type of appraisers that would qualify to provide a fee appraisal.

The department proposes adding a reference to the section of the Montana Code Annotated covering real estate appraisers, and language to provide for

situations when a fee appraiser could need to update their original appraisal, in (1)(c). This language was added to ARM 42.20.455 when amended recently, and adding it to this rule will bring consistency to the two rules on this subject. Furthermore, the department is inserting a missing hyphen into the phrase "single-family" in (1)(d)(i) and changing an incidence of the word "residence" to "dwelling" to be consistent with a preceding instance of that verbiage in the subsection.

The department is striking (4) because it contains outdated language. For example, the department now uses the phrase "valuation date" instead of "base year." The relevant detail from this section is updated and relocated in (1)(c).

The department further proposes adding 37-54-403, MCA, as an implementing citation, as it pertains to the uniform standards of professional appraisal practice (USPAP) for real estate appraisers.

42.18.128 DEFINITIONS The following definitions apply to terms used in this subchapter:

(1) through (5) remain the same.

~~(6) "Trail" means a relatively smooth and clear pathway made by animals, humans, and/or vehicles, usually narrower and rougher than a road and made by frequent use rather than by mechanical grading and paving; in some instances, open only to foot travel.~~

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

IMP: 15-7-111, ~~15-7-112, 15-7-139, 15-9-101~~, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.18.128 to strike a definition that is no longer necessary due to the proposed repeal of ARM 42.18.129. The department also proposes removing implementing citations that no longer apply.

42.20.455 CONSIDERATION OF INDEPENDENT APPRAISALS AS AN INDICATION OF MARKET VALUE (1) When considering any objection to the appraisal of property, the department may consider independent fee appraisals of the property as evidence of the market value of the property. For an independent fee appraisal to be considered, the taxpayer or the taxpayer's agent must submit the following documents to the local department office in the county where the property is located:

(a) remains the same.

(b) a copy of the independent fee appraisal that meets the following requirements and was conducted:

(i) and (ii) remain the same.

(iii) within six months of the valuation date provided for in 15-7-102, MCA, and ~~ARM 42.18.124~~ ARM 42.18.121. This six-month requirement may necessitate that a fee appraiser conduct a retroactive appraisal, in accordance with USPAP. In this situation, the effective date of the appraisal may be prior to the date of the Appraisal Report. If an appraisal has already been conducted, and it was conducted prior to the valuation date, then:

(A) through (3) remain the same.

AUTH: 15-1-201, MCA

IMP: 15-7-102, 15-7-111, ~~15-8-111~~, 37-54-403, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.20.455 to update a rule number reference in (1)(b)(iii). ARM 42.18.124 is proposed to be repealed and the relevant information from it has been relocated in ARM 42.18.121. The department also proposes updating the implementing statutory citations to remove an obsolete statutory reference and add a new reference due to USPAP references in the rule language.

4. The department proposes to repeal the following rules:

42.18.122 2017-2018 MONTANA REAPPRAISAL PLAN, APPRAISAL GUIDE, AND 2017-2018 MONTANA AGRICULTURAL LAND CLASSIFICATION MANUAL

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

IMP: 15-7-111, MCA

REASONABLE NECESSITY: The department proposes repealing ARM 42.18.122 and more generally covering the content in ARM 42.18.121, as proposed in this same rulemaking notice. The intent is to provide the reappraisal plan and valuation manual information in a single rule for efficiency and ease of locating, which renders this rule unnecessary.

As proposed to be set forth in ARM 42.18.121, the agricultural land valuation manual will be located together with the reappraisal plan on the department's web site. The "appraisal guide," which contains the details the department's staff needs to appraise different property types, will continue to be used internally by department staff. It will no longer be published online, because the content is technical, covers internal data processing instructions, and is of no real value to lay persons.

42.18.124 VALUATION PERIODS

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

IMP: 15-6-134, 15-7-103, 15-7-111, MCA

REASONABLE NECESSITY: The department proposes repealing ARM 42.18.124, and more generally covering the content in ARM 42.18.121, as proposed in this same rulemaking notice. The intent is to provide the valuation dates and valuation cycles for class three, four, and ten properties within the reappraisal plan in a single location for efficiency and ease of locating, which renders this rule unnecessary.

42.18.129 PERMISSION BY THE OWNER OR OWNER'S AGENT TO ENTER IMPROVEMENTS AND PERSONAL PROPERTY

AUTH: 15-7-111, MCA  
IMP: 15-7-139, MCA

REASONABLE NECESSITY: The department proposes repealing ARM 42.18.129 because it is unnecessary. The rule content is useful as an internal procedure for department field staff to reference, but serves no purpose as a rule.

42.18.134 2017-2018 RESIDENTIAL AND COMMERCIAL REAPPRAISAL

AUTH: 15-1-201, 15-7-111, MCA  
IMP: 15-7-111, 15-7-112, 15-7-201, 15-9-101, MCA

REASONABLE NECESSITY: The department proposes repealing ARM 42.18.134 and more generally covering the content in ARM 42.18.121, as proposed in this same rulemaking notice. The intent is to provide the reappraisal plan and valuation manual information in a single rule for efficiency and ease of locating, which renders this rule unnecessary.

42.18.135 2015 FOREST LAND REAPPRAISAL

AUTH: 15-1-201, 15-7-111, MCA  
IMP: 15-7-111, 15-7-112, 15-7-201, 15-9-101, 15-44-103, MCA

REASONABLE NECESSITY: The department proposes repealing ARM 42.18.135 and more generally covering the content in ARM 42.18.121, as proposed in this same rulemaking notice. The intent is to provide the reappraisal plan and valuation manual information in a single rule for efficiency and ease of locating, which renders this rule unnecessary.

42.18.136 2017-2018 INDUSTRIAL PROPERTY REAPPRAISAL

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

REASONABLE NECESSITY: The department proposes repealing ARM 42.18.136 and more generally covering the content in ARM 42.18.121, as proposed in this same rulemaking notice. The intent is to provide the reappraisal plan and valuation manual information in a single rule for efficiency and ease of locating, which renders this rule unnecessary.

42.18.137 2017-2018 AGRICULTURAL LAND REAPPRAISAL

AUTH: 15-1-201, 15-7-111, MCA  
IMP: 15-7-111, 15-7-112, 15-7-201, 15-9-101, MCA

REASONABLE NECESSITY: The department proposes repealing ARM 42.18.137 and more generally covering the content in ARM 42.18.121, as proposed

in this same rulemaking notice. The intent is to provide the reappraisal plan and valuation manual information in a single rule for efficiency and ease of locating, which renders this rule unnecessary.

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: Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail [todd.olson@mt.gov](mailto:todd.olson@mt.gov), and must be received no later than 5:00 p.m., November 16, 2018.

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

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

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

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Todd Olson  
Todd Olson  
Rule Reviewer

/s/ Gene Walborn  
Gene Walborn, Director  
Department of Revenue

Certified to the Secretary of State October 9, 2018.