

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 10

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after print publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end 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 Secretary of State's Office, Administrative Rules Services, at (406) 444-2055.

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BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE  
MONTANA STATE AUDITOR

In the matter of the adoption of NEW ) NOTICE OF PUBLIC HEARING ON  
RULE I pertaining to Patient- ) PROPOSED ADOPTION  
Centered Medical Homes )

TO: All Concerned Persons

1. On June 12, 2014, at 10:00 a.m., the Commissioner of Securities and Insurance, Montana State Auditor, will hold a public hearing in the 2nd floor conference room, at the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), 840 Helena Ave., Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The CSI 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 CSI no later than 5:00 p.m., June 5, 2014, to advise us of the nature of the accommodation that you need. Please contact Darla Sautter, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; TDD (406) 444-3246; fax (406) 444-3499; or e-mail dsautter@mt.gov.

3. The New Rule as proposed to be adopted provides as follows:

NEW RULE I PATIENT-CENTERED MEDICAL HOME REPORTING—  
SPECIFIC QUALITY MEASURES REQUIRED (1) A qualified patient-centered medical home must report annually to the commissioner on its performance related to certain standards and health care quality measures, as prescribed by the commissioner. The quality measures reported must include the following:

- (a) control of blood pressure among adults with diagnosed hypertension;
  - (b) screening for tobacco use and counseling and/or referral for tobacco cessation services for adults;
  - (c) age-appropriate immunization for children; and
  - (d) control of A1C levels in adults with diagnosed diabetes.
- (2) Annually, the data on standards and quality measures specified in (1)(a) through (d) are due to the commissioner on June 30 for the previous calendar year. For the initial report, data must be submitted to the commissioner for the reporting period January 1, 2013, through December 31, 2013, by August 15, 2014.

(3) The commissioner shall provide detailed instructions on the agency web site for reporting by qualified patient-centered medical homes on the state-specific measures described in (1)(a) through (d) and other measures and standards.

(4) The report referenced in ARM 6.6.4906 is separate from the report required for these specific quality measures.

AUTH: 33-40-104, MCA  
IMP: 33-40-104, 33-40-105, MCA

4. STATEMENT OF REASONABLE NECESSITY: NEW RULE I is necessary to provide specific guidance to patient-centered medical homes regarding the "uniform set of health care quality and performance measures that include prevention services," as required by 33-40-105(2)(c), MCA. These rules also satisfy in part the Commissioner's duties to adopt rules on quality measures as required in 33-40-104(1)(a) and 33-40-105(2), MCA. In addition, these specific measures aid the Department of Public Health and Human Services with specific goals related to the improvement of public health in Montana.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Christina L. Goe, General Counsel, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-2040; fax (406) 444-3499; or e-mail [cgoe@mt.gov](mailto:cgoe@mt.gov), and must be received no later than 5:00 p.m., June 20 2014.

6. Christina Goe, General Counsel, has been designated to preside over and conduct this hearing.

7. The CSI maintains a list of concerned 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 that includes the name and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Such written request may be mailed or delivered to Darla Sautter, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-2726; fax (406) 444-3499; or e-mail [dsautter@mt.gov](mailto:dsautter@mt.gov), or may be made by completing a request form at any rules hearing held by the CSI.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods due to system maintenance or technical problems.

9. Pursuant to 2-4-302, MCA, the bill sponsor contact requirements apply. Christine Kaufmann is the bill sponsor, and she was contacted by e-mail on May 9, 2014.

10. The CSI has complied with the requirements of 2-4-111, MCA, and determined that NEW RULE I will not have a significant adverse impact on small businesses. The reporting requirement discussed in NEW RULE I already exists under 33-40-105, MCA. NEW RULE I clarifies the health care quality and performance measures that are subject to that requirement, and the timeline for reporting the data. Additionally, the affected parties already report the quality measures in NEW RULE I to other entities. Thus, NEW RULE I does not require the parties to collect and collate substantial amounts of additional information.

/s/ Nick Mazanec  
Nick Mazanec  
Rule Reviewer

/s/ Jesse Laslovich  
Jesse Laslovich  
Chief Legal Counsel

Certified to the Secretary of State May 12, 2014.

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 10.7.111 pertaining to bus ) PROPOSED AMENDMENT  
drivers )

TO: All Concerned Persons

1. On June 26, 2014, 10:15 a.m., the Superintendent of Public Instruction will hold a public hearing in the Superintendent's conference room, 1227 11th Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Superintendent of Public Instruction will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Office of Public Instruction no later than 5:00 p.m. on June 19, 2014, to advise us of the nature of the accommodation that you need. Please contact Beverly Marlow, Office of Public Instruction, P.O. Box 202501, Helena, Montana, 59620-2501; telephone (406) 444-3172; fax (406) 444-2893; or e-mail bemarlow@mt.gov.

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

10.7.111 QUALIFICATION OF BUS DRIVERS CERTIFICATION  
REQUIREMENTS FOR REIMBURSEMENT (1) School bus drivers must ~~be fully~~ hold a valid Montana school bus driver certificate in order for a district to receive state reimbursement for ~~the that driver's bus routes~~. Qualifications for bus drivers are prescribed by 20-10-103, MCA, and by the Board of Public Education in ARM 10.64.201. ~~These require that the driver:~~

- ~~(a) have five years of licensed driving experience;~~
- ~~(b) is not less than 18 years of age;~~
- ~~(c) be of good moral character;~~
- ~~(d) hold a driver's license with the proper commercial vehicle operator's endorsement;~~
- ~~(e) have filed with the board of trustees a satisfactory report of a physical examination, signed by a licensed physician in the state of Montana, on a federal Department of Transportation (DOT) form;~~
- ~~(f) hold a valid basic first-aid certificate or certificate from an equivalent or more advanced first-aid course; and~~
- ~~(g) hold a valid certificate (form TR-35) as evidence of meeting the above qualifications.~~

(2) The bus driver certificate forms are provided electronically by the Superintendent of Public Instruction. The school district must input all necessary documentation into the Office of Public Instruction's electronic pupil transportation system, which generates the completed certificate. The chair of the board of trustees



signs the certificate which is issued to a driver who is authorized and qualified to drive a school bus pursuant to all applicable rules, regulations and laws. The district retains a copy of each bus driver's certificate, provides a copy to the bus service contractor, if applicable, and files a copy with the county superintendent. The bus driver is also given a hard copy of the certificate, which must be carried at all times while driving a school bus.

(3) The first aid certificate required by ARM 10.64.201 must include certification in CPR, be signed by a certified instructor, and be received after an initial in-person training of at least four hours with annual renewals.

~~(2)~~ (4) State reimbursement for bus transportation for the full school term will be made only when a new driver of the bus has completed the ~~first-aid~~ first aid requirement within 60 days from the employment date. Any bus operated by a driver not so qualified will not be eligible for state reimbursement for that portion of the term that the driver is not qualified. Drivers who have driven the previous year must have the ~~first-aid~~ first aid requirement completed before the expiration date on their certificate.

~~(3)~~ (5) In the event a district (or contractor) is obligated to employ a driver as a replacement for a driver employed at the beginning of the school year, or must employ an additional driver, a period of 60 days will be permitted for the new driver to acquire the ~~first-aid~~ first aid certificate. If after 60 days following the date of first employment of the additional or replacement driver, the ~~first-aid~~ first aid requirement has not been met, the bus operated by the driver will not qualify for state reimbursement for that portion of the year that the driver is not qualified, including the 60-day grace period.

~~(4)~~ The holding of a Montana school bus driver certificate is proof that the driver meets all the qualifications of the school transportation law. The bus driver certificate forms are provided electronically by the Superintendent of Public Instruction for use by the board of trustees. The board issues a certificate to each driver who is authorized and qualified to drive, and files a copy with the county superintendent and electronically files the certification information with the Superintendent of Public Instruction.

~~(5)~~ (6) A school bus driver certificate remains valid until the earliest expiration date of the commercial vehicle operator's endorsement, the ~~first-aid~~ first aid certificate, and/or physical examination. A new certificate must be issued to the driver when any of the above items expires and is renewed. A driver may not operate a school bus without a valid, current certificate.

~~(6)~~ (7) The qualifications of all bus drivers are reviewed at the time the state verification of transportation claims is made, as the qualifications of the bus driver are one of the criteria for eligibility for reimbursement. With the exception of ~~(2)~~ (4) and ~~(3)~~ (5), the State Superintendent will not reimburse for routes driven by drivers without a current certificate on file with the Office of Public Instruction. If any license, certificate, or examination was expired for any period of time, the Office of Public Instruction will withhold transportation reimbursement funding for the number of days the driver was not qualified.

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

AUTH: 20-3-106, 20-10-103, 20-10-112, MCA

IMP: 20-10-103, 20-10-112, MCA

REASON: A 2013 Legislative Audit on Pupil Transportation recommended the establishment of criteria for, and review of, bus driver license status and character qualifications. The Board of Public Education (BPE) establishes the qualifications of bus drivers. The Office of Public Instruction issues rules and forms related to bus driver first aid certification and for implementing and administering the pupil transportation policies established by the BPE. While not duplicating law in rule, the amendments clarify the process for obtaining bus driver certification.

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: Beverly Marlow, Office of Public Instruction, P.O. Box 202501, Helena, Montana, 59620-2501; telephone (406) 444-3172; fax (406) 444-2893; or e-mail [bemarlow@mt.gov](mailto:bemarlow@mt.gov), and must be received no later than 5:00 p.m., June 26, 2014.

5. Ann Gilkey, Chief Legal Counsel for the Superintendent of Public Instruction, has been designated to preside over and conduct this hearing.

6. The Office of Public Instruction 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 that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the agency.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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 of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Ann Gilkey  
Ann Gilkey  
Rule Reviewer

/s/ Denise Juneau  
Denise Juneau  
Superintendent of Public Instruction

Certified to the Secretary of State May 12, 2014.

BEFORE THE BOARD OF PUBLIC EDUCATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 10.64.201 pertaining to school ) PROPOSED AMENDMENT  
bus drivers )

TO: All Concerned Persons

1. On Wednesday, June 26, 2014, at 10:00 a.m., the Board of Public Education will hold a public hearing in the Superintendent's conference room at the Office of Public Instruction, 1227 11th Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Education no later than 5:00 p.m. on June 19, 2014, to advise us of the nature of the accommodation that you need. Please contact Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov.

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

10.64.201 SCHOOL BUS DRIVERS QUALIFICATIONS (1) In addition to the school bus driver qualifications ~~specifically~~ set forth in 20-10-103, MCA, the Board of Public Education requires that ~~a person shall have~~ school bus drivers must obtain a Montana school bus driver certificate (form TR-35) pursuant to the requirements of ARM 10.7.111, by submitting proof of the following:

(a) a minimum of five years of licensed driving experience; ~~to qualify to drive a school bus.~~

(b) no record of criminal offenses indicating they may be dangerous to children, as evidenced by a criminal background check provided to and approved by the school district prior to initial employment;

(c) a satisfactory report of a physical examination as prescribed by 20-10-103, MCA;

(d) a current first aid certificate meeting the requirements of ARM 10.7.111;

(e) a properly endorsed commercial driver's license (CDL) with continuing compliance with all of the requirements associated with that license; and

(f) a safe driving record, which may not have evidence of any of the following:

(i) more than one moving traffic violation within any 12-month period of the preceding 36 months;

(ii) any conviction for driving under the influence of alcohol or drugs within the preceding 36 months; or

(iii) a conviction resulting in mandatory revocation or suspension of a driver's

license in the previous five years.

AUTH: 20-2-121, MCA

IMP: 20-10-103, 20-10-111, MCA

REASON: A 2013 Legislative Audit on Pupil Transportation recommended the establishment of criteria for, and review of, bus driver license status and character qualifications. The Board of Public Education establishes the qualifications of bus drivers pursuant to 20-10-103 and 20-2-121, MCA, but does not have a system of licensure for school bus drivers. As such, the hiring school districts should have the authority, responsibility, and discretion to review and consider criminal background information on prospective driver employees to address safety concerns related to unsupervised contact with students.

Commercial driver licenses (CDLs) are regulated by the U.S. Department of Transportation and Montana Department of Justice, Motor Vehicle Division. There are strict driving requirements already in place for initial licensure, specialized endorsements, and ongoing retention of a CDL. Employers must be notified of driving violations resulting in any suspension or revocation of a CDL. Compliance with existing CDL regulations addresses review of driving records for bus drivers.

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: Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov and must be received no later than 5:00 p.m., June 26, 2014.

5. Peter Donovan has been designated to preside over and conduct this hearing.

6. The 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 that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the board.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its

web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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 board has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Peter Donovan  
Peter Donovan  
Rule Reviewer

/s/ Sharon Carroll  
Sharon Carroll  
Board Chair  
Board of Public Education

Certified to the Secretary of State May 12, 2014.

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF PUBLIC HEARING ON
RULE I concerning electronic	)	PROPOSED ADOPTION AND
submission of documents and	)	AMENDMENT
electronic signatures, and the	)	
amendment of ARM 23.16.101,	)	
23.16.508, 23.16.1102, 23.16.1103,	)	
23.16.1201, 23.16.1202, 23.16.1225,	)	
23.16.1705, 23.16.1929, 23.16.3501	)	
and 23.16.3801 pertaining to	)	
definitions, records, and devices,	)	
changes in managers, officers, and	)	
directors, charitable card game	)	
tournaments, types of card games	)	
authorized, house players, authorized	)	
sports pools, repairing machines –	)	
approval, department approval of	)	
promotional games of chance,	)	
devices, or enterprises, and review of	)	
carnival games	)	

TO: All Concerned Persons

1. On June 12, 2014, at 10:00 a.m., the Montana Department of Justice will hold a public hearing in the conference room at the Gambling Control Division, 2550 Prospect Avenue, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Justice no later than 5:00 p.m. on June 5, 2014, to advise us of the nature of the accommodation that you need. Please contact Rick Ask, Administrator, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, Montana, 59620-1424; telephone (406) 444-1971; fax (406) 444-9157; Montana Relay Service 711; or e-mail rask@mt.gov.

3. The proposed new rule provides as follows:

NEW RULE I ELECTRONIC SUBMISSION OF DOCUMENTS AND ELECTRONIC SIGNATURES (1) The department may accept electronic submission of certain documents through the licensing portal.

(2) An electronically submitted document is only complete if:

(a) all requested information is provided; and

(b) the submitter is the applicant, licensee, or an authorized representative of the applicant or licensee.

(3) By electronically submitting a document, the submitter declares, under the penalty, that:

(a) the information submitted is true, correct, and complete; and

(b) the submitter is the applicant, licensee, or an authorized representative of the applicant or licensee.

(4) An electronically submitted document is subject to the same deadlines as a document submitted in paper form.

AUTH: 23-5-115, 23-5-621, MCA

IMP: 23-5-115, 23-5-118, 23-5-128, 23-5-129, 23-5-177, 23-5-178,  
23-5-308, 23-5-324, 23-5-407, 23-5-409, 23-5-513, 23-5-621,  
23-5-625, 23-5-705, MCA

RATIONALE AND JUSTIFICATION: The department is proposing to adopt New Rule I to recognize that it will accept electronic signatures on certain documents submitted for gambling licensure and related filings. The Department of Revenue's Liquor Control Division is also in the process of creating an online program that will enable individuals to apply for an alcoholic beverage license and manage those licenses electronically through the Taxpayer Access Point program. This proposed rule authorizes electronic submission of documents and promotes continuity between both agencies regarding document submissions.

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

23.16.101 DEFINITIONS As used throughout this subchapter, the following definitions apply:

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

(b) is identified as a regulated lender in 31-1-111, MCA, which, in addition to lenders identified in ~~(6)~~(7)(a), includes bank holding companies, consumer loan licensees owned by bank holding companies, mutual or stock insurance companies, and federal and state agencies authorized to lend money.

(8) through (10) remain the same.

(11) "Manager" means a person employed or authorized by the licensee to supervise personnel ~~and~~ or business functions of the licensed operation.

(12) through (20) remain the same.

AUTH: 23-5-115, 23-5-621, MCA

IMP: 23-5-112, 23-5-115, 23-5-118, 23-5-176, 23-5-629, 23-5-637,  
MCA

RATIONALE AND JUSTIFICATION: This amendment is necessary to correct internal references to the rule subsections. The amendment also clarifies that a management employee is one who supervises personnel, the licensee's business functions, or both.



23.16.508 CHANGES IN MANAGERS, OFFICERS, AND DIRECTORS

(1) remains the same.

(2) New management employees, officers, and directors shall submit a personal history statement and a complete set of fingerprints (Forms 10 and FD-258). A written management agreement must also be submitted for each new management employee.

(3) remains the same.

AUTH: 23-5-112, 23-5-115, 23-5-176, MCA

IMP: 16-4-414, 23-5-176, 23-5-177, MCA

RATIONALE AND JUSTIFICATION: This amendment is necessary to clarify that the department requires a written management agreement when a licensee seeks approval for each new management employee. The term "management agreement" is defined under department rules, but the term is not currently utilized in substantive rules. In practice, a written management agreement has been required in part, because the Department of Revenue's liquor control rules require a written management agreement. Additionally, a written management agreement allows the department to determine whether the scope of authority granted to the management employee improperly constitutes a transfer of ownership interest.

23.16.1102 LARGE-STAKES CARD GAME TOURNAMENTS (1) through (7)(c) remain the same.

(d) For each charitable tournament, the permit holder conducting the tournament shall maintain for a period of 12 months from the date of the tournament, and provide to the department upon request:

(i) a record of the total amount of entry and reentry fees collected in the charitable tournament;

(ii) a description of how the tournament was publicly identified as a charitable tournament;

(iii) the name and address of each charitable, educational, or recreational nonprofit organization that received a distribution of the charitable proceeds; and

(iv) the amount of money distributed to each charitable, educational, or recreational nonprofit organization.

(8) through (8)(c) remain the same.

AUTH: 23-5-115 MCA

IMP: 23-5-317 MCA

23.16.1103 SMALL-STAKES CARD GAME TOURNAMENTS (1) through (3) remain the same.

(4) A small-stakes card game tournament permit holder may conduct a small-stakes card game tournament for charitable purposes.

(5) For each charitable tournament, the permit holder conducting the tournament shall maintain for a period of 12 months from the date of the tournament, and provide to the department upon request:

(a) a record of the total amount of entry and reentry fees collected in the charitable tournament;

(b) a description of how the tournament was publicly identified as a charitable tournament;

(c) the name and address of each charitable, educational, or recreational nonprofit organization that received a distribution of the charitable proceeds; and

(d) the amount of money distributed to each charitable, educational, or recreational nonprofit organization.

AUTH: 23-5-115 MCA

IMP: 23-5-317 MCA

RATIONALE AND JUSTIFICATION: The 2013 amendments to 23-5-317, MCA, authorize and govern charitable tournaments. The law requires that at least 50 percent of the total amount of the entrance fees for any large-stakes or small-stakes tournament that is represented as a charitable tournament must be paid to a charitable, educational, or recreational nonprofit organization. These amendments are necessary to implement a record-keeping requirement, similar to that required for raffles, to ensure that permit-holders who conduct charitable tournaments disburse the required minimum amount of proceeds, and that the entity that received the proceeds is a qualified organization.

23.16.1201 DEFINITIONS As used throughout this subchapter, the following definitions apply:

(1) remains the same.

(2) "Authority reference" means the Official Montana Poker Rulebook (1990 Edition) (version 2014) and Scarne's Encyclopedia of Card Games, copyright 1983, by John Scarne, pages 18 through 276. These books will be used by the department as the authority on how to play authorized card games. The authority references are adopted and incorporated by reference; copies of Scarne's Encyclopedia of Card Games may be obtained from local bookstores and copies of the Official Montana Poker Rulebook may be obtained from the Gambling Control Division web site [www.doj.mt.gov/gaming](http://www.doj.mt.gov/gaming). The sections of the books cited as authority will not apply where there is a conflict with state law or department rule.

(3) through (19) remain the same.

AUTH: 23-5-115, MCA

IMP: 23-5-115, 23-5-311, MCA

23.16.1202 TYPES OF CARD GAMES AUTHORIZED (1) remains the same.

(a) the poker games of Texas Hold'em, Draw Poker, Omaha, Seven Card Stud, and their variations as well as general poker rules and practices, according to the Official Montana Poker Rulebook ~~(1990 edition)~~ (version 2014); and

(b) through (6) remain the same.

AUTH: 23-5-115, MCA

IMP: 23-5-311, MCA

RATIONALE AND JUSTIFICATION: The department has revised its official poker rulebook. The revised poker rulebook can be viewed on the department's web site at <https://doj.mt.gov/gaming/>.

23.16.1225 HOUSE PLAYERS (1) remains the same.

(2) ~~House players may be used by the~~ The operator or card room contractor who is conducting a live card game may use house players only for the purpose of starting and/or maintaining sufficient number of players in the card game.

(3) The operator or card room contractor may:

(a) provide chips owned by the house to a house player for use in a live card game conducted by the operator or card room contractor;

(b) require the house player to return to the operator or card room contractor all house chips that remain with the house player when the house player exits the game;

(c) make the house player an employee who is paid a wage; and

(d) allow a house player to keep all of the winnings or a portion of the winnings derived from the use of house chips in a game conducted by the operator or card room contractor.

(4) The operator or card room contractor may not ask or require the house player to return any house chips, or the value of any house chips, that the house player lost in a game.

(5) No house players may be used by the operator or card room contractor in a card game tournament.

AUTH: 23-5-115, 23-5-325 MCA

IMP: 23-5-311, 23-5-324, 23-5-325, MCA

RATIONALE AND JUSTIFICATION: This amendment is necessary to clarify the financial arrangements a gambling operator or card room contractor may have with a house player, and it introduces a minor change in agency interpretation regarding who may own the money or chips provided to a house player.

A gambling operator or a card room contractor who conducts a live card game (the house) may provide money or chips to a house player to use in its live card game. The department has previously interpreted the rules to mean, in part, that any cash or chips advanced to a house player belonged to the house player, and the house player kept any chips possessed at the time the house player exited the game. Under new (3), the house may declare, before providing money or chips to a house player, that the money or chips remain the house's property until the house player exits the game. New (4) clarifies that, while house money or house chips advanced to a house player may belong to the house, if the house player loses house money in a game, the house incurs the loss. Further, the house may not seek to recover the lost house money or chips, and the loss does not become a debt of the house player.

The following examples illustrate the rule:

Example One: Acme Card Room needs another player in order to have enough players to start a live card game, so it asks Joe Smith to be a house player. Acme provides Joe with \$40 in house chips (the chips belonging to the house). After playing for an hour, another participant wants to join the game, so Joe cashes out with \$25 remaining in chips. Under their arrangement, all \$25 in chips belong to the house. The house may not ask Joe to reimburse it for the \$15 in chips that were lost in the game.

Example Two: Acme Card Room uses Joe Smith as a house player under an agreement that the house will provide Joe with \$40 in house chips (the chips belong to the house), and Joe and the house will evenly split any money or chips Joe wins in the game. Joe cashes out of the game with \$60 in chips. Acme keeps \$50 (the \$40 initially advanced to Joe, plus \$10 as half of Joe's winnings above the house chip buy-in), and Joe walks away with \$10.

Example Three: Acme Card Room provides house player Joe Smith \$40 in house chips to help start a game, and agrees Joe can keep any winnings. After several hands, Joe exits the game having lost all of the house chips. Two hours later, a few of the regular players leave the game, so Acme again asks Joe to be a house player in order to keep the game going. The house provides Joe with an additional \$40 in house chips, again with the understanding that Joe can keep any winnings. Joe cashes out of the game that night with \$100 in chips. Acme is only entitled to its \$40 in chips provided in that game. Acme cannot require Joe to reimburse it for any money he lost in a prior game.

23.16.1705 AUTHORIZED SPORTS POOLS (1) through (3)(c) remain the same.

(d) A "selected point sports pool" in which the winner is the participant whose randomly assigned competitor is the first to attain a final score that matches a predetermined number (e.g., 28, 39). ~~If in a given week none of the competitors' scores match the predetermined number, the prize is carried over to the next and subsequent weeks until a match occurs. However, the pool must be designed to ensure that a prize does not exceed the value of \$2,500. The number of participants in a selected point sports pool is limited to the number of competitors in an established league. Competitors are randomly assigned to the participants and may be assigned for a single week or the duration of the pool.~~

(i) The number of participants in a selected point sports pool is limited to the number of competitors in an established league. Competitors are randomly assigned to the participants and may be assigned for a single week or the duration of the pool.

(ii) If declared by publicly posted rules before the sale of any chances, the pool may be designed to carry over the prize from week to week until a competitor's score matches the preselected score, or until the pool's predetermined conclusion if none of the competitor's scores match the preselected score. Subject to the limits provided in (d)(iii), participants may be required to increase their wager each week until a match occurs, or until the pool's predetermined conclusion if none of the competitor's scores match the preselected score. A competitor assigned to a participant who fails to pay the increased wager or otherwise drops out of the pool at

any time before a winner is declared must be deleted from the list of competitors in the league.

(iii) The pool must be designed so that the total of each participant's wager(s) does not exceed \$25, the total value of all prizes equals the total of all wagers, and the total value of all prizes awarded does not exceed \$2,500.

(iv) If no competitor obtains the preselected score before the predetermined conclusion to the pool, the prize(s) must be awarded to the participant(s) whose assigned competitor has achieved a score closest to the preselected score, or an alternate score, as may be established by publicly posted rules before the sale of any chances.

(e) through (g) remain the same.

AUTH: 23-5-115, 23-5-512, MCA

IMP: 23-5-502, 23-5-503, 23-5-512, MCA

RATIONALE AND JUSTIFICATION: These amendments are necessary to clarify selected point sports pools. While the previous rule allowed pools to extend beyond one week, these amendments authorize additional wagers for each additional event period, so long as the wager and prize limitations are not exceeded. The amendments clarify that, even with the authorization of additional wagers, the total amount of a participant's wagers may not exceed \$25, the maximum sports pool wager authorized by the law.

These amendments also clarify that sports pools must have a predetermined end, either by matching the preselected score, or by reaching an end date if the score is not matched. If the score is not matched before the predetermined end to the pool, the participant or participants whose competitor most closely matched the score, or matched an alternate score, as established by pool rules, must be declared the winner. For example, the pool rules may establish that, if none of the competitors matched the preselected score, the participant or participants whose team most closely matched, but did not exceed, the selected point score by the end of the season is declared the winner. In the same way, the pool rules may establish that, if none of the competitors matched the preselected score by the end of the season, the participant or participants whose team matched a previously selected alternate score shall be declared the winner.

Finally, the amendments establish that, if a participant drops out of a pool in a game that requires additional wagers, then the participant's competitor must be struck from the pool.

23.16.1929 REPAIRING MACHINES - APPROVAL (1) through (4) remain the same.

(5) To ~~assure~~ ensure the integrity, security, and monitoring of machines in service, a permitted machine may not be substituted or replaced until the replacement machine has been issued a permit by the department.

AUTH: 23-5-115, 23-5-621, MCA

IMP: 23-5-603, 23-5-616, 23-5-621, 23-5-631, MCA

RATIONALE AND JUSTIFICATION: This amendment merely corrects a grammatical error. No substantive changes are intended by this rule amendment.

23.16.3501 DEPARTMENT APPROVAL OF PROMOTIONAL GAMES OF CHANCE, DEVICES OR ENTERPRISES (1) through (7) remain the same.

(8) No department approval is required for ticket or card devices described under 23-5-112~~(46)~~(19)(a), MCA, and promotional wheel devices as defined herein, so long as such devices are bona fide promotional games of chance; and the ticket or card devices described under 23-5-112~~(46)~~(19)(a), MCA, comply with (7)(f) of this rule; and promotional wheel devices comply with (7)(e), (f), and (g) of this rule. For the purposes of this rule, a promotional wheel device is defined as one or more vertically constructed circular frames or disks, displaying various symbols, such as numbers or pre-identified sectors, that is freely spun for the random selection of a symbol as determined by a permanently stationary mark for selecting the particular symbol when the wheel stops spinning.

(9) through (12) remain the same.

AUTH: 23-5-115, MCA  
IMP: 23-5-112, 23-5-115, 23-5-152, MCA

RATIONALE AND JUSTIFICATION: These amendments are necessary to correct internal references to statute subsections. No substantive changes are intended by these rule amendments.

23.16.3801 REVIEW OF CARNIVAL GAMES (1) Carnival games that are intended to be operated at a fair or carnival may be submitted to the department for analysis with the purpose of determining if the games meet the requirements of 23-6-102, MCA. No games shall be authorized unless specifically approved by the department following a review of the game and how it is played. The department may authorize a game not listed in 23-6-104, MCA, if, after careful review, it can be demonstrated that winning is not contingent upon lot or chance and is based upon the skill of the player as defined under 23-6-104(2)(h)(xiv), MCA. No device, machine, instrument, apparatus, contrivance, scheme, or system which meets the definition of gambling as in 23-5-112~~(44)~~, MCA, shall be approved.

(2) through (5) remain the same.

AUTH: 23-5-115, MCA  
IMP: 23-6-104, MCA

RATIONALE AND JUSTIFICATION: This amendment is necessary to delete internal references to a statute subsection which changed due to prior amendments. No substantive change is intended by this rule amendment.

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 Rick Ask, Administrator, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, Montana, 59620-1424; telephone (406) 444-

1971; fax (406) 444-9157; or e-mail [rask@mt.gov](mailto:rask@mt.gov), and must be received no later than 5:00 p.m., June 19, 2014.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the department's web site at <https://doj.mt.gov/agooffice/administrative-rules>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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 adoption and amendment of these rules will not significantly and directly impact small businesses.

/s/ Tim Fox  
TIM FOX  
Attorney General, Department of Justice

/s/ Matthew T. Cochenour  
MATTHEW T. COCHENOUR  
Rule Reviewer

Certified to the Secretary of State May 12, 2014.

BEFORE THE WORKERS' COMPENSATION COURT  
OF THE STATE OF MONTANA

In the matter of the amendment of )  
ARM 24.5.301, 24.5.302, 24.5.303, )  
24.5.306, 24.5.307, 24.5.308, )  
24.5.309, 24.5.310, 24.5.311, )  
24.5.314, 24.5.316, 24.5.317, )  
24.5.318, 24.5.322, 24.5.323, )  
24.5.324, 24.5.325, 24.5.326, )  
24.5.327, 24.5.329, 24.5.330, )  
24.5.331, 24.5.332, 24.5.334, )  
24.5.335, 24.5.336, 24.5.337, )  
24.5.340, 24.5.342, 24.5.343, )  
24.5.344, 24.5.345, 24.5.346, )  
24.5.348, 24.5.349, 24.5.350, )  
24.5.351, and 24.5.352; the adoption )  
of NEW RULE I, regarding amended )  
petition, and NEW RULE II, )  
computation of time; and the repeal of )  
ARM 24.5.307A, regarding joinder )  
and service of alleged uninsured )  
employers, and ARM 24.5.313 )  
recusal )

NOTICE OF PUBLIC HEARING ON  
PROPOSED AMENDMENT,  
ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On July 14, 2014, at 10:00 a.m., the Workers' Compensation Court is holding a public hearing in the courtroom, Workers' Compensation Court, 1625 11th Avenue, Helena, MT, to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Workers' Compensation Court makes 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 Workers' Compensation Court no later than 5:00 p.m. on July 9, 2014, to advise us of the nature of the accommodation that you need. Please contact the Workers' Compensation Court, 1625 11th Avenue, P.O. Box 537, Helena, MT 59620-0537; telephone (406) 444-7794; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 444-7798; e-mail [dliwccfilings@mt.gov](mailto:dliwccfilings@mt.gov).

3. GENERAL STATEMENT OF REASONABLE NECESSITY FOR ALL AMENDED, ADOPTED, AND REPEALED RULES: The Workers' Compensation Court proposes these changes, additions, and repeals as part of its regular internal rules review, with the input of the court's rules committee, which advises the court on rules of practice. The court proposes amending its rules to conform to 2-4-201 and



39-71-2903, MCA, to adopt technological advances, to clarify ambiguous provisions, to improve efficiency by simplifying procedures and making the rules more internally consistent, and to improve procedures in the interests of justice. The court further believes reasonable necessity exists to amend the rules to make the terminology internally consistent and to conform to the style guidelines of the Legislative Services Division's Bill Drafting Manual and the Gregg Reference Manual, tenth edition, pursuant to ARM 1.2.519. The court believes reasonable necessity exists to clarify the rules and simplify their wording in order to minimize reliance upon lawyers and the courts in compliance with the provisions of 39-71-105, MCA. To improve clarity and minimize reliance upon lawyers and the courts, the court has combined all deadlines previously set forth throughout the rules in [NEW RULE II]. The court further proposes repealing rules which are redundant to and/or conflict with existing statutes. Where additional specific bases for a proposed amendment or adoption exist, or where additional comments about these general statements may be helpful, an additional statement of reasonable necessity immediately follows the specific rule.

4. The rules proposed for amendment provide as follows, stricken material interlined, new matter underlined:

24.5.301 PETITION FOR TRIAL (1) All requests for trial before the Workers' Compensation Court ~~shall~~ must be in petition form, and signed by the petitioner or ~~her/his~~ the petitioner's attorney. The petition ~~shall~~ must comply with ARM 24.5.303(5). Upon request, the court ~~will~~ provides a form which can be used as a petition. The petition ~~shall~~ must include the following information:

(a) through (c) remain the same.

(d) for accidents occurring before July 1, 1987, a statement to the effect that the parties have made an effort to resolve the dispute, but have been unable to do so;

(e) and (f) remain the same.

(g) a list of the petitioner's potential witnesses and a summary of the subject matter of ~~their~~ the witnesses' anticipated testimony; and

(h) a list of written documents relating to the claim which the petitioner may ~~be introduced~~ introduce as evidence ~~by the petitioner;~~

~~(i) a request for emergency trial shall be indicated in the title of the petition, and the facts constituting the emergency explained in the petition. (ARM 24.5.311)~~

(2) remains the same.

(3) Any claim for attorney fees, costs, and/or penalty with respect to the benefits or other relief sought by the petitioner ~~shall~~ must be joined and pleaded in the petition. Failure to join and plead a claim for attorney fees, costs, and/or penalty with respect to the benefits or other relief sought in the petition ~~shall~~ constitutes a waiver and ~~shall~~ bars any future claim with respect to such attorney fees, costs, and/or penalty.

(4) Except in cases involving ~~the uninsured employers' fund or involving a~~ request for relief against an employer, the caption of the petition, as well as subsequent pleadings, motions, briefs, and other documents, ~~shall~~ must not name the employer. This rule ~~shall not be construed as~~ does not ~~relieving~~ relieve any

employer from its duty to cooperate and assist its insurer, including any duty to assist in responding to discovery.

(5) There is no filing fee. Petitions and all other materials ~~are to~~ must be filed with the clerk of court at 1625 11th Avenue, P.O. Box 537, Helena, Montana MT 59624-0537. The party ~~should~~ shall file an original and ~~three~~ two copies of the petition, ~~and should~~ The petitioner shall provide indicate the names and addresses of all adverse parties to be served. ~~Failure~~ The court returns documents which fail to comply with (1) and (4) of this rule ~~will result in the document being returned to the~~ petitioner.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

REASON: The court proposes striking ARM 24.5.301(1)(i) because it is redundant to ARM 24.5.311(1).

24.5.302 RESPONSE TO PETITION (1) ~~Within 20 days after the service of a petition by the court~~ the time set forth in [NEW RULE II], the respondent(s) shall serve upon the petitioner and all other parties, and file with the court, a response which ~~shall~~ includes the following information:

(a) and (b) remain the same.

(c) a list of the respondent's potential witnesses and a summary of the subject matter of ~~their~~ the witnesses' anticipated testimony;

(d) and (e) remain the same.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.303 SERVICE AND COMPUTATION OF TIME (1) Except as provided below, the court ~~will~~ serves the furnished copies of the petition, amended petition, or third-party petition upon adverse parties and others, as designated in the petitioner's or third-party petitioner's instructions, by mailing them at from Helena, Montana, with first-class postage prepaid.

(a) ~~If the respondent or third-party respondent is an unrepresented claimant, other individual, corporation, partnership, limited liability company, or other entity other than a Montana state agency, insurer doing business in Montana, self-insurer, insurance guarantee fund, or insurer qualified to do business in Montana at the time of an alleged injury or occupational disease and its successors and predecessors,~~ The party filing the petition or third-party petition shall cause personal service of a summons and the petition or third-party petition upon the respondent or third-party respondent in accordance with the provisions of the Mont. R. Civ. P. Montana Rules of Civil Procedure regarding service of summons and complaint if the respondent or third-party respondent is an entity other than a Montana state agency, insurer doing business in Montana, self-insurer, insurance guarantee fund, or insurer

qualified to do business in Montana at the time of an alleged injury or occupational disease and its successors and predecessors.

(b) If the matter involves a third-party respondent, service shall must include all pleadings and orders filed in the case to date.

(c) Time lines for service, return of service, and response shall must be in accordance with the rules of the Workers' Compensation Court or as ordered by the Workers' Compensation Court.

(d) remains the same.

(2) All pleadings subsequent to the original petition, every written motion, and any other document described in ~~Rule 5~~, Mont. R. Civ. P. 5 shall must be accompanied by proof of service as provided in ~~Rule 5~~, Mont. R. Civ. P. 5 when submitted to the court. Service by mail is complete on mailing; a document and is deemed served on the date as shown on the proof of service.

~~(3) Whenever a party has the right or is required to do some act within a prescribed period of time after the service of a notice or other paper upon the party and the notice or paper is served by mail, three days shall will be added to the prescribed period.~~

~~(4) In computing the time for any response as provided for in these rules, weekends and holidays shall be included. If a deadline falls on a weekend or holiday the deadline is the next workday.~~

~~(5) (3) Unless the court specifically orders otherwise, filing with the court may be accomplished by mail addressed to the clerk, and with such filing will be deemed complete on the date shown on the certificate of mailing upon receipt by the court.~~

~~(6) (4) The court will accepts fax and electronic filings, but an original signature page of any document filed by fax or electronic means should must be filed in with the court within three days. the time set forth in [NEW RULE II]; otherwise the filing is void. The signature of an attorney or party on any fax or electronic filing shall have the same effect, and carry carries the same representations and consequences, as a signature on an original filing. Electronic filings must be in Portable Document Format (PDF).~~

~~(7) (5) Every pleading, motion, or other paper of a party represented by an attorney shall must be signed by at least one attorney of record in her/his the attorney's individual name, and must state the attorney's whose address, phone number, fax number, and e-mail address. shall be stated. A party who is not represented by an attorney shall sign the pleading, motion, or other paper and state her/his the party's address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney or party constitutes a certificate certification that the person party has read the pleading, motion, or other paper; that to the best of her/his the party's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed,~~

~~the court strikes~~ it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney fee.

AUTH: 2-4-201, 39-71-2901, 39-71-2903, 39-71-2905, MCA  
IMP: 2-4-201, 39-71-2901, MCA

REASON: The court proposes amending the catchphrase because all time requirements are now set forth in [NEW RULE II]. The court proposes striking (3) and (4) from ARM 24.5.303 and adding these provisions to [NEW RULE II]. The court believes a reasonable necessity exists to amend ARM 24.5.303, new (3), to make this court's filing requirements consistent with filing requirements in other courts in the state.

24.5.306 BREVITY IN PLEADINGS AND FORM OF PAPER PRESENTED FOR FILING (1) The court encourages brevity in all pleadings and other documents. Documents which, in the court's opinion, are rambling or verbose may be returned to the party who submitted the document, with instructions to correct any deficiencies and make the document more concise.

(2) All documents filed with the court shall must be typewritten or legibly printed on 8-1/2 x 11 8 1/2 x 11-inch unnumbered, unlined paper.

(a) Typewritten or machine-printed documents must use a font size of no smaller than 12 points.

(b) The court requests that parties produce all documents using a sans-serif font, preferably the font commonly known as Arial. Documents produced with a legible typeface are not rejected as nonconforming.

(3) The name of the attorney, if any, representing a petitioner or a respondent, or the name of the party appearing without an attorney, together with a telephone number ~~and a~~ complete mailing address, fax number, and e-mail address, must appear in the upper left-hand corner of the first page of any pleading filed with the court.

(4) All documents shall must be on standard quality, white or unbleached, unglazed, acid-free recycled paper, and be a minimum of 25% cotton fiber content and a minimum of 50% recycled content, of which 10% shall must be post-consumer waste.

(5) All documents filed with the court shall must be single-spaced with double spacing between paragraphs, printed on one side of the paper, and with margins of ~~one~~ 1 inch on all sides except the top margin which shall must be 1 1/2 inches.

(6) At the bottom of the second and all subsequent pages, the title of the ~~pleading~~ document and the page number shall must appear as a footer.

(7) Lines 1 through 7 of the right one-half of page 1 shall must be left blank for the use of the clerk.

(8) remains the same.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

REASON: The court believes reasonable necessity exists to amend ARM 24.5.306(2) to establish guidelines for the typeface used in documents filed with the court in order to facilitate the court's use of document-scanning technology both for internal use and to post publicly available documents on the court's web site.

24.5.307 THIRD-PARTY PRACTICE (1) Prior to or simultaneously with the filing of the response to a petition, the ~~responding party, an insurer or the uninsured employers' fund, respondent~~ may file a third-party petition with the court, naming anyone other insurer not already a party to the action ~~which who~~ may be liable to the ~~responding insurer, the uninsured employers' fund, or claimant~~ any named party for any or all or part of the claims asserted in the petition.

(a) The third-party petition shall must contain a short, plain statement of the party's contentions with regard to the third party's liability and may incorporate allegations of the petition and/or the response to the petition.

(b) ~~The party filing the third-party petition shall~~ must be filed in accordance with ARM 24.5.303 and [NEW RULE II] ~~serve the third-party petition upon the original petitioner in the case and shall file with the court an original and three copies of the third-party petition, along with a letter indicating the names and addresses of third parties to be served.~~

(c) ~~The court third-party petition shall~~ must be served ~~the furnished copies of the third-party petition along with all other pleadings and orders filed in the case to date upon the third party, who shall be referenced as the third-party respondent in accordance with ARM 24.5.303.~~

(2) After the response to a petition has been filed, any attempt to join a third party into a pending case shall must be through noticed motion in accordance with ARM 24.5.308.

(3) ~~Within 40 days after the service of a third-party petition by the court~~ the time set forth in [NEW RULE II], the third-party respondent shall serve upon all parties, and file with the court, a response which ~~shall comply~~ complies with ARM 24.5.302.

AUTH: 2-4-201, 39-71-2401, 39-71-2901, 39-71-2903, 39-71-2905, MCA

IMP: 2-4-201, 39-71-2901, MCA

REASON: The court proposes amending ARM 24.5.307(b) and (c) to make the filing and service of a third-party petition consistent with the filing and service of a petition and amended petition for hearing, in accordance with ARM 24.5.303 and [NEW

RULE II].

24.5.308 JOINING THIRD PARTIES (1) The joinder of parties shall be ~~is~~ governed where appropriate by the considerations set forth in ~~Rules 14, 19, 20, and 21 of the Mont. R. Civ. P. 14, 19, 20, and 21.~~

(2) Unless otherwise permitted by order of the court, a motion to join a third party must be served within ~~30 days of the service of the petition by the court~~ the time set forth in [NEW RULE II]. The motion shall ~~must~~ be filed and served on all parties and the proposed third party. Any party and the proposed third party shall have ~~40 days from the date of service~~ the time set forth in [NEW RULE II] to serve objections to the motion. The court may, for good cause shown, grant joinder on such terms and conditions as are necessary to protect the interests of the existing parties, including the interest of in a speedy remedy.

(3) If the joinder of a third party results in the trial being vacated and good cause is shown, the court may order the insurance company alleged to be at risk at the time of the accident to pay benefits pending the trial. Such insurer ~~has a right to~~ may seek indemnity from the responsible insurer if it is later determined that it ~~was~~ is not responsible liable.

(4) Within ~~40 days of an order joining a third party~~ the time set forth in [NEW RULE II], the joined party shall serve upon all parties, and file with the court, a response which shall ~~comply~~ complies with ARM 24.5.302.

AUTH: 2-4-201, 39-71-2401, 39-71-2901, 39-71-2903, 39-71-2905, MCA  
IMP: 2-4-201, 39-71-2901, MCA

24.5.309 INTERVENTION (1) Intervention in a pending proceeding shall be ~~is~~ governed by the considerations set forth in ~~Rule 24(a) and (b) of the Mont. R. Civ. P. 24(a) and (b).~~

(2) Unless otherwise permitted by order of the court, a motion to intervene must be served within ~~30 days of the service of the petition by the court~~ the time set forth in [NEW RULE II]. The motion shall ~~must~~ state the grounds upon which intervention is sought. A copy of the motion, supporting brief, and any affidavits shall ~~must~~ be served upon all parties. Any party to the dispute shall have ~~40 days following service~~ the time set forth in [NEW RULE II] to serve an answering brief. The court, in its discretion, ~~will~~ determines whether or not to allow intervention.

(3) If intervention results in the trial being vacated and good cause is shown, the court may order the insurance company alleged to be at risk at the time of the accident to pay benefits pending the trial. Such insurer ~~has a right to~~ may seek indemnity from the responsible insurer if it is later determined that it ~~was~~ is not responsible liable.

AUTH: 2-4-201, MCA  
IMP: 2-4-201, 39-71-2901, MCA

24.5.310 TIME AND PLACE OF TRIAL GENERALLY (1) The court has divided the state into six geographic areas. Generally, the court holds trials will be held in the places designated in (3) except for cases in the Butte venue, which shall be are tried in Helena unless the parties specifically request otherwise. Upon agreement of the parties and consent of the court, or upon order of the court, a trial may be held at any time and any place. The court ~~will~~ attempts to accommodate parties' requests for special trial settings; however, the court reserves the discretion to ~~finally~~ determine the time and place of all trials.

(2) remains the same.

(3) Each of the six areas designated for trial schedule purposes is named for the principal city in the counties making up the area as follows:

(a) Kalispell area:

(i) Flathead and Lincoln<sub>2</sub>

(b) Missoula area:

(i) Lake, Mineral, Missoula, Ravalli<sub>1</sub> and Sanders<sub>2</sub>

(c) Butte area:

(i) Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Powell, Silver Bow, Gallatin, Park, Sweet Grass<sub>1</sub> and Wheatland<sub>2</sub>

(d) Billings area:

(i) Big Horn, Carbon, Golden Valley, Musselshell, Petroleum, Stillwater, Treasure, Yellowstone, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Wibaux, Daniels, Garfield, Phillips, Roosevelt, Sheridan<sub>1</sub> and Valley<sub>2</sub>

(e) Great Falls area:

(i) Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith Basin, Liberty, Pondera, Teton<sub>1</sub> and Toole<sub>2</sub>

(f) Helena area:

(i) Broadwater, Lewis and Clark<sub>1</sub> and Meagher<sub>2</sub>

(4) Upon receipt of a petition regarding a dispute meeting the requirements of these rules, the court ~~will~~ issues a scheduling order fixing deadlines for discovery, the filing of pretrial motions, preparation of a pretrial order<sub>7</sub> and other pretrial matters<sub>2</sub>; setting the date of the final pretrial conference<sub>2</sub>; and setting a trial at a time that ~~will~~ allows 75 days' advanced notice ~~to be given of the trial.~~ The court may, for good cause, hold a trial over to the next regular trial date or specially set the trial for a different time and/or place.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.311 EMERGENCY TRIALS (1) A request for emergency trial must be indicated in the title of the petition, and the facts constituting the emergency explained in the petition. ~~Trials may be held by the~~ The court may hold trials upon less than 75 days' notice when good cause is shown. Such trials ~~shall be are~~ are termed "emergency trials". ~~." Facts~~ The petition must set forth facts constituting the

emergency ~~must be set forth in the petition~~ in sufficient detail for the court to determine whether an actual emergency exists. If good cause for the emergency setting is not shown in the petition, the court sets the trial on its regular trial calendar. The court, on its own motion, may set a trial as an emergency trial. When the court orders an emergency trial is ordered, the court shall give provides reasonable notice of the time and place for a pretrial conference and for the trial.

(2) If the court determines that good cause exists for an emergency trial setting, the court issues a notice to the opposing party. If the opposing party objects to the emergency trial setting, the party shall file a written objection within the time set forth in [NEW RULE II]. The written objection must contain a short, concise statement setting forth the basis for the objection. If no objection is filed within the time set forth in [NEW RULE II], the court deems the emergency request valid and grants an emergency trial setting. If the opposing party files a written objection, the court may hold a hearing to determine whether to allow the emergency setting. The court issues an order granting or denying the request for an emergency trial setting within 5 business days following the filing of the objection or at the conclusion of the hearing.

AUTH: 2-4-201, MCA  
IMP: 2-4-201, 39-71-2901, MCA

REASON: The court believes amending ARM 24.5.311(1) to require a petitioner to indicate the petitioner's request for an emergency trial in the title of the petition and to explain the reason for the request in the petition improves the present procedure in the interests of justice. ARM 24.5.311, new (2) is necessary to specify the procedure for the parties and the court to follow in considering requests for emergency trials.

24.5.314 ADJUDICATION OF INTERIM BENEFIT CLAIMS UNDER 39-71-610, MCA (1) Appeals of determinations by the Department of Labor and Industry regarding interim benefits under 39-71-610, MCA, may be presented to the court in letter form. ~~Such appeals shall be~~ The court initially addressed addresses such appeals informally ~~by the court~~ through telephone conference involving all parties.

(2) If any party objects to informal resolution of a dispute under 39-71-610, MCA, the court holds a formal evidentiary hearing ~~shall be held~~ on an expedited basis. Such hearing may be conducted through telephone conference if all parties agree. If requested by any party, the court promptly holds an in-person hearing ~~will be promptly held~~ in Helena or, at the court's discretion, in some other venue at a date and time set by the court.

AUTH: 2-4-201, 39-71-610, 39-71-2901, 39-71-2903, 39-71-2905, MCA  
IMP: 2-4-201, 39-71-2901, MCA



24.5.316 MOTIONS (1) Unless a different time is specified in these rules, the ~~time~~ deadline for filing any motion to amend a pleading, to dismiss, to quash, for summary judgment, to compel, for a protective order, in limine, or for other relief ~~shall be~~ is fixed by the court in a scheduling or other order.

(2) When an appeal is taken from a final order of the Department of Labor and Industry, unless a different time is fixed by order of the court, any motion related to the appeal must be filed and served prior to the date for submission of briefs.

(3) Every motion ~~shall~~ must be in writing and accompanied by a supporting brief. ~~The brief may be accompanied by appropriate supporting~~ Supporting documents and affidavits may accompany the briefs. An adverse party shall file an ~~answer~~ a response brief, ~~which shall be~~ accompanied by appropriate documents and affidavits, within ~~40 days~~ the time set forth in [NEW RULE II]. Within ~~5 days~~ the time set forth in [NEW RULE II] thereafter, the moving party may file a reply brief. The filing deadlines ~~set in this rule~~ may be changed by order of the court. In addition to the requirements set forth in this rule, a party filing a motion for summary judgment under ARM 24.5.329, as well as a party opposing that motion, shall comply with the requirements of that rule.

(a) A party shall not be required to file a response to a summary judgment motion earlier than the deadline for filing a response to a petition.

(4) Failure to file briefs may subject the motion to summary ruling. Failure of the moving party to file a brief with the motion ~~shall~~ may be deemed an admission that the motion is without merit. Failure of the adverse party to timely file ~~an answer~~ a response brief may be deemed an admission that the motion is well-taken. Reply briefs are optional; ~~and~~ failure to file a reply brief ~~will~~ does not subject the motion to summary ruling.

(5) Unless otherwise ordered, ~~the court does not permit~~ oral argument ~~will not be permitted~~. Unless the court orders oral argument ~~is ordered~~, or unless the time is enlarged by the court, the motion is deemed submitted at the expiration of any of the applicable time limits. If the court orders oral argument ~~is ordered~~, the motion ~~will be~~ is deemed submitted at the close of argument unless the court orders additional briefs, in which case the motion ~~will be~~ is deemed submitted at the time set for filing of the final brief.

(6) An application for an extension of time for filing briefs or affidavits ~~shall~~ must be made in writing but may be filed electronically or by fax. The application must state whether any party agrees to or opposes the extension of time requested. ~~An~~ The court may grant an application for an extension of time ~~may be granted by~~ the court without notice to the adverse party only upon the applicant's written certification that an attempt ~~has been~~ was made to contact the adverse party. Whenever the court grants an ex parte extension ~~has been granted~~, the moving party shall immediately advise the adverse party of the new due date. Except under extraordinary circumstances, the court does not grant extensions of more than 10 days from the original due date ~~shall not be granted~~. If the filing deadline has passed, the court grants extensions of time only for good cause shown.

(7) Nothing in this rule ~~shall be construed to~~ precludes the filing or

presentation of motions or objections related to evidentiary and other matters arising at trial.

(8) Motions regarding discovery, procedure, and similar pretrial issues may be presented informally by telephone conference, ~~call~~. The moving party shall arrange the call and for the participation of all parties. The court may designate a hearing examiner to preside and decide the motion. The court may make an oral ruling or direct that the motion be presented in writing and briefed. Any oral order ~~shall~~ must thereafter be confirmed by written order.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

REASON: The court believes a reasonable necessity exists to add ARM 24.5.316(3), new (a) in order to make this court's procedure consistent with M. R. Civ. P. 56(c)(1)(B). The underlying rationale of this procedure is that it allows a respondent adequate time to respond fully to a motion for summary judgment filed simultaneously with, or shortly after, the filing of a petition. The court proposes amending ARM 24.5.316(6) to assist the court in determining whether to grant or deny an application for extension of time. This would improve the current procedure in the interests of justice.

24.5.317 MEDICAL RECORDS (1) "Medical records" for purposes of this rule includes all medical notes, reports, test results, correspondence, and other written records or materials regularly maintained by any medical provider as a part of the provider's records or file. ~~The term shall also~~ "Medical records" includes all reports, correspondence, and other documents authored by any medical provider.

(2) Within the time set by the scheduling or other order of the court, the parties shall exchange all medical records in their parties' possession ~~relating relevant~~ to the claimant's work-related medical conditions, other than records of professional consultants who have not examined the claimant, and will not be witnesses at trial, and whose records the party does not intend to offer into evidence. Failure to exchange any medical record by the exchange deadline ~~shall~~ precludes its use at trial except by stipulation of the parties or order of the court for good cause.

(3) Any party who intends to object to the ~~authenticity or genuineness of any medical record, to its admissibility pursuant to Rule 803(6) Mont. R. Evid., or to its admissibility of a medical record on any ground other than relevancy,~~ shall make such objection in writing. All objections to medical records ~~shall~~ must identify each medical record to which an objection is made and the particular objections to the record. ~~The party shall serve its objections shall be served~~ upon the adverse party within such time fixed by the scheduling or other order of the court. Failure to object to a medical record in the manner and within the time specified by this rule ~~shall be~~ is deemed a waiver of any objection to the record, ~~other than on relevancy grounds,~~ and ~~shall~~ constitutes an admission by the party that the record is authentic and

admissible under the ~~Mont.R.Evid.~~ Montana Rules of Evidence and the rules of the Workers' Compensation Court.

(4) ~~Where a timely objection to a medical record is served, the record shall nonetheless be admitted, however, the party objecting to the record is entitled to call the medical provider or, if the objection is to the authenticity of the record, the custodian of the record as a witness either at trial or by deposition and to cross-examine the witness. A party is not required to call as a witness the medical provider or the custodian of the medical record solely for the purpose of authenticating the medical record. If a party timely objects to the authenticity of a medical record, that party may call the medical provider or the custodian of the record as a witness either at trial or by deposition and may examine the witness regarding the authenticity of the medical record.~~

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

REASON: The court proposes amending ARM 24.5.317(4) to simplify the language used in order to clarify this rule for parties appearing before the court.

24.5.318 PRETRIAL CONFERENCE AND ORDER (1) A final pretrial conference ~~shall precede~~ every trial unless otherwise ordered by the court.

(2) and (3) remain the same.

(4) At the time of the pretrial conference, or as otherwise ordered by the court, the parties shall present a proposed pretrial order in the form provided in (5). Disputes as to the content of the final pretrial order ~~shall~~ must be presented and resolved at the pretrial conference. The final, signed pretrial order ~~shall~~ must be filed and received at the court ~~by the Friday preceding the trial~~ on the date as set forth in the scheduling order.

(5) The pretrial order must be signed by all parties and ~~shall~~ set forth the following:

(a) through (e) remain the same.

(f) ~~the petitioner's and respondent's~~ parties' contentions, including in the case of ~~petitioner~~ the claimant all contentions which provide the basis for any claim of unreasonableness on the part of the insurer;

(g) a list of all exhibits to be offered by each party on an attached exhibit grid, including ~~the grounds of~~ any objections an adverse party may have to the admission of particular exhibits and the grounds upon which those objections are made;

(h) through (k) remain the same.

(6) Upon approval by the court, the pretrial order ~~shall~~ supersede all other pleadings and ~~shall~~ govern the trial proceedings. Amendments to the pretrial order ~~shall be~~ are allowed by either stipulation of the parties or leave of court for good cause shown.

(7) The parties must provide All all exhibits which ~~will be offered~~ either party intends to offer at trial ~~shall be provided~~ to the court at the time of the pretrial

~~conference on the date set forth in the scheduling order. The exhibits shall must be bound or in a three-ring notebook. The exhibits shall be tabbed and numbered consecutively. All pages within an exhibit shall be numbered beginning with 1. All parties' exhibits must be combined in the same exhibit notebook and must be tabbed and numbered sequentially beginning with 1. The pages within each exhibit must be numbered sequentially beginning with 1. Exhibits attached to depositions must also be numbered sequentially. The court may refuse to accept exhibits which do not meet these criteria and/or may order the parties to resubmit the exhibits in the correct format. The petitioner shall provide an additional exhibit book for trial witnesses.~~

(8) Upon request, the court may schedule and hold an earlier preliminary pretrial conference ~~may be scheduled and held~~ to address any discovery or other issues encountered by the parties.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

REASON: To allow flexibility in its due dates which can benefit both the parties appearing and the court, the court proposes amending ARM 24.5.318(4) and (7). The court proposes amending ARM 24.5.318(5)(g) to require the parties to attach the exhibit grid to the pretrial order to improve efficiency and court procedures. The proposed amendment to ARM 24.5.318(7) clarifies the procedure for submitting trial exhibits. The court believes a reasonable necessity exists to add the requirement that the petitioner shall supply an additional exhibit notebook for trial witnesses; the lack of an extra exhibit notebook has obligated the court to offer its copy to witnesses, which does not allow the court to follow along with the exhibits during testimony.

24.5.322 DEPOSITIONS (1) remains the same.

(2) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the proceeding. The notice ~~shall~~ must state the time and place for taking the deposition and the name and address of each person to be examined. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena ~~shall~~ must be attached to or included in the notice.

(3) remains the same.

(4) Examination and cross-examination of witnesses may proceed in the same manner as permitted at the trial. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the officer's direction and in that person's presence, record the testimony of the witness. The testimony ~~shall~~ must be stenographically recorded unless otherwise ordered by the court. If requested by one of the parties, the testimony ~~shall~~ must be transcribed.

(5) Unless otherwise agreed by the parties, all objections must be made at the time of taking the deposition and be included within the transcript of the deposition. Evidence objected to shall must be taken subject to the objections. Deposition objections must be briefed ~~in the parties' proposed findings of fact and conclusions of law.~~ Failure The court may deem the failure to do so will be deemed a withdrawal of the objections.

(6) At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the taking of the deposition shall must be suspended for the time necessary for the objecting party to move the court for an order. The court may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition. If the court's order made terminates the examination, ~~it shall~~ the deposition may be resumed thereafter only upon ~~the~~ further order of the court. The provisions of ARM 24.5.326 apply to the award of expenses incurred in relation to the motion.

(7) When the testimony is fully transcribed, the deposition shall must be submitted to the witness for examination and shall be read to or by the witness. Any changes in form or substance which the witness desires to make shall must be entered upon the deposition, which shall must then be signed by the witness under oath, unless the parties and the witness waive the signing or the witness is ill, or cannot be found, or refuses to sign. If the witness does not sign the deposition ~~is not signed by the witness within 40 days of its submission to the witness~~ the time set forth in [NEW RULE II], the officer shall sign it and state on the record the reason, if any, that the deposition has not been signed. The deposition and it may then be used as fully as though signed.

(8) and (9) remain the same.

(10) Any party participating in a deposition may make a simultaneous videotape or digital recording of the deposition. A party who intends to videotape or digitally record a deposition shall, in the notice of deposition, notify all parties of ~~her/his intention. A copy of the videotaped deposition must be provided to all parties.~~ If any party proposes to offer the videotaped or digitally recorded deposition for the court's consideration, that party shall provide a copy to the court. Any videotaped or digitally recorded deposition provided to the court shall must be in VHS or DVD format, and shall be labeled with the name of the case and the name or names of all witnesses whose depositions are contained on the videotaped or digitally recorded deposition. Each videotaped or digitally recorded deposition filed with the court shall must be accompanied by a transcript prepared by the court reporter who attended ~~was present at~~ the deposition.

(11) A party may take a deposition upon written questions. Reasonable notice of the name and address of the person who is to answer the questions and the name or descriptive title and address of the officer before whom the deposition is to be taken shall must be given to opposing parties. Within ~~40 days~~ the time set forth in [NEW RULE II] after the notice and written questions are served, a party may

serve cross-questions upon all other parties. Thereafter, within ~~10 days~~ the time set forth in [NEW RULE II], a party may serve redirect questions. Recross-questions ~~must~~ may be served upon all other parties within ~~5 days of~~ the time set forth in [NEW RULE II] after the service of the redirect questions.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

REASON: The court proposes amending ARM 24.5.322(5) to simplify the procedure for objecting to deposition testimony.

24.5.323 INTERROGATORIES (1) A party may serve written interrogatories upon an adverse party, either with the petition or at any time after the service of a petition, ~~written interrogatories to be answered by the party served~~. ~~Where~~ If a party wishes to serve interrogatories with the petition, the party shall furnish sufficient copies to the court for service with the petition.

(2) The party upon whom the interrogatories have been served shall serve a copy of the answers on the party submitting the interrogatories within ~~20 days after the service of the interrogatories~~ the time set forth in [NEW RULE II], unless the court lengthens or shortens the time. ~~In no event shall answers~~ Answers must not be due in less than 30 days from the service of the petition.

(3) If the interrogatories are propounded upon the claimant or any other party who is a natural person, then the party shall sign the answers ~~must be signed~~ under oath ~~by the party~~. If the party is the insurer or other entity which is not a natural person, then the party's attorney or other representative of the party may sign the answers and such answers need not be verified. Whether or not verified, the signature of the person signing the answers ~~shall constitute~~ a certification that the answers are complete and truthful to the best of the signor's knowledge.

(4) If the answers to interrogatories are made on behalf of an insurer or some other party which is not a natural person, the party propounding the interrogatories may, after receiving the answers, request that the answers be verified, under oath, by the person employed by the insurer or party, other than an attorney for the insurer or party, having the most knowledge of the subject matters mentioned in the interrogatories. The request must be made in writing but need not be filed with the court. Within ~~10 days after the request is served~~ the time set forth in [NEW RULE II], the insurer or other party shall provide the requested verification.

(5) Proof of service of interrogatories and answers thereto must be filed with the court simultaneously with the service of discovery on the other party. Interrogatories and answers thereto ~~shall~~ must not be filed except by leave of the court. When ~~any~~ a motion is filed making reference to an interrogatory answers, the party filing the motion shall also submit ~~with the motion~~ the relevant interrogatories interrogatory and interrogatory answers to which reference is made. Answers to interrogatories may be used at trial to the extent allowed by the ~~Mont. R. Evid.~~ Montana Rules of Evidence and the ~~Mont. R. Civ. P.~~ Montana Rules of Civil

Procedure.

(6) No party shall serve on any other party more than 20 interrogatories in the aggregate, inclusive of subparts. Subparts of any interrogatories shall must relate directly to the subject matter of the interrogatory. Any party desiring to serve additional interrogatories shall must file a written motion setting forth the proposed additional interrogatories and the reasons establishing the necessity for their use.

(7) Each interrogatory shall must be answered separately and fully in writing under oath unless it is objected to, in which event the reasons for objection shall must be stated in lieu of an answer. Objections may be made because of annoyance, expense, embarrassment, oppression, irrelevance, or other good cause. Objections ~~are to be~~ must be signed by the attorney party making them. The party answering the interrogatories shall set forth a verbatim recopy of each of the interrogatories, followed by the answer or objection thereto.

(8) and (9) remain the same.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.324 REQUEST FOR PRODUCTION (1) A party may serve a request for production upon an adverse party either with the petition or at any time after the service of a petition ~~a request for production~~. ~~Where~~ If a party wishes to serve a request for production with the petition, the party shall furnish sufficient copies to the court for service with the petition. The request may be:

(a) to produce and permit the party making the request, or the party's agent, to inspect and copy any designated documents or records, or to copy, test, or sample any tangible things, which may be relevant and which are in the possession, custody, or control of the party upon whom the request is served; or

(b) remains the same.

(2) Proof of service of requests for production and responses thereto must be filed with the court simultaneously with the service of discovery on the other party. Requests for production and answers thereto shall must not be filed except by leave of the court. When a motion is filed making reference to a request for production, the party filing the motion shall also submit ~~with that motion~~, the request for production, the response thereto, and the documents produced pursuant to the ~~request response~~. Requests for production and ~~answers~~ responses thereto may be used at trial to the extent allowed by the ~~Mont. R. Evid.~~ Montana Rules of Evidence and the ~~Mont. R. Civ. P.~~ Montana Rules of Civil Procedure.

(3) The party upon whom a request for production is served shall serve a written response within ~~20 days after service of the request~~ the time set forth in [NEW RULE II] unless the court lengthens or shortens the time. ~~The court may allow a longer or shorter time. In no event shall a~~ A response must not be due in less than 30 days from the service of the petition. The response shall must state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the

reasons for objection shall must be stated. For a partial objection, the part subject to objection shall must be specified.

(4) If the request is for production of the file of a party and objection is made to such production on the grounds of privilege or work product, the objecting party shall produce all documents other than those specific documents which are subject to objection. Where the objection is only to part of a document, the document shall must be produced with the ~~objected~~ portions subject to objection ~~deleted~~ redacted. The objecting party shall also provide in its response a list of documents which are subject to objections, specifically identifying:

(a) through (d) remain the same.

(e) where the document is a communication, the author of the document, ~~and her/his~~ the address of the author, and the relationship of the author and the addressee;

(f) through (5) remain the same.

(6) ~~An~~ The court rules upon objections based on a claims of attorney-client privilege or work product ~~will be ruled on~~ only upon the filing of a motion to compel, at which time the following procedure ~~shall apply~~ applies:

(a) along with ~~its answer~~ the response brief, ~~counsel~~ for the objecting party shall furnish the court with a copy of ~~its~~ the original response to the request for production and the original or a copy of all documents which are identified in the motion to compel;

(b) where only parts of the document are subject to an objection, ~~counsel~~ for the objecting party shall identify those parts; and

(c) remains the same.

(7) If the request is intended to obtain the production of documents which are not in the adverse party's possession but are within the adverse party's custody or control, unless otherwise ordered by the court, the adverse party may, in lieu of providing the documents, provide an authorization or a release as necessary to obtain such documents from all persons or entities physically possessing the documents.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

REASON: The court proposes amending ARM 24.5.324(2) to better allow the court to make an informed ruling when discovery disputes involving dates of service arise.

24.5.325 LIMITING DISCOVERY (1) through (1)(e) remain the same.

(f) that a deposition, after being sealed, be opened only by order of the court;

(g) through (2) remain the same.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA



24.5.326 FAILURE TO MAKE DISCOVERY -- SANCTIONS (1) If a party fails to respond to discovery pursuant to these rules, or makes evasive or incomplete responses to discovery, or objects to discovery, the party seeking discovery may move for an order compelling responses. With respect to a motion to compel discovery, the court may, at the request of a party or upon its own motion, impose such sanctions as it deems appropriate. Such sanctions include but are not limited to including, but not limited to, awarding the prevailing party attorney fees and reasonable expenses incurred in obtaining the order or in opposing the motion. ~~Sanctions shall be imposed~~ The court imposes sanctions against the nonprevailing party unless the party's position with regard to the motion to compel was substantially justified or other circumstances make sanctions unjust. If the party ~~shall~~ fails to make discovery following issuance of an order compelling responses, the court may order such sanctions as it deems ~~required and~~ just under the circumstances. Prior to any imposition of sanctions, the court ~~shall~~ provides the party who may be sanctioned with the opportunity for a hearing.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.327 DEFAULT (1) If a party required to file a responsive pleading under these rules fails to file a responsive pleading within the time specified, or otherwise fails to defend, the court at the request of the petitioner or upon its own motion may issue an order providing that the party shall file a responsive pleading within 10 days, or in the alternative, shall appear before the court at a specified date, time, and place to show cause why the party should not be found in default and relief granted in accordance with the petition. The order ~~shall be~~ is served by mail if upon an insurer, otherwise by certified mail or through personal service as directed by and at the discretion of the court.

(2) through (4) remain the same.

(5) Applications for relief from default judgment must be ~~made within 60 days after judgment is entered and~~ based upon good cause shown, such as mistake, inadvertence, surprise, or excusable neglect, and must be made within the time set forth in [NEW RULE II].

AUTH: 2-4-201, 39-71-2901, 39-71-2903, 39-71-2905, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.329 SUMMARY JUDGMENT (1)(a) A party may, at any time after the filing of a petition for hearing, move for a summary judgment in the party's favor upon all or any part of a claim or defense.

~~(a) The time for filing shall be fixed by the court as provided by ARM 24.5.316(1).~~ The court fixes the time for filing as provided by ARM 24.5.316(1).

(b) Because the court hears cases in the Workers' Compensation Court ~~are heard~~ on an expedited basis, a motion for summary judgment may delay the trial

without any corresponding economies. The time and effort involved in preparing briefs and resolving the motion may be as great or greater than that expended in resolving the disputed issues by trial. For these reasons, the court typically disfavors summary judgment motions ~~typically will be disfavored~~. The court may decline to consider individual summary judgment motions where it concludes that the issues may be resolved as expeditiously by trial as by motion.

(c) remains the same.

(2) Subject to the other provisions of this rule, the court renders summary judgment ~~shall be rendered~~ forthwith if the pleadings, depositions, answers to interrogatories, and responses to requests for production, together with the affidavits, if any, show that ~~there is~~ no genuine issue exists as to any material fact and that the moving party is entitled to a judgment as a matter of law.

(3) Any party filing a motion under this rule shall include in its brief a statement of uncontroverted facts, ~~which shall~~ setting forth in full the specific facts on which the party relies in support of the motion. ~~The specific facts shall be set forth in serial fashion and not in narrative form. As to each fact, the statement shall refer to a specific pleading, affidavit, or other document where the fact may be found.~~ Any party opposing a motion filed under this rule shall include in ~~their~~ the party's opposition a brief statement of genuine issues, setting forth the specific facts which the opposing party asserts establish a genuine issue of material fact precluding summary judgment in favor of the moving party. Each party's brief must set forth the specific facts in serial fashion and not in narrative form. As to each fact, the statement must refer to a specific pleading, affidavit, or other document where the fact may be found.

(4) If the movant and the party opposing the motion agree that ~~there is~~ no genuine issue of any material fact exists, they shall jointly file a stipulation with the court setting forth a statement of stipulated facts. This stipulation ~~shall~~ must be prepared and filed in lieu of the statements required by (3) of this rule.

(5) If either party desires a hearing on the motion, ~~a request must be made~~ the party shall make the request in writing no later than the time specified for the filing of the last brief. The court ~~will~~ may thereupon set a time and place for hearing. If no request for hearing is made, any right to hearing afforded by these rules ~~will be~~ is deemed waived. The court may order a hearing on its own motion.

(6) If on motion under this rule the court does not render judgment ~~is not rendered~~ upon the whole case or for all the relief ~~asked~~ requested and a trial is necessary, the court, ~~by examining the pleadings and the evidence before it, and in its discretion, by interrogating counsel, shall if practicable~~ may on its own motion ascertain what material facts exist without substantial controversy and what material facts are ~~actually and~~ in good faith controverted. ~~It~~ The court shall thereupon make an order specifying the facts that appear without substantial controversy, and ~~directing~~ directs such further proceedings in the action as are just. Upon the trial of the action, the court deems the facts so specified ~~shall be deemed~~ established, and conducts the trial ~~shall be conducted~~ accordingly.

(7) Supporting and opposing affidavits ~~shall~~ must: be made on personal

knowledge; shall set forth such facts as would be admissible in evidence; and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall must be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to discovery, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that ~~there is~~ a genuine issue exists for trial. If the adverse party does not so respond, the court may enter summary judgment, ~~if appropriate, may be entered~~ against the adverse party.

(8) remains the same.

(9) ~~Should~~ If it appears to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court ~~shall forthwith~~ orders the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

REASON: The court proposes amending ARM 24.5.329(3) to improve court efficiency by simplifying the filing procedure. The court proposes amending ARM 24.5.329(6) to clarify that the court may determine certain issues without a motion.

24.5.330 VACATING AND RESETTING TRIAL (1) A party shall request to vacate and reset a trial ~~must be~~ in writing and ~~be supported by~~ for good cause shown. The application must state whether any party agrees to or opposes the request.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.331 SUBPOENA (1) Every subpoena ~~shall state the name of the court, the title of the action, and the case number, and shall must command each person to whom it is directed to attend and give testimony at a time and place therein specified. The clerk shall issue a subpoena or a subpoena for the production of documentary evidence. An attorney as an officer of the court may also issue and sign a subpoena or subpoena for the production of documentary evidence on behalf of the court. A subpoena may be issued only for trial a court proceeding or a noticed deposition. If all parties to the action agree, subpoenaed documents may be produced without the necessity of a noticed deposition, such as by simultaneous~~

~~mailing to all parties or through production at a time and place agreed upon by the parties without the presence of a court reporter, otherwise the documents must be produced at trial or at a deposition with a court reporter.~~

~~(2) A subpoena may be issued for the purpose of taking a duly noticed deposition or compelling attendance of a witness at trial, and may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein in accordance with (1); but the court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may quash or modify the subpoena if it is unreasonable, unduly burdensome or oppressive, or condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things. Any party serving a subpoena for the production of documentary evidence shall provide all other parties to the dispute reasonable notice of the place, date, and time for such production. In the event a subpoena is found to be unreasonable, unduly burdensome, or oppressive, the court may impose sanctions on the party issuing or requesting the subpoena, which may include, but are not limited to, lost earnings and a reasonable attorney fee.~~

~~(3) A subpoena may be served by any person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall must be made by delivering a copy thereof to such person and, if the person's attendance is commanded, by tendering to that person the fees for one day's attendance and the mileage allowed by state law. The service must be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance.~~

~~(4) If the subpoena is for the production of the file of a party, and objection is made to the production of such file, the deposition, if one is in progress, shall must be recessed, and the procedures set forth in ARM 24.5.324(4) shall must be followed.~~

~~(5) Failure by any person without adequate excuse to obey a subpoena served upon her/him that person may be deemed a contempt of the court must comply with M. R. Civ. P. 45.~~

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

REASON: The court proposes amending ARM 24.5.331 because the rule is redundant to M. R. Civ. P. 45. However, the court proposes amendment, rather than repeal, of this rule to assist non-attorney parties in locating the procedure regarding subpoenas.

24.5.332 CONDUCT OF TRIAL (1) remains the same.

(2) The trial will be conducted court conducts trials in the same manner as a trial without a jury. The trial shall Trials must proceed in the following order unless

the court, for good cause and special reasons, otherwise directs.

(a) The party on whom rests the burden of the issues may briefly state ~~his~~ the party's case and the evidence by which ~~he~~ the party expects to sustain it.

(b) The adverse party may then briefly state ~~his~~ the adverse party's defense and the evidence ~~he~~ the adverse party expects to offer in support of it, or ~~he~~ may wait and do this at the beginning of ~~his~~ the adverse party's case-in-chief.

(c) The party on whom rests the burden of the issues ~~must~~ shall produce ~~his~~ the party's evidence; the adverse party ~~will~~ shall then follow with ~~his~~ the adverse party's evidence.

(d) The parties ~~will~~ shall then be confined to rebuttal evidence, unless the court, for good reasons and in the furtherance of justice, permits either party to offer further evidence in support of its case-in-chief.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.334 SETTLEMENT CONFERENCE (1) In its discretion, the court may, either on its own motion or upon request of any party, order a settlement conference at any time before decision in any case pending before the court. ~~Such settlement conference will normally be conducted by a~~ A hearing examiner appointed by the court or, if the parties agree, by an outside mediator, normally conducts the settlement conference. ~~However, if the parties agree, an outside mediator may conduct the conference.~~ In the event if the parties use an outside mediator is used, the parties shall share and pay the expense of hiring the mediator. The conference may be in person or by conference telephone conference call at a time and place as the court may direct. The court may direct that the person with ultimate settlement authority for each party attend be present at the conference.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.335 BENCH RULINGS (1) ~~In order to more promptly deliver decisions in cases pending before the court, particularly those cases that do not involve complex factual questions or unique questions of law, t~~ The court may, in its sole discretion, issue a bench ruling following the close of the testimony in a case. If the court issues a bench ruling is issued, the court utilizes the following procedure will be followed:

(a) The judge ~~will~~ announces ~~his~~ the decision to the parties in open court, outlining the factual and legal reasoning therefor.

(b) The judge may direct one of the parties, usually the prevailing party, to reduce ~~his~~ the decision to writing by preparing written findings of fact, conclusions of law, and judgment.

(c) Following entry of the court's written findings of fact, ~~and~~ conclusions of law, and judgment, the parties shall have ~~20 days~~ the time set forth in [NEW RULE

II] in which to file objections to the court's decision and to request a rehearing, pursuant to ARM 24.5.344.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.336 FINDINGS OF FACT AND CONCLUSIONS OF LAW AND BRIEFS

(1) The court may require any or all parties to file briefs or other documents ~~to be filed by either or both parties.~~

(2) The court may require either any or ~~both~~ all parties to file proposed findings of fact and conclusions of law. Requests that a decision not be certified as final pursuant to ARM 24.5.348~~(3)~~ (4) should ordinarily be included in the proposed findings of fact and conclusions of law, with the basis for the request set forth.

(3) Briefs and proposed findings of fact and conclusions of law ~~will~~ must be filed ~~at a~~ by the date set by the judge or hearing examiner.

(4) Briefs and proposed findings of fact and conclusions of law ~~may~~ cannot be filed after the due date except by leave of court.

(5) The court encourages any party filing a trial brief or proposed findings of fact and conclusions of law to submit the document in electronic form by attaching it to an e-mail addressed to the court. Any party e-mailing such a brief or proposed findings and conclusions shall also file the original of the document with the court and serve the other parties as required by ARM 24.5.303.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

REASON: The court proposes amending ARM 24.5.336(1) and (2) to clarify that more than two parties to an action may exist. Additionally, the proposed amendment corrects an erroneous subparagraph citation. The corrections to ARM 24.5.336(3) and (4) clarify that any findings of fact and conclusions of law filed by a party are merely "proposed." The court proposes new (5) to encourage parties to submit these filings in electronic form for the court's internal use which increases efficiency.

24.5.337 MOTION FOR RECONSIDERATION (1) Any party may move for reconsideration of any order or decision of the Workers' Compensation Court. The motion ~~shall~~ must be filed within ~~20 days~~ the time set forth in [NEW RULE II] after the ~~order or decision is served~~ court issues its order or decision. The opposing party shall have ~~40 days~~ the time set forth in [NEW RULE II] thereafter to respond unless the court orders an earlier response. Upon receipt of the response, or the expiration of the time for such response, the court deems the motion ~~will be deemed~~ submitted for decision unless the court requests oral argument. The court does not consider reply briefs from moving parties.

(2) remains the same.

(3) If the motion requests reconsideration of an appealable order or

judgment, the court does not deem the original order or judgment shall not be final until and unless the court denies the motion.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.340 MASTERS AND EXAMINERS -- PROCEDURE --  
RECOMMENDATIONS FOR BENCH ORDERS (1) remains the same.

(2) ~~Masters will be appointed and serve~~ The court appoints masters pursuant to ~~Rule 53, Mont. R. Civ. P. 53.~~ In the event that a master is appointed, Masters utilize the procedures set forth in ~~Rule 53 shall be utilized~~ M. R. Civ. P. 53 insofar as they relate to a trial without a jury.

(3) ~~Examiners will be appointed and serve~~ The court appoints examiners pursuant to 2-4-611, MCA. Examiners serve pursuant to 2-4-611, MCA. However, ~~because of the overriding concern in a workers' compensation case to render a prompt decision, especially in matters concerning the payment of a workers' biweekly compensation benefits, and because of the time delays inherent in the procedures set forth in 2-4-621 and 2-4-622, MCA, such provisions are not appropriate in Workers' Compensation Court proceedings within the meaning of 39-71-2903, MCA. In lieu thereof, the court will utilize~~ the following procedure in cases where it appoints a hearing examiner has been appointed.

(a) Following submission of the case, the hearing examiner ~~will submit~~ her/his proposed findings of fact and conclusions of law to the judge. The court does not serve the proposed decision of the hearing examiner ~~will not be served~~ upon the parties until after the judge has ~~made a ruling~~ ruled thereon. The judge ~~will decide~~ make a decision as to whether to adopt the proposed findings of fact and conclusions of law of the hearing examiner based solely upon the record and pleadings made before the hearing examiner. The court does not reject or revise Findings findings of fact made by a hearing examiner ~~will not be rejected or revised~~ unless the court first determines from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The court may, upon its own motion, reconsider or alter ~~Conclusions conclusions~~ of law and interpretations of statutes or rules written by a hearing examiner ~~may be reconsidered or altered by the court upon its own motion.~~ Subject to the provisions of this subsection, the court ~~will enter~~ enters its order and judgment adopting the decision of the hearing examiner.

(b) Any party aggrieved by a decision of a hearing examiner adopted pursuant to this rule, may obtain review thereof by filing a motion pursuant to ARM 24.5.344. Upon the filing of such a motion by either any party, the court ~~will, in its discretion, liberally grants~~ the opportunity for oral argument as to whether it should: amend the decision; ~~should be amended,~~ hear additional evidence; ~~should be heard,~~ or grant a new trial ~~should be granted.~~

(4) An examiner may, during or at the conclusion of a trial or a pretrial

conference, advise the parties that an interlocutory order for payment of benefits or other relief to a party appears to be justified and promptly submit such an order ~~will be forthwith submitted~~ for approval by the judge.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.342 TAXATION OF COSTS (1) Unless otherwise ordered by the court, ~~within 40 days after the entry of a judgment allowing costs~~ the time set forth in [NEW RULE II], a prevailing claimant shall serve an application for taxation of costs on the ~~parties~~ any party against whom costs are to be ~~allowed~~ an application for taxation of costs assessed. The claimant shall file the application ~~must be filed~~ with the court.

(2) ~~The application for taxation of costs must be signed by the attorney for the claimant, or the claimant personally; if appearing pro sé,~~ shall sign the application for taxation of costs. The signature on the application is a certification by the person signing the application of the accuracy of the costs claimed and that the costs incurred were reasonable and necessary to the case.

(3) The court ~~will allow~~ reasonable costs. The court judges the reasonableness of a given item of cost claimed ~~is judged~~ in light of the facts and circumstances of the case, and the issues upon which the claimant prevailed.

(4) through (4)(d) remain the same.

(e) fees and expenses necessary for the perpetuation or presentation of evidence offered at trial, such as recording, videotaping, or photographing exhibits;

(f) through (6) remain the same.

(7) ~~An insurer may make specific objection to any item of costs claimed within 10 days of the service of the application.~~ If an insurer objects to any item of costs claimed:

(a) Within the time set forth in [NEW RULE II], the insurer shall serve on the prevailing claimant written objections to specific items of costs. The insurer shall file the objections with the court.

(b) Within the time set forth in [NEW RULE II], the prevailing claimant shall serve on the insurer a response. The claimant shall file the response with the court. No reply brief is allowed.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

REASON: The court proposes amending ARM 24.5.342(7) to improve the current procedure in the interests of justice.

24.5.343 ATTORNEY FEES (1) remains the same.

(2) The court ~~will determine~~ and awards reasonable attorney fees in the following manner.

(a) Within ~~20 days~~ the time set forth in [NEW RULE II], following the



expiration of the appeal period or remittitur on appeal of the court's final decision, or within ~~20 days~~ the time set forth in [NEW RULE II], after the filing of the court's decision which pursuant to ARM 24.5.348(2) holds that the decision is not certified as final, the claimant's attorney shall file with the court a claim for attorney fees which ~~shall~~ contains the following:

(i) and (ii) remain the same.

(iii) the attorney's claim concerning ~~her/his~~ the attorney's hourly fee.

(b) Within ~~20 days~~ the time set forth in [NEW RULE II], following the service of a claim for attorney fees, any party to the dispute may file an objection to the fees' reasonableness ~~of the fees~~, specifically identifying the objectionable portions of the claim and stating the reasons for the objection. General allegations to the effect that the award is unreasonable ~~shall~~ are not be sufficient.

(c) ~~If an objection is made~~ If a party objects to the reasonableness of the attorney fee claim, any party may request an evidentiary hearing, stating ~~specifically~~ the specific reasons a hearing is ~~needed~~ necessary. The request for hearing must be made at the same time an objection is filed if by the objecting party, or within ~~40 days~~ the time set forth in [NEW RULE II], of the filing of the objection if requested by the claimant's attorney.

(d) The court ~~will determine~~ if it requires an evidentiary hearing ~~is required~~. If the court deems a hearing is deemed necessary, it will be scheduled at the court's earliest convenience, and the ~~The~~ court ~~will~~ issues its decision following the hearing. ~~Evidentiary~~ The court sets evidentiary hearings ~~will generally be set in Helena unless a party demonstrates good cause to the contrary can be demonstrated by a party.~~ If the court determines that no hearing is necessary, the court ~~will determine~~ attorney fees based on the claim and objections. No additional pleadings ~~will be~~ are allowed unless requested by the court.

(e) The court's determination of reasonable attorney fees is a final decision for ~~the~~ purposes of appeal.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.344 PETITION FOR NEW TRIAL AND/OR REQUEST FOR AMENDMENT TO FINDINGS OF FACT AND CONCLUSIONS OF LAW (1) After a trial, the court ~~will issue~~ issues an order or ~~will issue~~ findings of fact, ~~and~~ conclusions of law, and judgment setting forth the court's determination of the disputed issues. A party to the dispute may petition for a new trial or request amendment to the court's findings of fact and conclusions of law within ~~20 days~~ the time set forth in [NEW RULE II], after the court serves the written order or judgment is served.

(2) If a party files a petition for a new trial or requests ~~for amendment is filed~~, the party requesting the new trial or amendment shall set forth specifically and in full detail the relief requested. An opposing party ~~will have 10 days~~ shall respond within the time set forth in [NEW RULE II], from the date of service pursuant to ARM

24.5.303(3) to respond.

(3) If a party files a petition for a new trial or requests for amendment is filed, the original order or judgment issued by the court shall is not be considered the final decision of the court pending the denial or granting of the new trial or amendment.

(4) If the court grants a new trial is granted, the matter will be is scheduled for trial pursuant to ARM 24.5.310. As determined by the court, the matter may be decided based on the testimony taken at the initial trial and at the new trial, or by a de novo trial. After the new trial, the court will issues an order or findings of fact, and conclusions of law, and judgment setting forth the court's determination of the disputed issues.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.345 WRIT OF EXECUTION (1) The procedure on execution, in proceedings supplementary to and in aid of a judgment, and in proceedings on and in aid of and supplementary to execution, shall must be in accordance with the statutes of the state of Montana that are applicable to executions in civil cases in district court, as set forth in Title 25, chapter 13, MCA, except that the court does not issue a writ of execution shall be issued until after the time has expired for requesting a rehearing or amendment of the court's decision.

(2) In aid of the judgment or execution, the judgment creditor or a successor in interest when that interest appears of record, may examine any person, including the judgment debtor, in the manner provided in these rules for taking depositions.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.346 STAY OF JUDGMENT PENDING APPEAL (1) The party appealing a judgment of the workers' compensation judge court may request a stay of execution of the judgment or order pending resolution of the appeal. A The court automatically deems a request for new trial and/or request for amendment to findings of fact and conclusions of law shall be deemed an automatic stay stayed until it rules upon the request is ruled upon. If the parties stipulate that no bond shall be is required, or if it is shown to the satisfaction of the court that adequate security exists for payment of the judgment, the court may waive the bond requirement.

(2) Except as provided for herein, the procedures for requesting a stay and the procedure for posting a supersedeas bond will be are the same as the procedures in Rule 7(a) and 7(b), respectively, of the Montana, Rules, Appellate, Procedure, 22(1) and ARM 24.5.316.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

REASON: The court proposes amending ARM 24.5.346(2) to reflect the correct appellate rule regarding stays and supersedeas bonds. The proposed amendment also adds a cross-reference to ARM 24.5.316, because the procedure for filing motions is also applicable here.

24.5.348 CERTIFICATION OF DECISIONS, APPEALS TO SUPREME COURT (1) Appeals from the Workers' Compensation Court shall must be made as in the case of an appeal from a district court as provided in ~~Rule 72~~, Mont. R. Civ. P. 72.

(2) The court's final certification for the purposes of appeal shall ~~be is~~ considered as a notice of entry of judgment.

(3) Appeals must be in compliance with the Montana Rules of Appellate Procedure Rule 10(a) of the Mont. R. App. P., ~~an original and two copies of each transcript of proceedings must be lodged with the clerk of this court for filing.~~

(4) The court ~~will certify~~ certifies its decisions as final without a determination of the amount of reasonable costs and attorney fees, except that:

(a) At any time prior to issuance of the decision and certification, a A party to the dispute may submit, ~~with party's proposed findings and conclusions or otherwise at any time prior to issuance of the decision and certification,~~ a request that the court not certify the decision not be certified as final. Such a request must include a showing of ~~the~~ good cause upon which the request is based.

(b) The court in its discretion may grant the request, in which case the decision of the court shall must not certify the judgment for purposes of appeal until the amount of the attorney fees and costs is determined.

(c) Regardless of whether or not the decision is certified as final for appeals purposes, ARM 24.45.344 ~~shall still~~ determines and limits the time within which ~~to a~~ party may petition for new trial or request amendment to the court's findings of fact and conclusions of law.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

REASON: The court proposes amending ARM 24.5.348(3) to place its appeal procedure in compliance with all current and future appellate procedures.

24.5.349 RULES COMPLIANCE (1) If a party neglects or refuses to comply with the provisions of ~~this subchapter~~ these rules, the court may dismiss a matter with or without prejudice, grant an appropriate order for a party, or take other appropriate action. However, the court may, in its discretion and in the interests of justice, waive irregularities and noncompliance with any of the provisions of ~~this subchapter~~ these rules.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.350 APPEALS TO WORKERS' COMPENSATION COURT UNDER TITLE 39, CHAPTERS 71 AND 72, MCA (1) An appeal from a final decision of the Department of Labor and Industry under Title 39, chapters 71 and 72, MCA, other than an appeal of a department order regarding payment of benefits pursuant to 39-71-610, MCA, ~~shall~~ must be made by filing a notice of appeal with the court ~~or with the department~~. The notice of appeal ~~shall~~ must be served by mail on all other parties and the legal services division of the Department of Labor and Industry and ~~should~~ must include:

(a) the relief to which the appellant believes ~~s/he~~ the appellant is entitled; and  
(b) the grounds upon which the appellant contends ~~s/he~~ the appellant is entitled to that relief.

(2) The filing of the notice ~~shall~~ does not stay the department decision. However, upon application of a party, the court may, ~~upon application of a party~~, order a stay upon terms which the court considers proper.

(3) Any party or the court may request a transcript of the proceeding. Upon receiving such request, the department ~~shall have~~ has 30 days in which to prepare and file the transcript; ~~unless such time is shortened or extended by the court. the court lengthens or shortens the time.~~ The parties may, i In the alternative, the parties may agree by written stipulation to other arrangements for transcribing the hearing. The appealing party shall be responsible for the cost of preparing the transcript unless otherwise ordered by the court.

(4) remains the same.

(5) A motion for leave to present additional evidence must be filed no later than the time set for the last brief or, if oral argument is timely requested, then no later than the day before the argument. If it is shown to the satisfaction of the court that the additional evidence is material and that ~~there were~~ good reasons for failure exist for the offering party's failure to present it in the department proceeding ~~before the department~~, then the court may remand the matter to the department and order that the additional evidence be taken before the department upon conditions determined by the court. The department may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(6) and (7) remain the same.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.351 DECLARATORY RULINGS (1) remains the same.

(2) Proceedings for a declaratory ruling ~~shall be~~ are the same as in all other disputes.

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

24.5.352 REFERENCE TO MONTANA RULES OF CIVIL PROCEDURE

(1) If no express provision is made in these rules regarding a matter of procedure, the court ~~will be~~ is guided, where appropriate, by considerations and procedures set forth in the ~~Mont. R. Civ. P.~~ Montana Rules of Civil Procedure.

AUTH: 2-4-201, 39-71-2901, 39-71-2903, 39-71-2905, MCA

IMP: 2-4-201, 39-71-2901, MCA

5. The rules proposed for adoption provide as follows:

NEW RULE I AMENDED PETITION (1) A petitioner must file an amended petition within the time period set forth in the scheduling order or by leave of court. The response to the amended petition is due within the time set forth in [NEW RULE II].

AUTH: 2-4-201, MCA

IMP: 2-4-201, 39-71-2901, MCA

REASON: The court believes the addition of [New Rule I] is necessary to clarify a current ambiguity regarding the filing of amended petitions.

NEW RULE II COMPUTATION OF TIME (1) The following provisions apply to the computation of time for all filings:

(a) In computing the time for any response as provided for in these rules, the court includes weekends and holidays. If a deadline falls on a weekend or holiday, the deadline is the next workday.

(b) Whenever a party has the right or is required to do some act within a prescribed period of time after the service of a notice or other paper upon the party and the notice or paper is served by mail, the court adds 3 days to the prescribed period.

(c) The court accepts fax and electronic filings, but an original signature page of any document filed by fax or electronic means must be filed with the court within 5 days.

(2) Except as provided elsewhere within these rules, the following time limits apply. This rule provides for the time limits only. Specific information as to format and content requirements is located within the rule relating to each specific filing:

COMPUTATION OF TIME

Document Type	Reference Rule	Days to File
response to petition	24.5.302(1)	20 days after service of petition

Document Type	Reference Rule	Days to File
response to amended petition	NEW RULE I	10 days after service of amended petition
response to third-party petition	24.5.307(3)	10 days after service of third-party petition
motion to join third party	24.5.308(2)	30 days after service of petition
objection to joining third party	24.5.308(2)	10 days after service of motion to join third party
response to petition by third party	24.5.308(4)	10 days after service of order joining third party
motion to intervene	24.5.309(2)	30 days after service of the petition
answer to motion to intervene	24.5.309(2)	10 days after service of motion to intervene
objection to court's notice of emergency trial setting	24.5.311(New 2)	5 days after service of notice of emergency trial setting
response to motion	24.5.316(3)	10 days after service of motion
response to motion for summary judgment	24.5.316(3)(a)	10 days after service of motion, but no earlier than the deadline for filing a response to a petition
reply to adverse party	24.5.316(3)	5 days after service of response brief to motion
officer to sign and state that deposition was not signed by deponent	24.5.322(7)	10 days after submission to witness
cross-questions to deposition upon written questions	24.5.322(11)	10 days after service of notice and written questions
redirect questions to deposition upon written questions	24.5.322(11)	10 days after service of cross-questions

Document Type	Reference Rule	Days to File
recross-questions to deposition upon written questions	24.5.322(11)	5 days after service of redirect questions
response to interrogatories	24.5.323(2)	20 days after service of interrogatories
verification to interrogatories by unnatural person	24.5.323(4)	10 days after service of request
response to request for production	24.5.324(3)	20 days after service of request
relief from default judgment	24.5.327(5)	60 days after entry of judgment
objections to court's written findings of fact, conclusions of law, and judgment, and request for rehearing	24.5.335(1)(c)	20 days after entry of judgment
motion for reconsideration	24.5.337(1)	20 days after order or decision
opposition to motion for reconsideration	24.5.337(1)	10 days after service of motion for reconsideration
application for taxation of costs	24.5.342(1)	10 days after entry of judgment allowing costs
objection to application for taxation of costs	24.5.342(7)(a)	10 days after service of application for taxation of costs
claim for attorney fees	24.5.343(2)(a)	20 days after expiration of appeal period or remittitur on appeal of court's final decision or 20 days after filing of court's decision
objection to claims for attorney fees	24.5.343(2)(b)	20 days after service of claim for attorney fees
request for attorney fee hearing	24.5.343(2)(c)	10 days after filing of objection (if hearing requested by claimant's attorney) or at same time an objection is filed (if hearing requested by objecting party)

Document Type	Reference Rule	Days to File
petition for new trial and/or request for amendment to findings of fact and conclusions of law (refer to 24.5.344(1))	24.5.344(1)	20 days after service of order or judgment
opposition to petition for new trial and/or request for amendment to findings of fact and conclusions of law	24.5.344(2)	10 days after service of petition for new trial or request for amendment

AUTH: 2-4-201, MCA  
IMP: 2-4-201, 39-71-2901, MCA

REASON: The court proposes [NEW RULE II] to simplify procedures and to minimize reliance upon lawyers and the court by allowing parties to more easily ascertain court deadlines. The court also believes that the proposed adoption of [NEW RULE II] necessitates the amendment of the existing rules which contain deadlines, as noted throughout this document.

6. The rules proposed for repeal are as follows:

24.5.307A JOINDER AND SERVICE OF ALLEGED UNINSURED EMPLOYERS which can be found on page 24-170 of the Administrative Rules of Montana.

AUTH: 2-4-201, 39-71-2401, 39-71-2901, 39-71-2903, 39-71-2905, MCA  
IMP: 2-4-201, 39-71-2901, MCA

REASON: The court proposes repealing ARM 24.5.307A because it is redundant to and conflicts with 39-71-541, MCA.

24.5.313 RECUSAL which can be found on page 24-174 of the Administrative Rules of Montana.

AUTH: 2-4-201, MCA  
IMP: 2-4-201, 39-71-2901, MCA

REASON: The court proposes repealing ARM 24.5.313 because this rule is redundant to 39-79-2901(3) and (4), MCA.

7. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Jeanine Blaner, Workers' Compensation Court, 1625 11th Avenue, P.O. Box 537, Helena, MT 59620-0537; faxed to (406) 444-7798; e-mailed to



dliwccfilings@mt.gov, and must be received no later than 5:00 p.m. on July 14, 2014.

8. An electronic copy of this proposal notice is available through the court's web site at <http://wcc.dli.mt.gov/proposedrules.asp>. The court strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a discrepancy exists between the official printed text of the notice and the electronic version of the notice, the court considers only the official printed text. In addition, although the court works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that a person's difficulties in sending an e-mail do not excuse late submission of comments.

9. The Workers' Compensation Court maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this court. Persons who wish to have their names added to the list shall make a written request which includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding Workers' Compensation Court rulemaking actions. Such written requests may be mailed or delivered to the Workers' Compensation Court, 1625 11th Avenue, P.O. Box 537, Helena, MT 59620-0537; faxed to (406)444-7798; e-mailed to [dliwccfilings@mt.gov](mailto:dliwccfilings@mt.gov); or may be made by completing a request form at any rules hearing held by the court. Notices are sent by e-mail unless a mailing preference is noted in the request.

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

11. With regard to the requirements of 2-4-111, MCA, the Workers' Compensation Court has determined that the amendment, adoption, and repeal of the above-referenced rules will not significantly and directly impact small businesses.

12. Jeanine Blaner, Workers' Compensation Court, has been designated to preside over and conduct the hearing.

/s/ JAMES JEREMIAH SHEA  
James Jeremiah Shea, Judge  
Workers' Compensation Court

/s/ JEANINE BLANER  
Jeanine Blaner, Rule Reviewer  
Workers' Compensation Court

Certified to the Secretary of State May 12, 2014

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

In the matter of the amendment of	)	AMENDED NOTICE OF PUBLIC
ARM 24.29.1401A definitions,	)	HEARING AND EXTENSION OF
24.29.1433 facility service rules and	)	COMMENT PERIOD ON
rates, 24.29.1534 professional fee	)	PROPOSED AMENDMENT
schedule for services provided,	)	
24.29.1538 conversion factors for	)	
services provided, and 24.29.1591	)	
utilization and treatment guidelines	)	

TO: All Concerned Persons

1. On April 24, 2014, the Department of Labor and Industry (department) published MAR Notice No. 24-29-283 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 776 of the 2014 Montana Administrative Register, Issue Number 8.

2. After posting on the web site, the department discovered certain errors in the Facility Fee Schedule for 2014, which was proposed for incorporation by rule amendment. Specifically, the department found that the Montana Hospital Inpatient Services MS-DRG Reimbursement Fee Schedule was not accurate. Consequently, the department determines that it is necessary to postpone the hearing date and extend the comment period on the proposed rule amendment. The corrected Facility Fee Schedule for 2014 is now posted on the department web site at <http://erd.dli.mt.gov/workers-comp-claims-assistance/medical-regulations/montana-facility-fee-schedule.html>. The department also will send written notice to all interested parties.

3. The department hereby vacates the public hearing which was scheduled to be held on May 19, 2014, at 1:00 p.m.

4. The department will hold a public hearing on June 11, 2014, at 1:00 p.m. in the Sanders Auditorium of the Department of Public Health and Human Services (DPHHS) Building, 111 North Sanders Street, Helena, Montana, to consider the proposed amendment of the above-stated rules.

5. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process 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 June 9, 2014, to advise us of the nature of the accommodation that you need. Please contact Maralyn Lytle, Employment Relations Division, P.O. Box 8011, Helena, MT 59604-8011; telephone (406) 444-6604; fax (406) 444-4140; Montana TDD (406) 444-5549; or e-mail [mlytle@mt.gov](mailto:mlytle@mt.gov).

6. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Maralyn Lytle, Employment Relations Division, P.O. Box 8011, Helena, MT 59604-8011; telephone (406) 444-6604; fax (406) 444-4140; Montana TDD (406) 444-5549; or e-mail [mlytle@mt.gov](mailto:mlytle@mt.gov), and must be received no later than 5:00 p.m., June 19, 2014.

/s/ JUDY BOVINGTON  
Judy Bovington  
Rule Reviewer

/s/ PAM BUCY  
Pam Bucy  
Commissioner  
Department of Labor and Industry

Certified to the Secretary of State May 12, 2014.

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

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 24.177.2105 continuing ) PROPOSED AMENDMENT  
education )

TO: All Concerned Persons

1. On June 12, 2014, at 9:00 a.m., a public hearing will be held in the Basement Conference Room, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Physical Therapy Examiners (board) no later than 5:00 p.m., on June 6, 2014, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdptp@mt.gov (board's e-mail).

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

24.177.2105 CONTINUING EDUCATION (1) through (2)(a) remain the same.

(b) Licensees with ~~even-numbered licenses shall submit at least 20~~ obtain a minimum of 30 continuing education hours/credits earned within the 24 months prior to the renewal date set by the department ~~in each even-numbered year. Licensees in this category will not report continuing education on the odd-numbered years, but must renew their license each year beginning April 1, 2015;~~

(c) Licensees with ~~odd-numbered licenses shall submit at least 20~~ continuing education hours/credits earned within the 24 months prior to the renewal date set by the department ~~in each odd-numbered year. Licensees in this category will not report continuing education on the even-numbered years, but must renew their license each year;~~

(d) through (f) remain the same.

(g) The board will randomly audit continuing education hours/credits in each odd year.

(3) and (3)(a) remain the same.

(b) The board/staff does not preapprove any activities or sponsors for continuing education credits. All accepted continuing education hours/credits in category A, or B, or C must meet the ~~Standards of Continuing Competence (SCC)~~ standards set forth by the American Physical Therapy Association (APTA) or the

Federation of State Boards of Physical Therapy (FSBPT). ~~A licensee can determine the acceptability of a course or activity by referencing the current SCC activities set forth by the FSBPT.~~ It is the responsibility of the licensee to select programs that contribute to their knowledge and competence in the physical therapy field, and which meet the qualifications specified in these rules;

(c) through (4) remain the same.

(a) Category A activities: ~~A total of 20~~ minimum of 15 of the 30 continuing education hours/credits ~~may~~ must be obtained in this category in each two-year cycle. Category A includes: continuing education courses, physical therapy clinical specialty certification coursework, physical therapy clinical residency coursework, and postgraduate physical therapy education, including, but not limited to, postdoctor of physical therapy course work. The Postgraduate physical therapy course work must be passed with a grade of "C" or higher or "pass" if a "pass/fail" course. Category A activities are distinguished from category B ~~and C~~ activities in that they are approved ~~for~~ or offered continuing education hours/credits by one of the following, regardless of whether the course is classroom-based, online, or home study:

(i) through (iii) remain the same.

(b) Category B Activities: ~~A total of ten out of 20~~ Up to 15 of the 30 continuing education credits may be obtained in this category in each two-year cycle. ~~Category B activities must meet the Standards of Continuing Competence (SCC) activities set forth by the FSBPT. Some Category B activities may not have not been approved for continuing education hours by any of the Category A approval organizations.~~ Category B includes:

(i) any course that pertains to physical therapy, but which is not approved or offered through an accredited medical, physical therapy, and/or healthcare education program as identified in (4)(a).

~~(c) Category C Activities: A total of ten out of 20 continuing education credits may be obtained in this category in each two-year cycle. Category C activities must meet the SCC activities set forth by the FSBPT. Some Category C activities may not have been approved for continuing education hours by any of the Category A approval organizations. Category C includes:~~

(i) through (iii) remain the same, but are renumbered (ii) through (iv).

(v) performing clinical mentoring in a credential clinical residency or fellowship program. Max hour/credit five;

(iv) and (v) remain the same, but are renumbered (vi) and (vii).

~~(vi)~~ (viii) taking and passing the jurisprudence exam in each two-year cycle.

Max hour/credit one; and

(vii) remains the same, but is renumbered (xiv).

(5) Activities excluded from continuing education hours/credits include: Staff staff meetings; teaching of physical therapy-related courses, ~~or if that is the licensee's primary occupation is teaching;~~ regularly scheduled institutional activities such as rounds or case conferences; ~~and~~ repeating or retaking an activity and/or coursework.

(6) remains the same.

AUTH: 37-1-131, 37-1-319, 37-11-201, MCA

IMP: 37-1-131, 37-1-306, MCA

REASON: The board determined it is reasonably necessary to amend this rule by reorganizing and reformatting the rule text to address questions and confusion among licensees. The board concluded these amendments will clarify the variety of acceptable continuing education (CE) formats and subject matter.

The board notes that the purpose of requiring CE is to ensure that licensees remain up-to-date on current trends and changes in health care, in addition to increasing public protection. Additionally, on a national level, CE is moving toward a competency-based system. Therefore, the board is amending this rule to increase the required amount of CE from 20 to 30 hours, beginning April 1, 2015, to align CE requirements with national standards of continuing competencies. Further amendments throughout this rule will address and clarify technical constraints of the department CE audit process, and make obtaining CE more affordable, accessible, and less restrictive for licensees than current requirements.

Authority citations are being amended to accurately reflect the complete sources of the board's rulemaking authority.

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 Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdp@mt.gov](mailto:dlibsdp@mt.gov), and must be received no later than 5:00 p.m., June 20, 2014.

5. An electronic copy of this notice of public hearing is available at [www.pt.mt.gov](http://www.pt.mt.gov) (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The board 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 that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-

2305; e-mailed to [dlibsdptp@mt.gov](mailto:dlibsdptp@mt.gov); or made by completing a request form at any rules hearing held by the agency.

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

8. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.177.2105 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdptp@mt.gov](mailto:dlibsdptp@mt.gov).

9. Mark Jette, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PHYSICAL THERAPY  
EXAMINERS  
BRIAN MILLER, PRESIDING OFFICER

/s/ DARCEE L. MOE  
Darcee L. Moe  
Rule Reviewer

/s/ PAM BUCY  
Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 12, 2014

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 42.2.302, 42.2.303, 42.2.304,	)	PROPOSED AMENDMENT
42.2.305, 42.2.306, 42.2.307,	)	
42.2.308, 42.2.310, 42.2.311,	)	
42.2.312, 42.2.313, 42.2.321,	)	
42.2.322, 42.2.323, 42.2.324,	)	
42.2.325, 42.2.501, 42.2.503,	)	
42.2.504, 42.2.505, 42.2.510,	)	
42.2.511, 42.2.520, and 42.2.901	)	
pertaining to the department's	)	
general rules and definitions	)	

TO: All Concerned Persons

1. On June 12, 2014, at 9 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 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 advise the department of the nature of the accommodation needed, no later than 5 p.m. on June 2, 2014. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or lalogan@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY. In accordance with 2-4-314, MCA, the department conducted a biennial review of its administrative rules and proposes amending the rules in this notice to update statutory references due to recodification, remove outdated statutes, provide additional supporting statutes, and replace general statute title and chapter references with the specific statutes (where practical) to meet current ARM formatting standards.

The department also proposes to update addresses and phone numbers, to update form names and a policy date, to correct grammar and punctuation, and to remove obsolete language and make general revisions to meet current ARM formatting standards and practices.

For these reasons, it is necessary for the department to make the proposed corrections contained in this notice. This general statement of reasonable necessity applies to all of the following proposed actions and will be supplemented as appropriate for any additional proposed rule change.



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

42.2.302 REQUESTS FOR INFORMATION (1) Citizens desiring information about anything mentioned in these rules or about anything concerning the department and public participation should contact the Department of Revenue, P.O. Box 5805, Helena, Montana 59604-5805, or visit the department's Internet web site at www.mt.gov/revenue revenue.mt.gov.

AUTH: 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA

IMP: ~~Title 2, chapter 3, part 4~~ 2-3-101, 2-3-103, 2-3-111, 15-1-201, MCA

42.2.303 APPOINTMENTS WITH DIRECTOR OR DIVISION ADMINISTRATORS (1) Any individual or group of individuals may make appointments to meet with the director or division administrators regarding any matter of concern to those individuals and under the responsibility of the department. Such appointments may be made by contacting the Department of Revenue, P.O. Box 5805, Helena, Montana 59604-5805, telephone ~~(406)~~ 444-6900, or toll-free outside of Helena (866) 859-2254.

AUTH: 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA

IMP: ~~Title 2, chapter 3, part 4~~ 2-3-101, 2-3-103, 2-3-111, 15-1-201, MCA

42.2.304 DEFINITIONS The terms used by the department are, in great part, defined in Titles 15, 16, 39, and 72, MCA. In addition to these statutory definitions, the following definitions apply to ARM Title 42, unless context of a particular chapter or rule provides otherwise:

(1) "Amended return" is a return that amends the original return defined in ~~(34)~~(36).

(2) through (5) remain the same.

~~(6) "Business income" is income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations. In essence, all income which arises from the conduct of trade or business operations of a taxpayer is business income. For purposes of administration, the income of the taxpayer is business income unless clearly classifiable as nonbusiness income.~~

(7) through (12) remain the same, but are renumbered (6) through (11).

~~(13)~~(12) "Dependent" means any individual listed in ~~15-30-113~~ 15-30-2115, MCA, as amended, over one-half of whose support for the calendar year in which the taxable year of the taxpayer begins was received from the taxpayer. In determining whether or not an individual received for a given calendar year over one-half of his support from the taxpayer, there shall be taken into account the amount of support received from the taxpayer as compared to the entire amount of support the individual received from all sources, including support which the individual himself supplied.

(14) through (17) remain the same, but are renumbered (13) through (16).

~~(48)~~(17) "Earned income" means:

(a) wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered; and

(b) the amount of the taxpayer's net earnings from a trade or business which is wholly or partially subject to the federal ~~self-employment~~ self-employment tax.

(19) through (30) remain the same, but are renumbered (18) through (29).

~~(34)~~(30) "Lookback period", for purposes of the voluntary disclosure program, means the filing periods agreed upon for which returns must be filed and all taxes and statutory interest must be paid under a voluntary disclosure agreement.

(32) remains the same, but is renumbered (31).

~~(33)~~(32) "Montana source income" is defined in ~~45-30-404~~ 15-30-2101, MCA, and the statute should be consulted to determine whether particular income is "Montana source income" obligating a nonresident to file a Montana individual income tax return, and a pass-through entity to file a Montana information return. In general, all income from work performed in the state, real or personal property located in the state, and business conducted in the state is Montana source income. Gain realized from transfer of real or personal property located in the state remains Montana source income notwithstanding that recognition of the gain is deferred and regardless of the deferral mechanism.

(a) and (b) remain the same.

~~(34)~~ "Nonbusiness income" means ~~all income other than business income.~~

~~(35)~~(33) "Noncontiguous parcels of land" means land acreage in the same ownership that meets one of the two following standards:

(a) remains the same.

(b) acreages that would meet the definition of contiguous contained in ~~(9)~~(8) were the acreages not separated by one or more of the following features only:

(i) through (v) remain the same.

(36) through (42) remain the same, but are renumbered (34) through (40).

~~(43)~~(41) "Pass-through entity information return" means the same as ~~(27)~~(26).

(44) and (45) remain the same, but are renumbered (42) and (43).

~~(46)~~(44) "Qualified entity", for purposes of the voluntary disclosure program, is a corporation, trust, limited liability company, or partnership that meets the conditions in ~~ARM 42.4.310(2)~~ 42.2.310.

~~(47)~~(45) "Qualified individual", for purposes of the voluntary disclosure program, is an individual who meets the conditions in ~~ARM 42.4.310(2)~~ 42.2.310, or is a beneficiary of a trust that meets the conditions in ~~ARM 42.4.310(2)~~ 42.2.310.

~~(48)~~(46) "Qualified partner", for purposes of the voluntary disclosure program, is an individual or entity who is treated as a partner of a qualified entity for federal income tax purposes and who themselves meets the conditions of ~~ARM 42.4.310(2)~~ 42.2.310.

~~(49)~~(47) "Qualified shareholder", for purposes of the voluntary disclosure program, is a shareholder in an S corporation that is a qualified entity as defined in ~~(46)~~(44), and who themselves meets the conditions of ~~ARM 42.4.310(2)~~ 42.2.310.

(50) remains the same, but is renumbered (48).

~~(51)~~(49) "Reasonable cause" means the ~~customer~~ taxpayer exercised ordinary business care and prudence and was nevertheless unable to file the

return, or pay the tax within the prescribed time, or object to a department action as provided for in ARM 42.2.510. Examples of what does or does not constitute reasonable cause may be found in ARM 42.3.105.

(52) remains the same, but is renumbered (50).

~~(53)~~(51) "Residence" means the same as ~~(17)~~(16).

(54) and (55) remain the same, but are renumbered (52) and (53).

(54) "Return information" includes a taxpayer's identity, the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, over-assessments or tax payments, or any other data received by, recorded by, prepared by, furnished to, or collected by the department with respect to a return or with respect to the determination of the existence or possible existence of liability or the amount of liability of any person under Title 15, MCA, for any tax, penalty, interest, fine, forfeiture, or other imposition of any offense. The term does not include data in a form that cannot be associated with or otherwise identify, directly or indirectly, a particular taxpayer.

~~(56)~~(55) "S corporation" means an incorporated entity for which a valid federal S corporation election is in effect. "S corporation" and "subchapter S corporation" are synonymous. The term "small business corporation" is also synonymous with "S corporation," except that certain S corporations are allowed to continue to file Montana corporation license tax returns as provided in ~~45-30-4401~~ 15-30-3301, MCA.

(57) and (58) remain the same, but are renumbered (56) and (57).

~~(59)~~(58) "Statement of Account (SOA)" means the first notice provided to the taxpayer that a debt is owing to the state of Montana of an amount owed to the department or of a violation. It may include, but is not limited to, a notice of refund reduction, net operating loss adjustment, tax debt, fine, or notice of a violation of the laws administered by the department. It does not include notices pertaining to inheritance taxes, estate taxes, or liquor licensing matters.

(60) and (61) remain the same, but are renumbered (59) and (60).

~~(62)~~(61) "Taxpayer" means any person (which may include any corporation, partnership, firm, association, or person acting as a business entity) or fiduciary, resident or nonresident, subject to but not limited to, a tax, license fee, royalty, or permit imposed by the laws state of Montana or a liability for payment of a debt collected by the department. Taxpayer includes ~~any corporation, partnership, firm, association, or person acting as a business entity.~~

(63) remains the same, but is renumbered (62).

AUTH: 15-1-201, ~~15-30-305~~ 15-30-2620, 15-31-501, 16-1-303, 16-10-104, 16-11-103, MCA

IMP: 1-1-215, 15-1-102, 15-1-206, 15-1-601, 15-30-101, 15-30-105, 15-30-131, 15-30-142, 15-30-1101, 15-30-1102, 15-30-1111, 15-30-1112, 15-30-1113, 15-30-1121, 15-30-2101, 15-30-2104, 15-30-2111, 15-30-2602, 15-30-3301, 15-30-3302, 15-30-3311, 15-30-3312, 15-30-3313, 15-30-3321, 15-31-101, 15-31-111, Title 15, chapter 31, part 3, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity in number 3 of this notice, the department proposes amending ARM 42.2.304 to correct an erroneous citation found in the definitions of qualified entity, qualified individual, qualified partner, and qualified shareholder. The department, when attempting to streamline its rules and avoid potential confusion, also proposes eliminating two definitions that are more specifically defined in another chapter of the rules and proposes modifying other definitions to clarify their respective applicability.

The department further proposes to define "return information" to advise taxpayers that the department considers tax return information to include other information and materials gathered during an audit or inquiry related to a tax return. The proposed definition mirrors language already approved by the legislature in 15-1-108, MCA. Although the definition in that section of the statute is provided specifically for tax preparers, it accurately describes the information the department uses to determine a taxpayer's filing requirements and therefore is proposed to be included as part of these general definitions.

42.2.305 AVAILABILITY AND RETENTION OF TAXPAYER RECORDS

(1) and (2) remain the same.

AUTH: 10-4-203, 10-4-212, 15-1-201, 15-53-155, 15-60-104, 16-10-104, 16-11-103, MCA

IMP: 10-4-203, 10-4-207, 10-4-212, 15-53-150, 16-11-118, 16-11-202, 16-11-203, MCA

42.2.306 PENALTY AND INTEREST (1) through (3) remain the same.

(4) For purposes of determining interest on the underpayment of estimates provided in ~~15-30-244~~ 15-30-2512, MCA, the rate in effect on the original due date of the tax return shall be used. For example, a return for the 2007 tax year is due April 15, 2008, so the rate that became effective January 1, 2008, shall be used to compute interest on the underpayment of estimates.

AUTH: 15-1-201, 15-1-216, 16-10-104, 16-11-103, ~~39-51-301~~, MCA

IMP: 15-1-206, 15-1-207, 15-1-216, 15-1-701, 15-1-708, 15-30-2512, 16-1-409, 16-1-411, 16-11-143, MCA

42.2.307 ACCOUNTING METHODS (1) and (2) remain the same.

AUTH: ~~15-30-305~~ 15-30-2620, 15-31-501, MCA

IMP: ~~15-30-101~~ 15-30-2101, 15-30-2111, 15-31-113, 15-31-114, MCA

42.2.308 NONRESIDENT CALCULATION OF MONTANA SOURCE INCOME REALIZED AND RECOGNIZED WHEN MONTANA PROPERTY IS RELINQUISHED AS PART OF A SECTION 1031 EXCHANGE (1) and (2) remain the same.

(3) The nonresident must report the deferred Montana source income realized on the relinquishment of the Montana property if and when the gain is recognized for federal income tax purposes. The amount of Montana source income

recognized will never exceed the gain recognized for federal income tax purposes. The following examples illustrate how the Montana source income may be calculated in different situations:

(a) Example 1 - Same facts as in (2)(a). In a later tax year, the Wyoming replacement property is sold for \$150,000, the taxpayer reporting taxable gain of \$140,000 on their federal income tax return. The nonresident's \$80,000 of Montana source income realized on the Montana property exchange that was deferred has been recognized for federal income tax purposes and must be reported as Montana source income when the nonresident files the Montana individual income tax return required in ~~15-30-105~~ 15-30-2104, MCA.

(b) Example 2 - Same facts as in (3)(a), except the Wyoming replacement property is sold for \$60,000 and \$50,000 of taxable gain is reported on the taxpayer's federal income tax return. While \$80,000 of Montana source income was realized but deferred on relinquishment of the Montana property, only \$50,000 was recognized for federal income tax purposes. The nonresident must report the \$50,000 of Montana source income recognized when the nonresident files the Montana individual income tax return required in ~~15-30-105~~ 15-30-2104, MCA.

(c) Example 3 - Same facts as in (3)(a), except improvements with a cost of \$75,000 are erected on the Wyoming property and depreciation deductions of \$15,000 are claimed with respect to those improvements before the improved Wyoming property is sold for \$150,000. On the date of sale the fair market value of the improvements, which have an adjusted basis of \$60,000, is \$70,000, and the fair market value of the Wyoming property acquired in the exchange, which has an adjusted basis of \$10,000, is \$80,000. Of the \$80,000 of deferred Montana source income realized on relinquishment of the Montana property, \$70,000 has been recognized for federal income tax purposes and must be reported when the nonresident files the Montana individual income tax required in ~~15-30-105~~ 15-30-2104, MCA.

(d) Example 4 - Same facts as in (2)(c). The Wyoming replacement property is sold for \$150,000. The \$30,000 deferred Montana source income realized on relinquishment of the Montana property has been recognized for federal income tax purposes and must be reported when the nonresident files the Montana individual income tax return required in ~~15-30-105~~ 15-30-2104, MCA.

AUTH: 15-1-201, ~~15-30-305~~ 15-30-2620, MCA

IMP: ~~15-30-101, 15-30-103, 15-30-105, 15-30-131, 15-30-132, 15-30-1102, 15-30-1111, 15-30-1112~~ 15-30-2101, 15-30-2103, 15-30-2104, 15-30-2111, 15-30-2112, 15-30-3302, 15-30-3311, 15-30-3312, MCA

42.2.310 VOLUNTARY DISCLOSURE PROGRAM FOR NONFILING TAXPAYERS (1) through (5) remain the same.

AUTH: 15-1-201, ~~15-30-305~~ 15-30-2620, 15-31-501, MCA

IMP: 15-1-206, ~~15-30-101~~ 15-30-2101, ~~15-30-142~~ 15-30-2602, 15-31-101, 15-31-111, MCA

42.2.311 PUBLIC PARTICIPATION (1) through (2) remain the same.

AUTH: 2-4-201, 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA  
IMP: Title 2, chapter 3, part 4 2-3-101, 2-3-102, 2-3-103, 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-113, 2-3-114, 2-4-201, 15-1-201, MCA

42.2.312 ACTIONS CONSIDERED TO BE OF SIGNIFICANT PUBLIC INTEREST (1) and (2) remain the same.

AUTH: 2-4-201, 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA  
IMP: Title 2, chapter 3, part 4 2-3-101, 2-3-102, 2-3-103, 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-113, 2-3-114, 2-4-201, 15-1-201, MCA

42.2.313 NOTICE AND MEANS FOR PUBLIC PARTICIPATION (1) remains the same.

AUTH: 2-4-201, 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA  
IMP: Title 2, chapter 3, part 4 2-3-101, 2-3-102, 2-3-103, 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-113, 2-3-114, 2-4-201, 15-1-201, MCA

42.2.321 DEPARTMENT PROGRAMS RELATED TO PUBLIC PARTICIPATION (1) remains the same.

AUTH: 2-4-201, 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA  
IMP: Title 2, chapter 3, part 4 2-3-101, 2-3-102, 2-3-103, 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-113, 2-3-114, 2-4-201, 15-1-201, MCA

42.2.322 INFORMATIONAL MATERIALS (1) remains the same.

AUTH: 2-4-201, 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA  
IMP: Title 2, chapter 3, part 4 2-3-101, 2-3-102, 2-3-103, 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-113, 2-3-114, 2-4-201, 15-1-201, MCA

42.2.323 PUBLIC ASSISTANCE (1) remains the same.

AUTH: 2-4-201, 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA  
IMP: Title 2, chapter 3, part 4 2-3-101, 2-3-102, 2-3-103, 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-113, 2-3-114, 2-4-201, 15-1-201, MCA

42.2.324 NOTIFICATION OF INTERESTED PERSONS (1) and (2) remain the same.

AUTH: 2-4-201, 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA  
IMP: Title 2, chapter 3, part 4 2-3-101, 2-3-102, 2-3-103, 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-113, 2-3-114, 2-4-201, 15-1-201, MCA

42.2.325 ACCESS TO INFORMATION (1) The department files, other than those files required by law to be closed, are open to public inspection in accordance

with established department policy. These files are located at various department offices in Montana. Copies of specific documents are available in accordance with department policy entitled, "Agency Documents - Access and Photocopying," 2.1.4, dated ~~June 3, 2003~~ January 3, 2013.

(2) through (6) remain the same.

AUTH: 2-4-201, 15-1-201, 15-7-306, 15-30-2620, 15-31-501, 16-1-303, 16-10-104, 16-11-103, MCA

IMP: Montana ~~constitution~~ Constitution, Art. II, sections 8, 9, and 10, ~~Title 2, chapter 3, part 4~~ 2-3-101, 2-3-102, 2-3-103, 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-113, 2-3-114, 2-4-201, 2-6-102, 2-6-109, 2-6-110, 2-6-202, 15-1-106, 15-7-310, 15-30-2618, 15-31-511, 15-38-109, 15-68-815, MCA

42.2.501 APPLICATION OF PARTIAL PAYMENTS (1) through (4) remain the same.

AUTH: 2-4-201, 15-1-201, ~~15-30-305~~ 15-30-2620, 15-31-501, 15-35-122, 15-53-155, MCA

IMP: 2-4-201, 15-1-206, 15-1-216, ~~15-30-304, 15-30-321, 15-30-323~~ 15-30-2619, 15-30-2641, 15-30-2642, 15-31-111, 15-31-502, 15-31-506, 15-31-510, 15-31-522, 15-31-543, 15-35-105, 15-35-121, 15-37-108, 15-38-107, 15-38-110, 15-53-145, 15-59-106, MCA

42.2.503 JEOPARDY ASSESSMENT AND EMERGENCY EXECUTION

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

(f) that while filing the objection or request as provided in (1)(e) will not stop or delay collection proceedings, including issuing a Warrant for Distraint, if the taxpayer files the objection or request and it is subsequently determined in the department dispute resolution proceedings or on subsequent appeal that the amount of tax collected is in excess of the amount due, the amount of the overpayment will be credited against any income tax, penalty, or interest then due from the taxpayer and the balance of the excess refunded to the taxpayer as provided in ~~15-30-149~~ 15-30-2609 and 15-31-531, MCA.

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

(d) that if it is subsequently determined in the department dispute resolution proceedings or on subsequent appeal that the amount of tax collected is in excess of the amount due, the amount of the overpayment will be credited against any income tax, penalty, or interest then due from the taxpayer and the balance of the excess refunded to the taxpayer as provided in ~~15-30-149~~ 15-30-2609 and 15-31-531, MCA.

(3) and (4) remain the same.

AUTH: 15-1-201, ~~15-30-305~~ 15-30-2620, 15-31-501, 15-36-322, 15-39-114, MCA

IMP: ~~15-30-204, 15-30-312~~ 15-30-2504, 15-30-2631, 15-31-522, 15-31-525, 15-31-531, 15-36-319, 15-37-107, 15-38-107, 15-38-108, 15-39-106, MCA

42.2.504 PENALTIES (1) and (2) remain the same.

(3) A taxpayer who files, renders, or signs a false or fraudulent return or statement, or who supplies the department with false or fraudulent information, is subject to the additional civil and criminal penalties described in ~~15-30-324~~ 15-30-2641, MCA.

AUTH: ~~15-30-305~~ 15-30-2620, MCA

IMP: 15-1-216, ~~15-30-321, 15-30-323~~ 15-30-2641, 15-30-2642, MCA

42.2.505 INTEREST ON UNPAID TAX (1) and (2) remain the same.

AUTH: ~~15-30-305~~ 15-30-2620, 15-31-501, MCA

IMP: 15-1-216, ~~15-30-142~~ 15-30-2602, 15-31-502, 15-31-503, 15-31-510,

MCA

42.2.510 REVIEW OF STATEMENT OF ACCOUNT (SOA) NOTICES

(1) This rule applies to all department actions where a ~~statement of account~~ Statement of Account (SOA) or deficiency assessment, as those terms are defined in ARM 42.2.304, is issued. A statement of account does not include centrally assessed appraisal reports and centrally assessed assessment notices which are covered by ARM 42.2.511.

(2) The department will provide notification to the ~~customer~~ taxpayer by mailing the SOA ~~as defined in ARM 42.2.613~~, to the ~~customer~~ taxpayer as prescribed in 15-1-211, MCA. Information provided on the SOA shall advise the ~~customer~~ taxpayer of the requirement to file a Request for Informal Review Form ~~APLS101F~~ (APLS101F) or a written objection to the SOA with the department within 30 days from the date of the SOA; and that failure to file a written objection within the 30 days shall be deemed an admission that the ~~customer~~ taxpayer agrees the debt stated in the SOA is due and owing.

(a) If the ~~customer~~ taxpayer agrees with the SOA, the matter is resolved upon compliance with, or acceptance of, the terms set forth in the SOA.

(b) If the ~~customer~~ taxpayer does not pay or respond to the SOA as required in (2), a letter will be sent to the ~~customer~~ taxpayer requesting payment within 30 days of the date of the letter or a Warrant for Distraint may be issued pursuant to 15-1-702, MCA.

(c) and (d) remain the same.

(3) The ~~customer~~ taxpayer must submit, to the department, an objection to the SOA within 30 days of the date on the SOA. If the objection is sent by the U.S. Postal Service or by any other generally accepted delivery service, the objection must be postmarked within 30 days of the date of the SOA. If it is sent by electronic mail, it must be sent within 30 days of the date of the SOA. Failure to respond within the 30 days shall be deemed an admission that the ~~customer~~ taxpayer concurs that they owe the debt stated in the SOA.

(a) through (4) remain the same.

(5) The department shall review the objection and determine whether the department agrees or disagrees with the ~~customer's~~ taxpayer's objections. The department shall mail written notice to the ~~customer~~ taxpayer advising



the customer taxpayer of the department's determination within 30 days after receipt of the objection.

(a) If the department concurs with the customer taxpayer, the matter is resolved by withdrawing or revising the SOA.

(b) If the department disagrees with the customer taxpayer, it shall explain the reasons for the disagreement, notify the customer taxpayer of the dispute resolution procedures, and provide a copy of Notice of Referral Form (APLS102F). The department shall also notify the customer taxpayer that the customer taxpayer must submit an APLS102F or detailed letter to the department within 15 days of the date on the Notice of Determination from the department, and that the customer taxpayer will forfeit the right to a hearing if the customer taxpayer fails to submit the APLS102F or detailed letter within the 15-day period.

(6) Appeals shall be submitted to the Office of Dispute Resolution if the customer taxpayer decides to appeal the department decision, as required in 15-1-211, MCA. This may be done by completing the APLS102F, or by providing a detailed letter and submitting either document to the department within 15 days of the date of the Notice of Determination from the department. Appeals should be sent to the Department of Revenue, Office of Dispute Resolution, P.O. Box 7701, Helena, Montana 59604.

(a) Failure to file an appeal by the customer taxpayer within 15 days of the date of the Notice of Determination by the department shall be deemed an admission that the customer taxpayer concurs that the debt stated in the SOA is due and owing.

(b) If the customer taxpayer pays the bill, the matter is resolved.

(c) If the customer taxpayer does not pay the bill, the matter will be referred to ARC for collection.

(7) Once the matter is submitted to ~~ODR~~ the Office of Dispute Resolution (ODR), ARM 42.2.613 through 42.2.621 apply. The department has 180 calendar days from the referral date to resolve the matter.

(8) remains the same.

(9) If the department fails to comply with the deadlines in this rule, the customer taxpayer may immediately refer the matter to the ~~Office of Dispute Resolution ODR~~.

AUTH: 15-1-201, 15-1-211, 15-1-701, 15-31-501, 15-35-122, 15-36-322, 15-39-114, MCA

IMP: 15-1-211, 15-1-406, 15-8-601, ~~15-23-102, 15-23-107, 15-30-142 15-30-2602~~, 15-31-503, 15-35-112, 15-36-313, 15-36-314, 15-37-109 15-37-110, 15-37-114, 15-37-210, ~~15-38-108 15-38-110, 15-39-110 15-39-104~~, MCA

#### 42.2.511 REVIEW OF CENTRALLY ASSESSED PROPERTY APPRAISALS

(1) remains the same.

(2) Appraisal reports will be mailed to the customer taxpayer as provided in ARM 42.22.115. The appraisal report shall advise the customer taxpayer of the requirement to file a Request for Informal Review Form APLS104F (CAB-8) or a written objection to the appraisal report within 15 days of the date of the appraisal report; and that failure to file a written objection within the 15 days shall be deemed

an admission that the customer taxpayer agrees with the appraisal is correct and final. If the customer taxpayer agrees with the appraisal, no response is required and the department will advise the local department field office and the customer taxpayer by issuing an assessment notice on or before July 1 of the year of assessment that the appraisal is final.

(3) Objections to an appraisal report shall be sent to the department within 15 days of the date on the appraisal report. If the objection is sent by the U.S. Postal Service or by any other generally accepted delivery service, the objection must be postmarked within 15 days of the date of the appraisal report. If it is sent by electronic mail, it must be sent within 15 days of the date of the appraisal report. Failure to respond within the 15 days shall be deemed an admission that the customer taxpayer concurs with the appraisal as stated in the appraisal report.

(a) remains the same.

(b) Electronic objections will be accepted. The e-mail address, ~~seoobjection.mt.gov~~ soaobjections@mt.gov, is provided on the appraisal report in the appeal rights section.

(4) remains the same.

(5) The department shall review the objection and determine whether the department agrees or disagrees with the customer's taxpayer's objections. The department shall mail written notice to the customer taxpayer advising the customer taxpayer of the department's determination within 15 days after receipt of the objection.

(a) If the department concurs with the customer taxpayer, the matter is resolved by revising the appraisal report and issuing a final assessment notice.

(b) If the department disagrees with the customer taxpayer, it shall explain the reasons for the disagreement by issuing a revised appraisal report, ~~notify~~ notifying the customer taxpayer of the dispute resolution procedures and ~~provide~~ providing a copy of ~~Form APLS101F~~ the Notice of Referral to the Office of Dispute Resolution (APLS102F). The department shall also notify the customer taxpayer that the customer taxpayer must submit ~~Form APLS101F~~ the APLS102F or a detailed letter to the department within 15 days of the date on the revised appraisal report, and that the customer taxpayer will forfeit the right to a hearing if the customer taxpayer fails to submit the ~~Form APLS101F~~ APLS102F or detailed letter within the 15-day period. Appeals should be sent to the Department of Revenue, Office of Dispute Resolution, P.O. Box 7701, Helena, Montana 59604.

(6) If the customer taxpayer decides to appeal the department's decision, the customer taxpayer shall:

(a) through (8) remain the same.

(9) If the department fails to comply with the deadlines in this rule, the customer taxpayer may immediately refer the matter to ODR.

~~(10) The following flow chart shows the process beginning with the appraisal report being provided to the customer:~~

AUTH: 15-1-201, 15-1-211, 15-23-108, MCA

IMP: 15-1-211, 15-1-406, 15-8-601, 15-23-102, 15-23-107, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity in number 3, the department proposes amending ARM 42.2.511 to correct a form name and remove an obsolete reference to a flow chart.

42.2.520 COLLECTION OF DELINQUENT TAXES OR OTHER FUNDS THROUGH OFFSET PROCEDURES (1) through (7) remain the same.

AUTH: 15-1-201, 15-1-217, ~~15-30-305~~ 15-30-2620, 17-4-110 MCA  
IMP: 15-1-211, 15-1-216, ~~15-30-310~~ 15-30-2629, 17-4-103, 17-4-105, 17-4-106, 17-4-111, MCA

42.2.901 DEFINITIONS The following definitions apply to rules found in this subchapter.

- (1) and (2) remain the same.
- (3) remains the same but is renumbered (4).
- (4) remains the same but is renumbered (3).

AUTH: 15-1-201, MCA  
IMP: 15-1-409, 20-9-369, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.2.901 to correct the alphabetical order of the rule content.

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: Laurie Logan, 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 lalogan@mt.gov and must be received no later than June 20, 2014.

6. Laurie Logan, 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 number 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. An electronic copy of this notice is available on the department's web site, revenue.mt.gov. Select the Administrative Rules link under the Other Resources section located in the body of the homepage, and open the Proposal Notices section within. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register,

but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

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

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

/s/ Laurie Logan  
LAURIE LOGAN  
Rule Reviewer

/s/ Mike Kadas  
MIKE KADAS  
Director of Revenue

Certified to the Secretary of May 12, 2014

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 44.5.121 pertaining to ) PROPOSED AMENDMENT  
miscellaneous fees charged by the )  
Business Services Division )

TO: All Concerned Persons

1. On June 13, 2014, at 9:30 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m. on May 30, 2014, to advise us of the nature of the accommodation that you need. Please contact Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 461-5173; fax (406) 444-4249; TDD/Montana Relay Service (406) 444-9068; or e-mail [jquintana@mt.gov](mailto:jquintana@mt.gov).

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

44.5.121 MISCELLANEOUS FEES (1) through (6) remain the same.  
(7) Surety bond, cashier's check, or certificate of deposit 15.00  
(8) Designation of registered agent for pesticide license 5.00  
(7) and (8) remain the same, but are renumbered (9) and (10).

AUTH: 2-15-405, 30-9A-526, 35-1-1307, 35-2-1107, 35-7-103, MCA  
IMP: 2-6-103, 2-15-405, 20-7-604, 30-9A-525, 30-13-320, 35-1-1206, 35-2-119, 35-2-1003, 35-2-1107, 35-7-103, 80-8-210, 82-1-104, MCA

REASON: The Secretary of State is required by 2-15-405, MCA, to "set by administrative rule each fee authorized by law." Each fee "must be commensurate with the overall costs of the office," "must reasonably reflect the prevailing rates charged in the public and private sectors for similar services," and "fees collected by the secretary of state must be deposited to an account in the enterprise fund type to the credit of the secretary of state." An "enterprise fund" structure means the Secretary of State operates as a proprietary fund agency. It is financed and operated similar to a private business where it is the Legislature's intent to finance or recover all costs primarily through user charges. See Montana Operations Manual, 302 Government Accounting Overview.

Therefore, when the Legislature enacted 2-15-405, MCA, its intent was to codify into law the fact that the Secretary of State's funding structure is that of a proprietary nature and that a fee is to be charged for the services it offers.

Although the Secretary of State has always charged a fee for the filing of surety bonds, cashier's checks, and certificates of deposit mandated by statute, the Secretary of State is now complying with the requirement of 2-15-405, MCA, to set out those fees in rule. Although the statutes imposing the filing duties in 20-7-604, MCA, and 82-1-104, MCA, do not state that the Secretary of State may charge a fee for these services, the Secretary of State believes 2-15-405, MCA, is the requirement in law that a fee be charged for the services provided.

The Secretary of State has added (8) to set forth in rule the filing fee for the designation of a registered agent for a pesticide license to comply with 2-15-405 and 80-8-210, MCA.

The implementation statutes were reviewed and updated.

4. Pursuant to 2-4-302, MCA, the Secretary of State has determined the cumulative dollar amount for all persons of the proposed fee in (7) is \$600 and the number of persons affected is 40 based on the historical annual filing data for surety bonds, cashier's checks, and certificates of deposit.

5. Pursuant to 2-4-302, MCA, the Secretary of State has determined the cumulative dollar amount for all persons of the proposed fee in (8) is \$300 and the number of persons affected is 60 based on the historical annual filing data for filing the designation of registered agent for pesticide licenses.

6. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing [jquintana@mt.gov](mailto:jquintana@mt.gov), and must be received no later than 5:00 p.m., June 20, 2014.

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

8. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code, or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1236 Sixth Avenue, P.O. Box 202801, Helena, MT

59620-2801, faxed to the office at (406) 444-4263, or may be made by completing a request form at any rules hearing held by the Secretary of State's Office.

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

11. With regard to the requirements of 2-4-111, MCA, the Secretary of State has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ JORGE QUINTANA  
Jorge Quintana  
Rule Reviewer

/s/ LINDA MCCULLOCH  
Linda McCulloch  
Secretary of State

Dated this 12th day of May, 2014.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM ) NOTICE OF AMENDMENT  
2.5.201, 2.5.301, 2.5.302, 2.5.303, )  
2.5.404, 2.5.406, 2.5.408, 2.5.502, )  
2.5.601, 2.5.602, 2.5.604, 2.5.610, and )  
2.5.701 pertaining to state procurement )  
of supplies and services )

TO: All Concerned Persons

1. On December 26, 2013, the Department of Administration published MAR Notice No. 2-5-488 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 2332 of the 2013 Montana Administrative Register, Issue Number 24. On January 30, 2014, the department published an amended notice to reschedule the hearing on the same rules at page 141 of the 2014 Montana Administrative Register, Issue Number 2.

2. The department has amended ARM 2.5.301, 2.5.302, 2.5.303, 2.5.404, 2.5.406, 2.5.502, 2.5.601, 2.5.602, 2.5.604, and 2.5.701 exactly as proposed.

3. The department has amended ARM 2.5.201, 2.5.408, and 2.5.610 as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

2.5.201 DEFINITIONS (1) through (20) remain as proposed.

(21) "Minor enhancements" means routine operations and maintenance support activities that include corrective, adaptive, and perfective changes, and that do not introduce new major functional capabilities.

(21) through (34) remain as proposed, but are renumbered (22) through (35).

(35)(36) "Software maintenance" means patches, support, or upgrades and minor enhancements allowing the software to continue to perform its functional purposes function as originally specified in the statement of work, contract, or other procurement agreements.

(36) through (47) remain as proposed, but are renumbered (37) through (48).

2.5.408 RECIPROCAL PREFERENCE (1) through (5) remain as proposed.

(6) Reciprocal preferences do not apply to term contracts unless the term contract is applicable only to agencies that do not receive federal funding.

2.5.610 COOPERATIVE PURCHASING (1) remains as proposed.

(2) For the purposes of complying with 18-4-221, MCA, the following definitions apply:

(a) through (d) remain as proposed.

(e) "any other entity that expends public funds for the procurement of supplies and services" means an Internal Revenue Code 501(c)(3) organization, as



that statute reads on May 23, 2014, that expends public funds for the procurement of supplies and services.

(3) Nonprofit corporations that wish to enter into an agreement with the state for the cooperative use of supplies or services shall provide the division with documentation that they are or will be lawfully authorized to spend ~~or receive~~ public funds.

(4) ~~Participation in any cooperative solicitation or contract is permitted~~ An agency may participate in a cooperative contract if the following conditions are met:

(a) ~~the division is able to provide~~ adequate public notice of the solicitation to interested vendors; and

(b) ~~any contract that the division opts to participate in must include~~ the contract or purchase order includes all the statutorily required terms and conditions.

(5) ~~If the conditions of (4)(a) and (4)(b) are not met, the division may reject participation in the cooperative solicitation or contract.~~ If an agency wishes to participate in a cooperative contract, and (4)(a) has not been met, the division shall provide adequate opportunity for public participation by either:

(a) issuing a solicitation for the supply or service and including the cooperative contract as a response; or

(b) providing notice of the intent to purchase from the cooperative contract and allowing interested vendors a reasonable time to submit a response to the notice.

(6) The division may exempt an agency from the requirements of (4)(a) and (5) if it is shown to be in the best interests of the state.

4. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses follow:

COMMENT 1: The language as proposed in ARM 2.5.201(35) is narrower than the industry definition of software maintenance. This will limit our ability to provide adequate, timely service to the citizens of Montana. Although we recognize and agree with the need to have competitive procurements, we also recognize that information technology has some unique needs. However, this narrow definition of software maintenance will likely result in lower competition as fewer vendors will be willing to take on the additional risks.

RESPONSE 1: The department agrees with comment 1 and has amended the rule as shown above.

COMMENT 2: ARM 2.5.301(2)(j) appears to eliminate the training exemption. Does this proposed amendment mean that we are now required to utilize competitive bidding for all training-related purchases?

RESPONSE 2: The department isn't eliminating the training exemption; rather, just eliminating the redundancy of training from (2)(j). As stated in the proposal notice, (2)(i), which includes training, will remain the same.

COMMENT 3: In reference to ARM 2.5.406(1), is it correct that if the solicitation was issued by the agency, and the protest mailed to both the division and the agency, only the agency handles the protest?

RESPONSE 3: Yes, that is correct. If the solicitation was issued by the agency, the agency must handle the protest.

COMMENT 4: The addition of ARM 2.5.408(6) does not follow the original intent of 18-1-102(2)(b), MCA.

RESPONSE 4: The department agrees with comment 4 and has amended the rule as shown above.

COMMENT 5: The Legislative Services Division provided comment regarding ARM 2.5.610(2)(e) requesting that the department include clarification that it is not delegating rulemaking authority to the federal government, and to clarify what the applicability date will be for the definition of 501(c)(3).

RESPONSE 5: The division agrees with comment 5 and has amended the rule as shown above.

COMMENT 6: The changes to ARM 2.5.610(4) and (5) unduly limit an agency's ability to purchase from cooperative contracts. An agency would benefit from being provided the option to, after something has already been bid, purchase from a cooperative contract so long as we give adequate public notice of the intent to purchase through the co-op. Someone can still beat their bid that way, and of course we'd go with the lowest cost, but it wouldn't preclude us from using a preexisting bid just because we couldn't predict our needs or didn't know about this particular cooperative and didn't get in on the solicitation at the outset.

RESPONSE 6: The division agrees with comment 6 and has amended the rule as shown above.

ADDITIONAL CLARIFICATION: At its own discretion, the division has removed the phrase "or receive" from ARM 2.5.610(3) so as to remain consistent with statutory language.

By: /s/ Sheila Hogan  
Sheila Hogan, Director  
Department of Administration

By: /s/ Michael P. Manion  
Michael P. Manion, Rule Reviewer  
Department of Administration

Certified to the Secretary of State May 12, 2014.

BEFORE THE STATE COMPENSATION INSURANCE FUND  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 2.55.327A, pertaining to the )  
construction industry premium credit )  
program )

TO: All Concerned Persons

1. On February 27, 2014, the Montana State Fund published MAR Notice No. 2-55-44 pertaining to the proposed amendment of the above-stated rule at page 342 of the 2014 Montana Administrative Register, Issue Number 4.

2. The Montana State Fund has amended the above-stated rule as proposed.

3. No comments or testimony were received.

/s/ Nancy Butler  
Nancy Butler, General Counsel  
Rule Reviewer

/s/ Elizabeth Best  
Elizabeth Best  
Chair of the Board

/s/ Michael P. Manion  
Michael P. Manion, Chief Legal Counsel  
and Rule Reviewer

Certified to the Secretary of State May 12, 2014.

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

In the matter of the adoption of a ) NOTICE OF ADOPTION OF  
temporary emergency rule pertaining ) TEMPORARY EMERGENCY RULE  
to Smith River State Park's Ridgetop )  
boat camp )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of a temporary emergency rule:

(a) Between the dates of April 29, 2014 and May 11, 2014, a series of incidents were reported at multiple boat camps along the lower portion of the Smith River corridor in which one or more black bears have frequented boat camps occupied by floaters. The incidents have included a bear with no apparent fear of humans approaching a private float group at a camp site forcing them to retreat back onto the river, a latrine riser chewed by a bear, and on at least three known occasions, latrines being knocked over. The series of reports leads the department to believe the subject bear to be habituated.

(b) Persons recreating at these campsites could be subjected to:

(i) injury due to an encounter with a bear; or

(ii) death caused by a mauling.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, due to the combination of unsafe conditions and this threat cannot be averted or remedied by any other administrative act, the department adopts the following temporary emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as a temporary emergency rule in Issue No. 10 of the 2014 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on June 6, 2014, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; fax (406) 444-7456; or e-mail [jesssnyder@mt.gov](mailto:jesssnyder@mt.gov).

3. The temporary emergency rule is effective May 12, 2014, when this rule notice is filed with the Secretary of State.

4. The text of the temporary emergency rule provides as follows:

NEW RULE I RIDGETOP BOAT CAMP CLOSURE (1) Ridgetop Boat Camp is located on the Smith River in Cascade County.

(2) Ridgetop Boat Camp consists of three campsites, Upper, Middle, and Lower. All three campsites are closed to all public occupation.

(3) This rule is effective as long as these bears pose a threat to humans.

(4) This rule will expire as soon as the department determines the campsites are again safe for occupation and recreation. Signs closing the camp will be removed when the rule is no longer in effect.

AUTH: 2-4-303, 23-1-106, MCA

IMP: 2-4-303, 23-1-106, MCA

5. The rationale for the temporary emergency rule is as set forth in paragraph 1.

6. This rule is in effect as long as the danger exists. Posted signs regarding the emergency closure will be removed when the rule is no longer effective. Notice of repeal of this emergency rule will be published in the Montana Administrative Register.

7. Concerned persons are encouraged to submit their comments during the upcoming standard rulemaking process. If concerned persons wish to be personally notified of that rulemaking process, they should submit their names and addresses to: Jessica Snyder, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT 59620-0701; fax (406) 444-7456; or e-mail [jesssnyder@mt.gov](mailto:jesssnyder@mt.gov). Any comments must be received no later than June 27, 2014.

8. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

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

/s/ Mike Volesky

Mike Volesky

Chief of Staff

Department of Fish, Wildlife and Parks

/s/ Zach Zipfel

Zach Zipfel

Rule Reviewer

Certified to the Secretary of State May 12, 2014.

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

In the matter of the adoption of a ) NOTICE OF ADOPTION OF  
temporary emergency rule pertaining ) TEMPORARY EMERGENCY RULE  
to Smith River State Park's Black )  
Butte boat camp )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of a temporary emergency rule:

(a) Between the dates of April 29, 2014 and May 11, 2014, a series of incidents were reported at multiple boat camps along the lower portion of the Smith River corridor in which one or more black bears have frequented boat camps occupied by floaters. The incidents have included a bear with no apparent fear of humans approaching a private float group at a camp site forcing them to retreat back onto the river, a latrine riser chewed by a bear, and on at least three known occasions, latrines being knocked over. The series of reports leads the department to believe the subject bear to be habituated.

(b) Persons recreating at these campsites could be subjected to:

(i) injury due to an encounter with a bear; or

(ii) death caused by a mauling.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, due to the combination of unsafe conditions and this threat cannot be averted or remedied by any other administrative act, the department adopts the following temporary emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as a temporary emergency rule in Issue No. 10 of the 2014 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on June 6, 2014, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; fax (406) 444-7456; or e-mail [jesssnyder@mt.gov](mailto:jesssnyder@mt.gov).

3. The temporary emergency rule is effective May 12, 2014, when this rule notice is filed with the Secretary of State.

4. The text of the temporary emergency rule provides as follows:

NEW RULE I BLACK BUTTE BOAT CAMP CLOSURE (1) Black Butte Boat Camp is located on the Smith River in Cascade County.

(2) Black Butte boat camp consists of two campsites, Upper and Lower. Both campsites are closed to all public occupation.

(3) This rule is effective as long as these bears pose a threat to humans.

(4) This rule will expire as soon as the department determines the campsites are again safe for occupation and recreation. Signs closing the camp will be removed when the rule is no longer in effect.

AUTH: 2-4-303, 23-1-106, MCA

IMP: 2-4-303, 23-1-106, MCA

5. The rationale for the temporary emergency rule is as set forth in paragraph 1.

6. This rule is in effect as long as the danger exists. Posted signs regarding the emergency closure will be removed when the rule is no longer effective. Notice of repeal of this emergency rule will be published in the Montana Administrative Register.

7. Concerned persons are encouraged to submit their comments during the upcoming standard rulemaking process. If concerned persons wish to be personally notified of that rulemaking process, they should submit their names and addresses to: Jessica Snyder, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT 59620-0701; fax (406) 444-7456; or e-mail [jesssnyder@mt.gov](mailto:jesssnyder@mt.gov). Any comments must be received no later than June 27, 2014.

8. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

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

/s/ Mike Volesky

Mike Volesky

Chief of Staff

Department of Fish, Wildlife and Parks

/s/ Zach Zipfel

Zach Zipfel

Rule Reviewer

Certified to the Secretary of State May 12, 2014.

BEFORE THE BOARD OF BARBERS AND COSMETOLOGISTS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT AND  
ARM 24.121.605 application for ) ADOPTION  
postsecondary school licensure and )  
24.121.807 school curricula, and the )  
adoption of NEW RULE I )  
postsecondary education status and )  
NEW RULE II military training or )  
experience )

TO: All Concerned Persons

1. On March 13, 2014, the Board of Barbers and Cosmetologists (board) published MAR Notice No. 24-121-11 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 450 of the 2014 Montana Administrative Register, Issue No. 5.

2. On April 3, 2014, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. No comments were received by the April 11, 2014, comment deadline.

3. The board has amended ARM 24.121.605 and 24.121.807 exactly as proposed.

4. The board has adopted NEW RULE I (ARM 24.121.806) and NEW RULE II (ARM 24.121.602) exactly as proposed.

BOARD OF BARBERS AND  
COSMETOLOGISTS  
DARLENE BATTAIOLA, PRESIDENT

/s/ DARCEE L. MOE  
Darcee L. Moe  
Rule Reviewer

/s/ PAM BUCY  
Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 12, 2014



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

In the matter of the adoption of NEW ) NOTICE OF ADOPTION  
RULE I military training or experience )

TO: All Concerned Persons

1. On March 13, 2014, the Board of Physical Therapy Examiners (board) published MAR Notice No. 24-177-30 regarding the public hearing on the proposed adoption of the above-stated rule, at page 476 of the 2014 Montana Administrative Register, Issue No. 5.

2. On April 3, 2014, a public hearing was held on the proposed adoption of the above-stated rule in Helena. No comments were received by the April 11, 2014, comment deadline.

3. The board has adopted NEW RULE I (ARM 24.177.503) exactly as proposed.

BOARD OF PHYSICAL THERAPY  
EXAMINERS  
BRIAN MILLER, PRESIDING OFFICER

/s/ DARCEE L. MOE  
Darcee L. Moe  
Rule Reviewer

/s/ PAM BUCY  
Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 12, 2014

BEFORE THE BOARD OF PRIVATE SECURITY  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the adoption of NEW ) NOTICE OF ADOPTION  
RULE I military training or experience )

TO: All Concerned Persons

1. On March 13, 2014, the Board of Private Security (board) published MAR Notice No. 24-182-34 regarding the public hearing on the proposed adoption of the above-stated rule, at page 479 of the 2014 Montana Administrative Register, Issue No. 5.

2. On April 3, 2014, a public hearing was held on the proposed adoption of the above-stated rule in Helena. No comments were received by the April 11, 2014, comment deadline.

3. The board has adopted NEW RULE I (ARM 24.182.504) exactly as proposed.

BOARD OF PRIVATE SECURITY  
HOLLY DERSHEM-BRUCE, CHAIR

/s/ DARCEE L. MOE  
Darcee L. Moe  
Rule Reviewer

/s/ PAM BUCY  
Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 12, 2014

BEFORE THE BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the adoption of NEW ) NOTICE OF ADOPTION  
RULE I military training or experience )

TO: All Concerned Persons

1. On March 27, 2014, the Board of Professional Engineers and Professional Land Surveyors (board) published MAR Notice No. 24-183-40 regarding the public hearing on the proposed adoption of the above-stated rule, at page 568 of the 2014 Montana Administrative Register, Issue No. 6.

2. On April 18, 2014, a public hearing was held on the proposed adoption of the above-stated rule in Helena. One comment was received by the April 25, 2014, comment deadline.

3. The board has thoroughly considered the comment received. A summary of the comment and the board's response is as follows:

COMMENT 1: One commenter provided information that certain military personnel (Reservists and National Guardsmen who have never been activated) in fact do not receive a DD 214 form upon their discharge from the military. Because the rule may be interpreted to absolutely require a DD 214 from all applicants who wish to submit evidence of relevant military training, service, or education as part of the licensure process, the commenter suggested the board amend this new rule to allow consideration of other evidence of military discharge in addition to or in lieu of a DD 214 form.

RESPONSE 1: The board agrees with the suggestions and is amending the new rule accordingly. The board is further amending this new rule to be consistent with the military experience rules of the rest of the department-attached licensing boards.

4. The board has adopted NEW RULE I (ARM 24.183.506) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I EQUIVALENCY OF MILITARY EDUCATION, TRAINING, AND EXPERIENCE (1) ~~Engineering and land surveying experience and education acquired during military service will be considered on a case-by-case basis. To be considered equivalent, the experience must fall within the "practice of engineering" as defined in 37-67-101(6), MCA, and the "practice of land surveying" as defined in 37-67-101(7), MCA.~~ Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a professional engineer or professional land surveyor.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States armed forces;
- (b) United States reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a professional engineer or professional land surveyor. Satisfactory evidence includes:

(a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);

(b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and

(c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

BOARD OF PROFESSIONAL ENGINEERS  
AND PROFESSIONAL LAND SURVEYORS  
DAVID ELIAS, ENGINEER SURVEYOR,  
PRESIDING OFFICER

/s/ DARCEE L. MOE

Darcee L. Moe  
Rule Reviewer

/s/ PAM BUCY

Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 12, 2014

BEFORE THE BOARD OF PUBLIC ACCOUNTANTS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of )  
ARM 24.201.502 accounting and )  
auditing experience requirements and )  
the adoption of NEW RULE I military )  
training or experience )

NOTICE OF AMENDMENT AND  
ADOPTION

TO: All Concerned Persons

1. On March 13, 2014, the Board of Public Accountants (board) published MAR Notice No. 24-201-48 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 482 of the 2014 Montana Administrative Register, Issue No. 5.

2. On April 3, 2014, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. A few comments were received by the April 11, 2014, comment deadline.

3. The board has thoroughly considered the comments received. A summary of the comments received and the board's responses are as follows:

COMMENT 1: One commenter provided information on New Rule I, noting that National Guard or Reserve members who have never been activated do not receive a DD 214 form upon discharge from the military. The commenter suggested that, if the board interprets the rule to require a DD 214 from all applicants, these types of military personnel may be excluded from submitting their military experience.

RESPONSE 1: The board agrees with the comment and is amending the new rule accordingly.

COMMENT 2: Two commenters raised concern regarding the provision in ARM 24.201.502(2)(a) where a commanding officer would attest to a candidate's military experience. One commenter stated that military commanders are not qualified to attest to the work of a CPA candidate, but suggested that there are currently active CPAs in the military that could attest to a candidate's experience. Another commenter opined that allowing such attestation would significantly reduce the experience requirement so as to adversely impact Montana's recognition as substantially equivalent to the other 54 CPA licensing jurisdictions, and negatively affect practice mobility.

RESPONSE 2: The board agrees that the proposed amendment to ARM 24.201.502(2)(a) may have the suggested unintended consequences and is amending the rule accordingly.

COMMENT 3: One commenter recognized that the proposed rule changes appear necessary, given the 2013 legislative changes.

RESPONSE 3: The board appreciates all comments received during the rulemaking process.

4. The board has amended ARM 24.201.502 with the following changes, stricken matter interlined, new matter underlined:

24.201.502 ACCOUNTING AND AUDITING EXPERIENCE REQUIREMENTS (1) and (2) remain as proposed.

(a) is attested to by a holder of a permit to practice that was current at the time of attestation or for military experience ~~attested to~~ evaluated by the board based on information provided by the applicant's commanding officer; and

(b) and (c) remain as proposed.

5. The board has adopted NEW RULE I (ARM 24.201.504) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I MILITARY TRAINING OR EXPERIENCE (1) and (2) remain as proposed.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a certificate holder or permit holder. ~~At a minimum, satisfactory~~ Satisfactory evidence ~~shall~~ may include:

(a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);

(b) through (4) remain as proposed.

BOARD OF PUBLIC ACCOUNTANTS  
LINDA HARRIS, CPA,  
PRESIDING OFFICER

/s/ DARCEE L. MOE  
Darcee L. Moe  
Rule Reviewer

/s/ PAM BUCY  
Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 12, 2014

BEFORE THE BOARD OF VETERINARY MEDICINE  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 24.225.410 record-keeping )  
standards, 24.225.420 inspection and )  
sanitation, 24.225.511 continuing )  
education, and 24.225.550 )  
unprofessional conduct )

TO: All Concerned Persons

1. On November 27, 2013, the Board of Veterinary Medicine (board) published MAR Notice No. 24-225-37 regarding the public hearing on the proposed amendment of the above-stated rules, at page 2220 of the 2013 Montana Administrative Register, Issue No. 22.

2. On December 18, 2013, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the December 26, 2013, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments received and the board's responses are as follows:

COMMENT 1: One commenter stated that anything less than a 60-day comment period is not enough time for adequate public notice and opportunity to comment.

RESPONSE 1: The board appreciates all comments made during the rulemaking process and notes that the board has complied with all requirements for this rulemaking as mandated by the Montana Administrative Procedure Act.

COMMENT 2: Two commenters suggested that the board publish their rule notices to coincide with the Montana Veterinary Medical Association's January and mid-June meetings so that MVMA members could better discuss and provide input into the proposed rule changes.

RESPONSE 2: The board understands that the recommended publication would be ideal to facilitate group discussion about rule amendments and new rules. However, the administrative rule notice and publication schedule is set by the Montana Secretary of State and board staff must work within the confines of this strict calendar. The board is unable to coordinate the timing of meetings, rule reviews, and the filing schedule.

COMMENT 3: Several commenters questioned the prohibition of veterinarians from holding animals until bill payment in ARM 24.225.410(1)(I), asserting that holding an animal is appropriate in order to receive payment, and before releasing records.

One commenter questioned why veterinary services would be handled any differently, since the rule references an exemption, 71-3-1201, MCA, which allows holding of livestock embryos and semen for payment.

RESPONSE 3: The board notes that 71-3-1201, MCA, was amended in the 2013 legislative session to delete the language that the board relied upon while drafting the rules earlier in 2012. The board further notes that the Code of Ethics of the American Association of Veterinary Medicine considers it unethical to refuse to release records until payment is made. However, the board has not formally adopted that code of ethics. Therefore, the board is amending the rule accordingly.

COMMENT 4: Several commenters opposed the amendments to record-keeping standards in ARM 24.225.410 as being too restrictive, and argued that veterinarians consult other patients' records routinely in practice, using them as guidelines for similar cases.

RESPONSE 4: The board did not intend that veterinarians within a practice cannot review records that are created by the practice as guidance in treating other animals, refreshing memory, etc.

COMMENT 5: Several commenters appreciated many of the changes proposed in the notice, including the new section at ARM 24.225.410(1)(h), as it clarifies record-keeping.

RESPONSE 5: The board appreciates all comments made during the rulemaking process.

COMMENT 6: Two commenters questioned the new section in ARM 24.225.410(1)(o), requiring veterinarians to provide prescriptions when dispensing medications. Commenters stated that writing a prescription when requested is bad for food animals and the food chain and do not believe they need to write prescriptions for medications they have on hand.

RESPONSE 6: The board notes that the intent of the rule is not to prevent a veterinarian from dispensing drugs and is not intended to interfere with a veterinarian's treatment of a patient. A prescription should always specify the animal, the dose, and the number of refills when the prescription is requested by a patient's owner, so that it may be filled at a pharmacy or written to be dispensed by the treating veterinarian.

COMMENT 7: Several individuals commented on the amendments to inspections and sanitation in ARM 24.225.420. One asked for the protocol for correcting deficiencies and asked if a non-compliant vet would just be shut down, while another stated that sanitation for ambulatory practice is as varied as the clients they work for. One requested inspections only when complaints are filed and for notices of impending inspections so that staff is protected from fraud (drug break-ins).



RESPONSE 7: The board notes that the only time an inspection occurs in the amended rules is subsequent to a complaint being filed or during an investigation, per ARM 24.225.420(1).

COMMENT 8: One commenter asked the board to provide a more refined definition of Western States Veterinary Conference in ARM 24.225.511.

RESPONSE 8: The board agrees and is amending ARM 24.225.511(2) accordingly.

COMMENT 9: One commenter suggested several amendments to ARM 24.225.511 to align with and better facilitate current department and audit unit procedures and terminology.

RESPONSE 9: The board agrees and is amending ARM 24.225.511(1)(a)(i) and (2) accordingly. However, several of the recommended changes involve sections of this rule that were not initially proposed to be amended and therefore were not held out for public comment. The board is unable to make these changes in this final notice of adoption, but will include the suggestions in a future rulemaking project.

4. The board has amended ARM 24.225.420 and 24.225.550 exactly as proposed.

5. The board has amended ARM 24.225.410 and 24.225.511 with the following changes, stricken matter interlined, new matter underlined:

24.225.410 RECORD-KEEPING STANDARDS (1) through (1)(k) remain as proposed.

(l) ~~Except for liens authorized by 71-3-1201, MCA, a~~ A veterinarian may not retain an animal or refuse to release records for failure to pay veterinary bills.

(m) through (o) remain as proposed.

24.225.511 CONTINUING EDUCATION (1) and (1)(a) remain as proposed.

(i) ~~Proof of continuing education attendance must be in the form of a list of agenda sessions attended and a certificate of completion containing the following information accompanied by a list of programs attended. The continuing education documentation must include:~~

(A) through (1)(c) remain as proposed.

(2) Credit hours shall be earned by a one-hour credit for each hour of attendance at or participation in meetings and programs approved by the board. Board-approved programs include, but are not limited to, those sponsored by the American Veterinary Medical Association, American Animal Hospital Association, ~~western states veterinary conferences~~ Western States Veterinary Conference, veterinary college conferences, state association meetings, Registry of Approved Continuing Education (RACE)-approved programs, and any other affiliated association, society, etc., related to veterinary medicine that have specific topics for veterinarians. Programs shall be of a professional veterinary nature to qualify, with

the number of practice management hours reported not to exceed 25 percent of the total required continuing education hours.

(3) through (6) remain as proposed.

BOARD OF VETERINARY MEDICINE  
JEAN LINDLEY, DVM, PRESIDENT

/s/ DARCEE L. MOE

Darcee L. Moe  
Rule Reviewer

/s/ PAM BUCY

Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 12, 2014

BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT
ARM 32.2.401, license fees;	)	
32.2.404, permit fees; 32.2.405,	)	
miscellaneous fees; 32.3.201,	)	
definitions; 32.3.204, permit required;	)	
32.3.207, permits; 32.3.212,	)	
additional requirements for cattle;	)	
32.3.216, horses, mules, and asses;	)	
32.3.220, semen shipped into	)	
Montana; 32.3.501, definitions;	)	
32.3.502, trichomoniasis; 32.3.1505,	)	
licensing; 32.15.209, veterinary fees	)	

TO: All Concerned Persons

1. On January 30, 2014, the Department of Livestock published MAR Notice No. 32-13-236 regarding the proposed amendment of the above-stated rules at page 190 of the 2014 Montana Administrative Register, Issue Number 2.

2. The department has amended the above-stated rules as proposed.

3. The department has thoroughly considered the comments received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: "Materials produced are defective and severely outdated...like the brucellosis certs that still have strain 19 on them or the certificates of inspection that have conflicting directions on where the papers are to be forwarded. Perhaps MDOL needs to produce a quality product first before asking for more money."

RESPONSE #1: Brucellosis vaccination certificates are a federal form that the Montana Department of Livestock does not publish. Health certificate books which are printed by MDOL and are subject to the proposed fee rule did contain a discrepancy on a previous version. MDOL has since corrected this error for recent and all future versions. MDOL makes every effort to proof all publications and minimize errors in printing.

COMMENT #2: Did the proposed fee account for the cost associated with online permitting for services? If it did not, actual costs will be higher than projected.

RESPONSE #2: The projected fees did not incorporate a fee for online permitting as individuals who elect to use online services will be responsible for those fees.

DEPARTMENT OF LIVESTOCK

BY: /s/ Christian Mackay  
Christian Mackay  
Executive Officer  
Board of Livestock  
Department of Livestock

BY: /s/ Robert Stutz  
Robert Stutz  
Rule Reviewer

Certified to the Secretary of State May 12, 2014.

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

In the matter of the adoption of New	)	NOTICE OF ADOPTION,
Rules I through IX, the amendment of	)	AMENDMENT, AND REPEAL
ARM 37.100.101, 37.100.102,	)	
37.100.120, 37.100.121, 37.100.125,	)	
37.100.130, 37.100.135, 37.100.140,	)	
37.100.141, 37.100.145, 37.100.146,	)	
37.100.150, 37.100.151, 37.100.152,	)	
37.100.153, 37.100.157, 37.100.161,	)	
37.100.162, 37.100.165, 37.100.170,	)	
and 37.100.175, and the repeal of	)	
ARM 37.100.105 and 37.100.110,	)	
pertaining to adult foster care homes	)	
(AFCH)	)	

TO: All Concerned Persons

1. On January 16, 2014, the Department of Public Health and Human Services published MAR Notice No. 37-643 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 26 of the 2014 Montana Administrative Register, Issue Number 1.

2. The department has adopted New Rule I (37.100.136), II (37.100.137), III (37.100.122), IV (37.100.171), VI (37.100.138), VII (37.100.149), VIII (37.100.119), and IX (37.100.139) as proposed.

3. The department has amended ARM 37.100.101, 37.100.102, 37.100.120, 37.100.121, 37.100.125, 37.100.130, 37.100.135, 37.100.140, 37.100.141, 37.100.145, 37.100.146, 37.100.150, 37.100.151, 37.100.152, 37.100.153, 37.100.157, 37.100.161, 37.100.162, 37.100.165, 37.100.170, and 37.100.175 as proposed. The department has repealed ARM 37.100.105 and 37.100.110 as proposed.

4. The department has adopted the following rule as proposed with the following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined.

NEW RULE V (37.100.172) ADULT FOSTER CARE HOMES (AFCH): PETS

(1) remains as proposed.

(2) When animals are kept at the AFCH, the following conditions must be met:

(a) through (c) remain as proposed.

(d) ~~live animals and fowl are prohibited from food preparation, food storage, and eating areas~~ pets may not be permitted in food preparation, storage, or dining

areas during meal preparation time or during meal service or in an area where their presence would create a significant health or safety risk to others; and

(e) caregivers and residents must wash their hands after handling animals, animal food, and animal waste.

(3) and (4) remain as proposed.

AUTH: 50-5-103, 50-5-215, MCA

IMP: 50-5-103, 50-5-215, MCA

5. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

Comment #1: A commenter requested the comment period be extended for an additional 30 days because the commenter only recently received her postcard notice from the department and because the commenter had difficulty assessing the proposed rule changed on the department's web site. The commenter is concerned AFCH providers may not have an adequate amount of time to access the proposed rules, consider them and provide comment on them, particularly, as the proposed rule changes are significant.

Response #1: The department thanks the commenter for the positive comment about the rules being strengthened but disagrees with extending the comment period. The department provided appropriate notice to interested parties list and allowed 28 days from the day of publication to make written comment.

Comment #2: A commenter is requesting New Rule III be rewritten to accommodate licensing concerns and to allow AFCH providers more flexibility in handling their AFCH business. The commenter believes the proposed language is too restrictive and would be interpreted to the prejudice of AFCH providers.

Response #2: Under 50-5-201, MCA, a health care facility license is only valid for the person and premises for which it was issued. Further, this statute indicates that a license may not be "...sold, assigned or transferred." Individuals may purchase a home that has housed a licensed adult foster care facility; however, if the person purchasing the structure wishes to provide a licensed service in that structure, that individual must apply and complete the process for a license. The statute applies to all health care facilities including AFCHs.

Comment #3: Three comments were made with regard to New Rule V. The commenters believe the proposed rule exceeds the threshold of minimum standards, as adult foster care homes are intended to be home-like environments. Pets are part of the home-like environment. The rule should be written to be less prescriptive in nature with the same tone as found in other sections for the rule. The commenters are concerned domestic animals such as cats and dogs are not allowed in the kitchen area or eating area and providers must wash hands after handling pets.

Response #3: The department agrees that the adult foster care home is intended to be a home-like environment; however, the department has the responsibility to publish rules for the overall health and safety of residents within this home-like environment. As a licensed residential care facility, adult foster care homes have to meet certain health and safety standards within the precept of establishing the home-like environment. As such, certain privileges enjoyed by individuals residing in their private home must be viewed differently when individuals are residing in a licensed facility and receiving services within that licensed facility. The threshold between what can be done in a private home and a licensed setting are different.

With that being said, the department disagrees with the commenter's statement that the threshold concerning New Rule V exceeds the minimum standards. While pets can be a significant source of comfort and are known to have a therapeutic effect for some residents, animals, including pets, can also be a source of illness for people. New Rule V is necessary to establish criteria to ensure that pets will be free and clear of health hazards and not present a danger to visitors, or to those who reside or work in the AFCH.

The department does understand that the restrictions listed in (2)(d) and (e) can be problematic within the home-like environment; therefore, the department has revised the rule. The revised language, and the expectations contained within it, is consistent with the language used in other residential care facilities' rules concerning pets.

Comment #4: A commenter is concerned that New Rule IX does not have exemptions for special circumstances that arise from time to time that may need to be resolved sooner than 30 days. The commenter requests that language be added to the proposed rule that addresses deliberate nonpayment of room and board and special circumstances that is documented with the treatment team or the equivalent.

Response #4: The department disagrees as the rule provides clear expectations for discharge of residents on a voluntary or involuntary basis. Providing a 30-day notice prior to discharge or transfer of residents is reasonable and allows time for resident or guardian to make other arrangements. An exception to the 30-day notice requirement is provided if the resident exhibits behavior that poses an immediate danger to self or others or has a medical emergency that requires care the AFCH provider is unable to provide. Nonpayment issues can simply be addressed by providing a 30-day notice and indicating the reason for discharge is due to nonpayment.

Comment #5: A commenter requests the word "support" in New Rule VII be defined. The commenter is concerned that the level of support and supervision that may evolve and that at some point there may be conflict with Montana independent contractor laws.

Response #5: The department disagrees. Proposed New Rule VII does not include the term "support." The comment regarding Montana independent contractor laws is beyond the scope of this rule.

Comment #6: A comment was made regarding the temperature requirements set forth in the proposed rules, hoped the intent was to only set upper and lower limits and did not mandate that the temperatures be set at the upper and lower limits.

Response #6: The department agrees. The intent of the rule is to set upper and lower limits to the temperature of the home. The rule states the temperature must be between specific ranges for day and night. The rule does not require temperatures be set at the upper or lower limit.

Comment #7: A commenter requests proposed New Rule I provide for an exception for nonambulatory adults if the adult is either independent with transfers, or needs minimal assistance of one person to transfer to and from a wheelchair, and if the home meets ADA regulations. Commenter states veterans may need placement whose primary mode of mobility will be a wheelchair.

Response #7: The department's authority to license and regulate adult foster care homes is found at 50-5-215, MCA. Adult foster care homes are intended to provide light personal care or custodial care to disabled adults or aged persons. The exception granted to adults placed by the developmental disabilities program or an adult that resided in the home before reaching the age of 18 is granted in 50-5-216, MCA, in order to provide continuity of care. To make this exception applicable to persons who do not meet the specific criteria is beyond the authority of the department and is beyond the scope of this rule. Any such change would have to be introduced through the legislative process.

Comment #8: A commenter requests regulations include a statement that the care of a bedridden adult can be managed in the adult foster home if that adult is receiving hospice care and if that adult was placed in the home prior to becoming bedridden.

Response #8: The department agrees that a current resident that has entered the final stages of life should be able to remain in adult foster care; and this position is supported in ARM 37.100.157.

Comment #9: A commenter states that the authority for this rule only applies to developmentally disabled (DD) adults, not adults with mental illness. The commenter further believes the rules should reference Title 53, MCA, and believes that such references have been deleted. Last, the commenter states that adult mental health foster homes should be subject to similar or same rules governing adult DD foster homes.

Response #9: The department disagrees. The definition found at 50-5-101, MCA, states that adult foster care homes can provide services to "disabled adults and



aged persons." Further, ARM 37.86.3503 essentially defines persons with a severe mental illness as disabled. Therefore, it is the department's interpretation that adult foster care homes can provide services to those adult individuals who are afflicted with mental illness.

53-5-3, MCA, was renumbered to 53-3-3, MCA. This statute has been repealed and the revised rule reflects this change. Adult foster care homes serving individuals with mental illness or developmental disabilities are subject to the same licensing requirements as outlined in this rule.

Comment #10: A commenter stated that adult foster care homes for persons with mental illness prefer to be called "recovery homes" and the rule should be changed to reflect this.

Response #10: The department disagrees as all homes are licensed as an adult foster care home per definition in statute.

Comment #11: A commenter said the rule changes impact adult foster care home providers serving individuals with mental illness. The commenter would like the department to make sure the mental health center contracting with independent contractors do not cross threshold. The commenter is concerned the proposed new rule regarding placement agreements may be in conflict with the mental health center's placement agreement.

Response #11: Licensed mental health centers are not adult foster care home providers; even though some licensed centers have adult foster care endorsements, they are not bound by the same set of requirements as the individuals who provide licensed adult foster care services. The rules governing mental health centers are quite different and the department's oversight with respect to the centers must follow the rules governing their licensure. The issue raised by the commenter is one of a contractual issue between the provider and the mental health center and is not covered within the context of the rules governing the operation of the mental health center. This comment is beyond the scope of this rule.

Comment #12: A commenter states the proposed new rule change regarding the time given to report incidents to 24 hours, gives providers too little time to report incidents. The commenter is unable to report an incident via e-mail and states she must mail the incident report.

Response #12: The department has rewritten the rule so that all serious incidents are reported; the rule redefines what a serious incident is and no longer limits them to accidents and incidents that require medical attention. The department believes that notification within 24 hours must be required to increase safeguards to the resident and ensure adequate care has been provided. Serious incident reports can be faxed or hand delivered if e-mail is not an option.

Comment #13: The commenter would like the department to define "transportation."

Response #13: The department considers that what is provided in the rule is sufficient.

/s/ Susan Callaghan  
Susan Callaghan  
Rule Reviewer

/s/ Richard H. Opper  
Richard H. Opper, Director  
Public Health and Human Services

Certified to the Secretary of State May 12, 2014

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I pertaining to property records and the amendment of ARM 42.19.1401, 42.19.1403, 42.19.1404, 42.19.1407, 42.19.1410, and 42.19.1412, and repeal of ARM 42.19.1405 and 42.19.1406 pertaining to local government tax increment financing districts	)	NOTICE OF ADOPTION, AMENDMENT, AND REPEAL
	)	
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TO: All Concerned Persons

1. On January 16, 2014, the Department of Revenue published MAR Notice Number 42-2-906 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 109 of the 2014 Montana Administrative Register, Issue Number 1.

2. On February 6, 2014, a public hearing was held to consider the proposed adoption, amendment, and repeal. Robert Story, President of the Montana Taxpayers Association, and Joe Roberts, of the Montana Association of Realtors appeared and testified at the hearing. Mr. Story also provided written comments.

3. The department has amended ARM 42.19.1401, 42.19.1407, 42.19.1410, and 42.19.1412; and repealed ARM 42.19.1405 and 42.19.1406, as proposed.

4. Based upon the comments received and after further review, the department has adopted and amended the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

NEW RULE I (ARM 42.18.150) OFFICIAL RECORD FOR REAL AND PERSONAL PROPERTY (1) through (3) remain as proposed.

AUTH: 15-1-201, 15-7-306, MCA

IMP: 15-7-101, 15-7-304, MCA

42.19.1403 NEW URBAN RENEWAL DISTRICTS (URD) – INFORMATION REQUIRED TO ENABLE THE DEPARTMENT TO CERTIFY BASE TAXABLE VALUE (1) and (2) remain as proposed.

~~(3) The department will not certify the base taxable value of a newly created URD if the district crosses any school district boundary.~~

42.19.1404 NEW TARGETED ECONOMIC DEVELOPMENT DISTRICTS (TEDD) – INFORMATION REQUIRED TO ENABLE THE DEPARTMENT TO

CERTIFY BASE TAXABLE VALUE

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

(i) a copy of the notice of public hearing ~~required under 7-15-4299 MCA,~~ published in accordance with 7-1-2121, MCA, for counties or with 7-1-4127, MCA, for municipalities;

(j) through (2) remain as proposed.

~~(3) The department will not certify the base taxable value of a newly created TEDD if the district crosses any school district boundary.~~

AUTH: 15-1-201, MCA

IMP: 7-15-4279, 7-15-4282, 7-15-4284, ~~7-15-4299,~~ 76-1-103, MCA

5. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT NO. 1: Robert Story, President of the Montana Taxpayers Association, appeared and testified at the hearing. He stated appreciation for the department's efforts to modernize the system with regard to property tax. The electronic system will be beneficial and minimize the opportunity for errors in the system and will make it more accessible for both department employees and taxpayers.

Mr. Story commented on New Rule I (3), which provides for eliminating the historical or hard copies of property records from the official record maintained in the computer assisted mass appraisal system (CAMAS). He stated that until there are not any more of these types of records that it would be better if the rule was expanded to allow for their use for the purpose of correcting the electronic record, or as evidence in an appeal of any appraisal due to differences between the property owner and the department. There will be times when the information in CAMAS may not be correct and the real information can be found on the hard copies in the county offices. If the rule says these are not part of the record, it creates the opportunity for a taxpayer to be told that the information cannot be used. He hopes the department will look at ways to keep those records available as a method of correcting what is in CAMAS.

Joe Roberts, of the Montana Association of Realtors, also appeared and testified at the hearing. He commented that they acknowledge that we are in a digital age and understand why the department would be moving in this direction, modernizing, and making it more efficient and accessible for people, and that they do not have any problem with that.

He stated that they do have some concerns when it comes to referring to an official record and what the ramifications are. Will there still be the ability to question some of the validity if there is contrary evidence or if there is a historical record there? Will this keep the record open enough for people who do have concerns about valuation to be able to get beyond the "official record" when that may be necessary?

RESPONSE NO. 1: The department understands the importance of historical information. The department has maintained property data in a computer assisted mass appraisal system (CAMAS) for many years. Hard copies of information are

transferred into CAMAS. The CAMAS information is updated regularly, whereas, the hard copy files are not. Because the CAMAS data is updated more frequently, the department's hard copy files do not contain all the information that is in the system. The legislative auditors, therefore, recommended to the department to identify its "official record" of information used to value property. Thus, this new rule was proposed.

The department, through the use of increased technology, provides property record information to the public through the state's cadastral web site. All property information is available to the public, with the exception of sale prices. Property taxpayers are encouraged to inform the department of any errors. As such, contrary documentation is welcomed to ensure that the department has accurate information for setting property values. The "official" record is updated on a regular basis with new information collected by the department or provided to the department from property taxpayers. Nothing in this rule prohibits the department from reviewing or considering historical or other relevant information that may exist.

COMMENT NO. 2: Mr. Story questioned if there is a possible conflict between New Rule I and 15-8-701, MCA, which provides for maintaining official property tax records in county courthouses. He asked the department look into this and determine if there is a problem that needs to be corrected in future legislation.

RESPONSE NO. 2: The department appreciates Mr. Story's comment but there would not be a need for a statutory change of 15-8-701, MCA. The statute requires that a copy of each record is to be kept in each county, not necessarily in each county courthouse. The department's Orion property tax system is a statewide system in which each county revenue office has access to the property tax records. Additionally, the department provides regular computer downloads of property record data to each county treasurer, which is maintained in that county's computer system. Further, each year when the department provides the certification of values to the counties, the department and county's property tax records are matched and balanced to ensure accuracy of property tax information.

COMMENT NO. 3: With regard to the TIFD rules, Mr. Story asked for an explanation as to why the department is not going to certify the taxable value of a TIFD that crosses school district lines. How do you get a value? How is that process going to work? It seems like it creates a void out there somewhere.

RESPONSE NO. 3: The department understands Mr. Story's concerns. Currently, there is not a good mechanism available to certify values that cross school, or any other types of district boundaries.

The department is striking the proposed new language from the rules at this time and will continue looking for options to certify values when a cross-boundary situation arises in the future.

COMMENT NO. 4: Mr. Story also commented with regard to the hearings process. He asked why the new rule on records was not a stand-alone hearing. It is a separate issue and has nothing to do with the tax increment financing districts (TIFD)

rule amendments that were contained in the same hearing notice. There should have been two separate hearings.

Mr. Roberts also commented that when he first read the new rule in the notice, he thought it was tied in with the TIFDs rather than an unrelated stand-alone rule.

RESPONSE NO. 4: For efficiency, the department often combines rules together in hearing notices based on the division responsible for the administration of the rules being considered and/or the proximity of the rules in the current ARM. However, Mr. Story and Mr. Roberts make a good point. Their feedback is helpful and appreciated and will be taken into consideration when preparing future public hearing notices.

6. An electronic copy of this notice is available on the department's web site, [revenue.mt.gov](http://revenue.mt.gov). Select the Administrative Rules link under the Other Resources section located in the body of the homepage, and open the Adoption Notices section within. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

/s/ Laurie Logan  
LAURIE LOGAN  
Rule Reviewer

/s/ Mike Kadas  
MIKE KADAS  
Director of Revenue

Certified to the Secretary of State on May 12, 2014

## **NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE**

### **Interim Committees and the Environmental Quality Council**

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

#### **Economic Affairs Interim Committee:**

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

#### **Education and Local Government Interim Committee:**

- State Board of Education;
- Board of Public Education;
- Board of Regents of Higher Education; and
- Office of Public Instruction.

#### **Children, Families, Health, and Human Services Interim Committee:**

- Department of Public Health and Human Services.

#### **Law and Justice Interim Committee:**

- Department of Corrections; and
- Department of Justice.

#### **Energy and Telecommunications Interim Committee:**

- Department of Public Service Regulation.

**Revenue and Transportation Interim Committee:**

- Department of Revenue; and
- Department of Transportation.

**State Administration and Veterans' Affairs Interim Committee:**

- Department of Administration;
- Department of Military Affairs; and
- Office of the Secretary of State.

**Environmental Quality Council:**

- Department of Environmental Quality;
- Department of Fish, Wildlife, and Parks; and
- Department of Natural Resources and Conservation.

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. 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 or Register)** is a soft back, bound publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding register.

### Use of the Administrative Rules of Montana (ARM):

- |               |   |
|---------------|---|
| Known Subject | 1. Consult ARM Topical Index.<br>Update the rule by checking the accumulative 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 that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through December 31, 2013. This table includes those rules adopted during the period January 1, 2014, through March 31, 2014, and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 31, 2013, 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 2013/2014 Montana Administrative Register.

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

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## BOARD APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of appointees and upcoming or current vacancies on those boards and councils.

In this issue, appointments effective in April 2014 appear. Vacancies scheduled to appear from June 1, 2014 through August 31, 2014, 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 May 1, 2014.

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 APRIL 2014**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Agriculture Land Valuation Advisory Council (Revenue)</b>			
Commissioner Greg Jergeson Chinook	Governor	not listed	4/11/2014 6/30/2015
Qualifications (if required): Legislative Non-Voting Member			
Rep. Mary McNally Billings	Governor	not listed	4/11/2014 6/30/2015
Qualifications (if required): Legislative Non-Voting Member			
Rep. Mike Miller Helmville	Governor	not listed	4/11/2014 6/30/2015
Qualifications (if required): Legislative Non-Voting Member			
Sen. Bruce Tutvedt Kalispell	Governor	not listed	4/11/2014 6/30/2015
Qualifications (if required): Legislative Non-Voting Member			
<b>Board of Architects and Landscape Architects (Labor and Industry)</b>			
Mr. Bayliss Ward Bozeman	Governor	reappointed	4/25/2014 4/1/2017
Qualifications (if required): Architect			
<b>Board of Athletic Trainers (Labor and Industry)</b>			
Ms. Shadra Robison Billings	Governor	Fletcher	4/11/2014 10/1/2017
Qualifications (if required): Public Representative			

**BOARD AND COUNCIL APPOINTEES FROM APRIL 2014**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Commission on Practice of the Supreme Court (Justice)</b>			
Ms. Tracy Axelberg Kalispell	elected	re-appointed	4/1/2014 4/1/2018
Qualifications (if required): none specified			
Mr. Daniel McLean Helena	elected	re-appointed	4/1/2014 4/1/2018
Qualifications (if required): none specified			
<b>District Court District 13 Department 3 (Justice)</b>			
Judge Michael Moses Billings	Governor	Watters	4/18/2014 0/0/0
Qualifications (if required): none specified			
<b>Future Fisheries Citizen Review Panel (Fish, Wildlife and Parks)</b>			
Mr. Corey Fisher Missoula	Governor	reappointed	4/11/2014 7/1/2015
Qualifications (if required): Licensed Angler			
Mr. Greg Munther Missoula	Governor	reappointed	4/11/2014 7/1/2015
Qualifications (if required): Fisheries Expert			
<b>Montana Land Information Advisory Council (Labor and Industry)</b>			
Mrs. Elaina Graham Great Falls	Governor	McCarthy	4/25/2014 6/30/2015
Qualifications (if required): Federal USDA Representative			



**BOARD AND COUNCIL APPOINTEES FROM APRIL 2014**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Montana Land Information Advisory Council</b> (Labor and Industry) cont.			
Mr. Art Pembroke Helena	Governor	Wall	4/25/2014 6/30/2015
Qualifications (if required): Local Government			
<b>Public Health System Improvement Task Force</b> (Public Health and Human Services)			
Ms. Kristi Aklestad Shelby	Director	not listed	4/25/2014 6/1/2015
Qualifications (if required): Local Health Departments			
Ms. Jean Curtiss Missoula	Director	not listed	4/25/2014 6/1/2015
Qualifications (if required): Agencies and Associations			
Ms. Danielle Golie Havre	Director	not listed	4/25/2014 6/1/2015
Qualifications (if required): Agencies and Associations			
Ms. Jill Grim Columbus	Director	not listed	4/25/2014 6/1/2015
Qualifications (if required): Local Health Departments			
Ms. Charlene Johnson Billings	Director	not listed	4/25/2014 6/1/2015
Qualifications (if required): Agencies and Associations			

**BOARD AND COUNCIL APPOINTEES FROM APRIL 2014**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Public Health System Improvement Task Force</b> (Public Health and Human Services) cont.			
Ms. Lindsey Krywaruchka Helena	Director	not listed	4/25/2014 6/1/2015
Qualifications (if required):	Ex-Officio Member		
Ms. Bonnie Lovelace Helena	Director	not listed	4/25/2014 6/1/2015
Qualifications (if required):	Ex-Officio Member		
Mr. Craig Molgaard Missoula	Director	not listed	4/25/2014 6/1/2015
Qualifications (if required):	Agencies and Associations		
Ms. Melanie Reynolds Helena	Director	not listed	4/25/2014 6/1/2015
Qualifications (if required):	Local Health Departments		
Ms. Janet Runnion Box Elder	Director	not listed	4/25/2014 6/1/2015
Qualifications (if required):	Agencies and Associations		
Mr. Joe Russell Kalispell	Director	not listed	4/25/2014 6/1/2015
Qualifications (if required):	Local Health Departments		
Ms. Lora Wier Choteau	Director	not listed	4/25/2014 6/1/2015
Qualifications (if required):	Agencies and Associations		

**BOARD AND COUNCIL APPOINTEES FROM APRIL 2014**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Pulse Crop Advisory Committee</b> (Agriculture)			
Mr. Dustin Kreger Great Falls	Governor	Campbell	4/25/2014 2/13/2015
Qualifications (if required): Producer			
<b>Rail Service Competition Council</b> (Transportation)			
Mr. Todd O'Hair Helena	Governor	DeMichiei	4/25/2014 1/1/2017
Qualifications (if required): Knowledge of Coal Industry Transportation			
<b>State Workforce Investment Board</b> (Labor and Industry)			
Mr. Dean Bentley Butte	Governor	not listed	4/25/2014 7/1/2017
Qualifications (if required): Private Sector			
Ms. Casey Blumenthal Helena	Governor	not listed	4/25/2014 7/1/2017
Qualifications (if required): Private Sector			
Mr. Fred Kellogg Polson	Governor	Skari	4/11/2014 7/1/2017
Qualifications (if required): Private Sector			
Ms. Jane Weber Great Falls	Governor	DesRosier	4/11/2014 7/1/2017
Qualifications (if required): Local Government			

**BOARD AND COUNCIL APPOINTEES FROM APRIL 2014**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Upper Clark Fork River Basin Remediation and Restoration Advisory Council (Justice)</b>			
Mr. Jim Davison	Governor	McLean	4/11/2014
Anaconda			7/31/2015
Qualifications (if required): Resident of Upper Clark Fork River Basin			
<b>Vocational Rehabilitation Council (Public Health and Human Services)</b>			
Ms. Robin Haux	Governor	Cramer	4/25/2014
Montana City			10/1/2016
Qualifications (if required): Organized Labor			

**VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2014 THROUGH AUGUST 31, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Aging Advisory Council</b> (Public Health and Human Services)                      Rep. Beverly Barnhart, Bozeman                      Qualifications (if required): public representative</p>	Governor	7/18/2014
<p>Mrs. Jessie James-Hawley, Harlem                      Qualifications (if required): public representative</p>	Governor	7/18/2014
<p>Ms. Lauren Lynch, Butte                      Qualifications (if required): public representative</p>	Governor	7/18/2014
<p>Mr. Marvin Carter, Laurel                      Qualifications (if required): public representative</p>	Governor	7/18/2014
<p><b>Agriculture Development Council</b> (Agriculture)                      Mr. Bill Koenig, Kalispell                      Qualifications (if required): agriculture producer</p>	Governor	7/1/2014
<p>Ms. Patricia Quisno, Harlem                      Qualifications (if required): agriculture producer</p>	Governor	7/1/2014
<p>Mr. David Tyler, Belgrade                      Qualifications (if required): agriculture producer</p>	Governor	7/1/2014
<p><b>Board of Banking</b> (Administration)                      Dr. Maureen J. Fleming, Missoula                      Qualifications (if required): public representative</p>	Governor	7/1/2014

**VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2014 THROUGH AUGUST 31, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Board of Banking</b> (Administration) cont.            Mr. Josh Webber, Denton            Qualifications (if required): state bank officer</p>	Governor	7/1/2014
<p><b>Board of Funeral Service</b> (Labor and Industry)            Mr. R.J. Dick Brown, Lewistown            Qualifications (if required): mortician</p>	Governor	7/1/2014
<p><b>Board of Hearing Aid Dispensers</b> (Labor and Industry)            Mr. Wyman McDonald, Ronan            Qualifications (if required): public representative with a hearing aid</p>	Governor	7/1/2014
<p>Ms. Mary Eve Tolbert, St. Ignatius            Qualifications (if required): dispenser with master's degree and national certification</p>	Governor	7/1/2014
<p><b>Board of Nursing</b> (Labor and Industry)            Ms. Brenda Schye, Fort Peck            Qualifications (if required): public representative</p>	Governor	7/1/2014
<p>Ms. Kathleen Sprattler, Billings            Qualifications (if required): licensed practical nurse</p>	Governor	7/1/2014
<p>Mr. N. Gregory Kohn, Billings            Qualifications (if required): public representative</p>	Governor	7/1/2014
<p>Ms. Lanette Perkins, Missoula            Qualifications (if required): registered nurse</p>	Governor	7/1/2014

**VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2014 THROUGH AUGUST 31, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Board of Pharmacy</b> (Labor and Industry)                      Ms. Rebecca H. Deschamps, Missoula                      Qualifications (if required): licensed pharmacist</p>	Governor	7/1/2014
<p>Mr. Michael Bertagnolli, Three Forks                      Qualifications (if required): licensed pharmacist</p>	Governor	7/1/2014
<p><b>Board of Physical Therapy Examiners</b> (Labor and Industry)                      Mr. Brian Miller, Kalispell                      Qualifications (if required): physical therapist</p>	Governor	7/1/2014
<p><b>Board of Private Security</b> (Labor and Industry)                      Mr. Raymond Murray, Missoula                      Qualifications (if required): POST representative</p>	Governor	8/1/2014
<p>Mr. James Thomas, Helena                      Qualifications (if required): Public Safety Officer Standards and Training Council</p>	Governor	8/1/2014
<p>Ms. Holly Dershem-Bruce, Glendive                      Qualifications (if required): public representative</p>	Governor	8/1/2014
<p><b>Board of Professional Engineers and Land Surveyors</b> (Labor and Industry)                      Rep. Hal Jacobson, Helena                      Qualifications (if required): public representative</p>	Governor	7/1/2014
<p>Mr. David Elias, Anaconda                      Qualifications (if required): licensed land surveyor</p>	Governor	7/1/2014

**VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2014 THROUGH AUGUST 31, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Board of Professional Engineers and Land Surveyors</b> (Labor and Industry) cont.            Mr. Ronald Drake, Helena            Qualifications (if required): licensed chemical engineer</p>	Governor	7/1/2014
<p><b>Board of Public Accountants</b> (Labor and Industry)            Mr. Michael Johns, Deer Lodge            Qualifications (if required): Certified Public Accountant</p>	Governor	7/1/2014
<p>Mr. Tony Ennenga, Kalispell            Qualifications (if required): Certified Public Accountant</p>	Governor	7/1/2014
<p>Ms. Kathleen VanDyke, Bozeman            Qualifications (if required): public representative</p>	Governor	7/1/2014
<p>Mr. Wayne Hintz, Helena            Qualifications (if required): Certified Public Accountant</p>	Governor	7/1/2014
<p><b>Board of Radiologic Technologists</b> (Labor and Industry)            Ms. Sharon Dinstel, Colstrip            Qualifications (if required): public representative</p>	Governor	7/1/2014
<p>Ms. Anna L. Hazen, Fort Benton            Qualifications (if required): permit holder</p>	Governor	7/1/2014
<p>Dr. Jesse Cole, Butte            Qualifications (if required): radiologist</p>	Governor	7/1/2014



**VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2014 THROUGH AUGUST 31, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Board of Radiologic Technologists</b> (Labor and Industry) cont.                      Ms. Janet Fuller, Anaconda                      Qualifications (if required): Radiologic Technologist</p>	Governor	7/1/2014
<p><b>Board of Regents of Higher Education</b> (Education)                      Mr. Al Smith, Helena                      Qualifications (if required): none specified</p>	Governor	6/30/2014
<p><b>Board of Research and Commercialization Technology</b> (Commerce)                      Mr. Leonard Smith, Billings                      Qualifications (if required): Native American Public Representative</p>	Governor	7/1/2014
<p><b>Board of Sanitarians</b> (Labor and Industry)                      Mr. Donald E. Pizzini, Great Falls                      Qualifications (if required): public representative</p>	Governor	7/1/2014
<p>Ms. Kathleen Driscoll, Hamilton                      Qualifications (if required): public representative</p>	Governor	7/1/2014
<p>Mayor Gene Townsend, Three Forks                      Qualifications (if required): public representative</p>	Governor	7/1/2014
<p>Ms. Susan K. Brueggeman, Polson                      Qualifications (if required): sanitarian</p>	Governor	7/1/2014

**VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2014 THROUGH AUGUST 31, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Veterans Affairs</b> (Military Affairs)		
Mr. Michael Hagenlock, Helena Qualifications (if required): Public Health and Human Services Representative	Governor	8/1/2014
Ms. Sylvia Beals, Forsyth Qualifications (if required): veteran from Region 4	Governor	8/1/2014
Mr. Harry LaFriniere, Florence Qualifications (if required): veteran from Region 1	Governor	8/1/2014
Ms. Mary Creech, Butte Qualifications (if required): veteran from Region 2	Governor	8/1/2014
Mr. Bernard Jacobs, Helena Qualifications (if required): representative of Public Health and Human Services	Governor	8/1/2014
Dr. Trena Bonde, Fort Harrison Qualifications (if required): representative of the Department of Military Affairs	Governor	8/1/2014
<b>Board of Veterinary Medicine</b> (Labor and Industry)		
Dr. Bruce Sorensen, Belgrade Qualifications (if required): veterinarian	Governor	7/31/2014
<b>Board of Water Well Contractors</b> (Natural Resources and Conservation)		
Mr. Kirk Waren, Butte Qualifications (if required): none specified	Director	6/30/2014

**VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2014 THROUGH AUGUST 31, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Burial Preservation Review Board</b> (Administration)		
Mr. Conrad Fisher, Busby Qualifications (if required): representative of the Northern Cheyenne Tribe	Governor	8/22/2014
Mr. Morris Belgard, Hays Qualifications (if required): representative of the Fort Belknap Indian Community	Governor	8/22/2014
Mr. Videl Stump Sr., Box Elder Qualifications (if required): representative of the Chippewa Cree Historic Preservation Committee	Governor	8/22/2014
Dr. Ruthann Knudson, Great Falls Qualifications (if required): archaeological association	Governor	8/22/2014
Mr. Terry Bullis, Hardin Qualifications (if required): representative of the coroner's association	Governor	8/22/2014
Mr. Henry Anderson, Helena Qualifications (if required): representative of the Little Shell Tribe	Governor	8/22/2014
Mr. Richard White Clay Sr., Crow Agency Qualifications (if required): representative of the Crow Tribe	Governor	8/22/2014
<b>Clinical Laboratory Science Practitioners</b> (Labor and Industry)		
Ms. Alison Mizner, Kalispell Qualifications (if required): licensed pharmacist	Governor	7/1/2014

**VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2014 THROUGH AUGUST 31, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Community Service Commission</b> (Labor and Industry)		
Mr. James B. Corson, Billings Qualifications (if required): representative with experience in promoting volunteerism	Governor	7/1/2014
Mr. James Steele, Arlee Qualifications (if required): representative of Tribal government	Governor	7/1/2014
Mr. Jack Chambers, Missoula Qualifications (if required): representative of a non-profit organization	Governor	7/1/2014
Mr. David Van Son, Great Falls Qualifications (if required): expert in public safety services	Governor	7/1/2014
Mr. Dustin Whitford, Box Elder Qualifications (if required): Representing Tribal Government	Governor	7/1/2014
<b>District Court Council</b> (Supreme Court)		
Mr. Jim Reno, Billings Qualifications (if required): none specified	Supreme Court	6/30/2014
<b>Economic Development Advisory Council</b> (Commerce)		
Mr. Brent Campbell, Missoula Qualifications (if required): Public Representative	Governor	7/23/2014
Director Sheila Hogan, Helena Qualifications (if required): public representative	Governor	7/23/2014

**VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2014 THROUGH AUGUST 31, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Economic Development Advisory Council</b> (Commerce) cont. Mr. Curt Starr, Billings Qualifications (if required): public representative	Governor	7/23/2014
Ms. Kathie Bailey, Lewistown Qualifications (if required): public representative	Governor	7/23/2014
Mr. Walter White Tail Feather, Poplar Qualifications (if required): public representative	Governor	7/23/2014
Rep. Julie E. French, Scobey Qualifications (if required): Great Northern Development Corporation Regional Representative	Governor	7/23/2014
<b>Electrical Board</b> (Labor and Industry) Mr. Rick Hutchinson, Black Eagle Qualifications (if required): licensed electrician	Governor	7/1/2014
<b>Future Fisheries Review Panel</b> (Fish, Wildlife and Parks) Mr. Marvin Miller, Butte Qualifications (if required): mining reclamation expert	Governor	7/1/2014
Mr. Alan Johnstone, Wilsall Qualifications (if required): commercial agriculture representative	Governor	7/1/2014
Mr. Jim Stone, Ovando Qualifications (if required): irrigated agriculture representative	Governor	7/1/2014

**VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2014 THROUGH AUGUST 31, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Historical Society Board of Trustees</b> (Historical Society)		
Ms. Lee Rostad, Martinsdale	Governor	7/1/2014
Qualifications (if required): public member		
Mr. Jim Court, Billings	Governor	7/1/2014
Qualifications (if required): public member		
Mr. Jim Utterback, Helena	Governor	7/1/2014
Qualifications (if required): public member		
<b>Interagency Coordinating Council for State Prevention Programs</b> (Public Health and Human Services)		
Ms. Diane Cashell, Bozeman	Governor	6/16/2014
Qualifications (if required): experience in prevention programs and services		
Ms. Patty Stevens, Ronan	Governor	6/16/2014
Qualifications (if required): experience in prevention programs and services		
<b>Mental Disabilities Board of Visitors</b> (Governor)		
Mr. Graydon Davies Moll, Ronan	Governor	7/1/2014
Qualifications (if required): experience with the treatment and welfare of adults with developmental disabilities		
<b>Montana Wheat and Barley Committee</b> (Agriculture)		
Mr. Leonard Schock, Vida	Governor	8/20/2014
Qualifications (if required): District 7		
Mr. Frank Schoonover, Dutton	Governor	8/20/2014
Qualifications (if required): District 4		

## VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2014 THROUGH AUGUST 31, 2014

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Petroleum Tank Release Compensation Board</b> (Environmental Quality)</p> <p>Mr. Steve Sendon, Bozeman                      Qualifications (if required): banker</p>	Governor	6/30/2014
<p>Ms. Kate Cassidy, Whitefish                      Qualifications (if required): environmental regulatory experience</p>	Governor	6/30/2014
<p><b>Postsecondary Scholarship Advisory Council</b> (Governor)</p> <p>Ms. Margaret Bird, Browning                      Qualifications (if required): experience in financial aid at a postsecondary institution</p>	Governor	6/20/2014
<p><b>Public Defender Commission</b> (Administration)</p> <p>Mr. Kenneth R. Olson, Great Falls                      Qualifications (if required): attorney nominated by the Montana Supreme Court</p>	Governor	7/1/2014
<p>Ms. Ann Sherwood, Pablo                      Qualifications (if required): attorney nominated by the State Bar, experienced in defense of juvenile delinquency</p>	Governor	7/1/2014
<p>Mr. Christopher Daem, Billings                      Qualifications (if required): a member of an organization advocating on behalf of people with mental illness</p>	Governor	7/1/2014
<p><b>State-Tribal Economic Development Commission</b> (Commerce)</p> <p>Mr. Joseph Durglo, Pablo                      Qualifications (if required): representative of the Confederated Salish and Kootenai Tribes</p>	Governor	6/30/2014
<p>Mr. Richard Sangrey, Box Elder                      Qualifications (if required): representative of the Chippewa Cree Tribe of the Rocky Boy's Reservation</p>	Governor	6/30/2014

**VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2014 THROUGH AUGUST 31, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>State-Tribal Economic Development Commission</b> (Commerce) cont. Mr. Tracy Robinson, Lame Deer Qualifications (if required): representative of the Northern Cheyenne Tribe	Governor	6/30/2014
Ms. Jennie Small Lafranier, Lame Deer Qualifications (if required): representative of the Northern Cheyenne Tribe	Governor	6/30/2014
Mr. Terry Pitts, Pablo Qualifications (if required): representative of the Confederated Salish and Kootenai Tribes	Governor	6/30/2014
Mr. Leonard Gray, Pablo Qualifications (if required): representative of the Confederated Salish and Kootenai Tribes	Governor	6/30/2014
<b>Teachers' Retirement Board</b> (Administration) Mr. Robert Pancich, Great Falls Qualifications (if required): public representative	Governor	7/1/2014
<b>Telecommunications Access Services for Persons with Disabilities</b> (Administration) Ms. Pat Ingalls, Butte Qualifications (if required): audiologist	Governor	7/1/2014
Ms. Char Harasymczuk, Billings Qualifications (if required): person with a hearing disability	Governor	7/1/2014
Mr. Charles Charette, Lame Deer Qualifications (if required): person with a hearing disability	Governor	7/1/2014



**VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2014 THROUGH AUGUST 31, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Telecommunications Access Services for Persons with Disabilities</b> (Public Health and Human Services) cont. Mr. Drew Arnot, Missoula Qualifications (if required): independent local exchange company representative	Governor	7/1/2014
<b>Tourism Advisory Council</b> (Commerce) Mr. Paul Tuss, Havre Qualifications (if required): resident of Russell Country	Governor	7/1/2014
Mr. Ed DesRosier, East Glacier Park Qualifications (if required): resident of Glacier Country	Governor	7/1/2014
Ms. Gail Richardson, Bozeman Qualifications (if required): resident of Yellowstone Country	Governor	7/1/2014
Ms. Amber Wood-Jensen, Butte Qualifications (if required): resident of Goldwest Country	Governor	7/1/2014
Ms. Meg O'Leary, Big Sky Qualifications (if required): resident of Yellowstone Country	Governor	7/1/2014
Mr. Philip Aaberg, Chester Qualifications (if required): resident of Russell Country	Governor	7/1/2014
Ms. Stacey Kiehn, Charlo Qualifications (if required): Glacier Country Tourism Region	Governor	7/1/2014
Ms. Glenn Indreland, Bozeman Qualifications (if required): Yellowstone Country	Governor	7/1/2014

**VACANCIES ON BOARDS AND COUNCILS -- JUNE 1, 2014 THROUGH AUGUST 31, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Tourism Advisory Council</b> (Commerce) cont. Mr. Matt Ellis, Missoula Qualifications (if required): Public Representative	Governor	7/1/2014
<b>Western Interstate Commission on Higher Education</b> (Governor) Rep. Franke Wilmer, Bozeman Qualifications (if required): Legislator	Governor	6/19/2014