

# MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 14

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 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) 444-9000.

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BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption of New ) NOTICE OF PUBLIC HEARING ON  
Rules I through VI pertaining to 9-1-1 ) PROPOSED ADOPTION  
Grants )

TO: All Concerned Persons

1. On August 9, 2018, at 1:30 p.m., the Department of Administration will hold a public hearing in Room 7 of the Mitchell Building, at 125 N. Roberts St., Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The Department of Administration 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 of Administration no later than 5:00 p.m. on August 1, 2018, to advise us of the nature of the accommodation that you need. Please contact Rhonda Sullivan, Department of Administration, 1400 8th Ave., P.O. Box 200113, Helena, Montana 59620; telephone (406) 444-2420; fax (406) 444-2701; Montana Relay Service 711; or e-mail rsullivan@mt.gov.

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

NEW RULE I GRANT PROGRAM DEFINITIONS (1) "9-1-1 grant account" means the account established in 10-4-304(2)(b), MCA.

(2) "Certified PSAP" means the same as ARM 2.13.301(1).

(3) "Department's website" means the website [sitsd.mt.gov/Governance/Boards-Councils/9-1-1](http://sitsd.mt.gov/Governance/Boards-Councils/9-1-1) maintained by the department for the State Information Technology Services Division's Public Safety Communications Bureau.

(4) "Private telecommunications provider" means a provider as defined in 10-4-101(15), MCA.

AUTH: 10-4-108, MCA

IMP: 10-4-304, 10-4-306, MCA

GENERAL STATEMENT OF REASONABLE NECESSITY: The department is proposing to adopt NEW RULES I through VI to comply with the rulemaking requirements imposed by 2017 HB 61, section 4, codified at 10-4-108, MCA. The department's proposal is based on the work of the Administrative Rules Subcommittee of the 9-1-1 Advisory Council and the draft approved by the 9-1-1 Advisory Council on June 14, 2018. The rules describe the criteria for private telecommunications providers and local government entities that host certified public safety answering points (PSAPs) to receive grants from the account provided for in 10-4-304(2)(b), MCA. The rules are necessary to provide the eligibility requirements; the grant application process; criteria for awarding grants; and the

department's duty to monitor compliance with the requirements of Title 10, chapter 4, MCA. The approach taken in these proposed rules is to ensure clear, reasonable criteria are adopted to evaluate requests for grants while making it as easy as possible for the prospective grantees to apply for the grants.

STATEMENT OF REASONABLE NECESSITY: NEW RULE I defines terms used repeatedly in these rules, including frequently used statutory terms and new terms. The definitions are necessary for clarity and understanding of these terms in the context of the grant program for 9-1-1 systems and services.

NEW RULE II ELIGIBILITY REQUIREMENTS FOR GRANTS (1) The following may apply for grants as provided in 10-4-306, MCA:

- (a) private telecommunications providers; and
  - (b) certified PSAPs.
- (2) For grant awards made during state fiscal year 2019, expenditures incurred by a grant recipient between July 1, 2018, and the grant award date are eligible for reimbursement with 9-1-1 grant program funding.

AUTH: 10-4-108, MCA

IMP: 10-4-108, 10-4-306, MCA

STATEMENT OF REASONABLE NECESSITY: This rule identifies entities eligible to receive grants under 10-4-306, MCA. The rule also specifies that the department may award grants covering expenses incurred by private telecommunications providers and local government entities that host a certified PSAP between July 1, 2018, when the grant program account will be initially funded, and the date that grants are awarded, which will likely occur in the fourth calendar quarter of 2018. In the past, 9-1-1 funds went unspent, and the department is eager to put funds in the 9-1-1 grant account to use as near as possible to July 1, 2018, as required by the Legislature. Section 10-4-306(1), MCA provides: "Beginning July 1, 2018, grants must be awarded [to eligible entities]." As required by statute, NEW RULE II(2) allows the department to make awards to eligible entities for expenditures dating back to the beginning of the grant program on July 1, 2018. In fiscal year 2020 and thereafter, grants will be awarded on a prospective basis to encourage expansion of 9-1-1 systems and services.

NEW RULE III APPLICATION FOR GRANTS (1) An applicant for grant funds shall submit an application on a form approved by the department in consultation with the 9-1-1 Advisory Council and adopted by reference in this rule. The application form is available on the department's website. In fiscal year 2020 and thereafter, grants will be awarded on a prospective basis to encourage expansion of 9-1-1 systems and services.

(2) On or before September 30 each year, the department shall determine and provide public notice of the amount of grant funds available.

(3) The department shall provide notice on its website that it is accepting grant applications. Grant applications must be received by the department within 60

days of the posted notice. The department shall post notice of the application deadline on its website.

(4) The department shall make final grant awards within 90 days of receiving the 9-1-1 Advisory Council's recommendations.

AUTH: 10-4-108, MCA

IMP: 10-4-106, 10-4-306, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is necessary to provide the particular requirements to apply for a grant and key events in the grant award process.

The department will publish the amount of 9-1-1 grant funds available as soon as possible following the close of the state's fiscal year. The department expects the information to be available in September based on the accounting reconciliation process in previous fiscal years. Therefore, the department proposes to publish the amount of available funds no later than September 30 annually.

The department will announce it is accepting grant applications after the amount of available funds has been published. For the convenience of users and to reduce cost, the grant application announcement will be made on the department's website. The department did not fix a date for announcing the beginning of the application period because timing will depend on the quarterly meeting schedule of the 9-1-1 Advisory Council. Applicants will have 60 days to complete and submit an application. However, applicants will have access to the grant application form before the application period starts and could begin to prepare an application beforehand. The 60-day timeframe will allow sufficient time for applicants to complete the application process.

As required under 10-4-106, MCA, the 9-1-1 Advisory Council will review the applications and make recommendations to the department for grants.

The department determined that 90 days is sufficient time to review all grant applications received and for the 9-1-1 Advisory Council's evaluation of the applications and recommendations for grant awards. This timeframe balances the competing demands of the department's other 9-1-1 program administrative responsibilities with the need to award grants as expeditiously as possible to allow time for procurements and contract negotiations. In addition, the 90-day period coincides with the regular quarterly meeting schedule of the 9-1-1 Advisory Council.

NEW RULE IV APPLICANT PRIORITY AND CRITERIA FOR AWARDING GRANTS (1) The department, in consultation with the 9-1-1 Advisory Council, shall apply the applicant priority in 10-4-306(3), MCA.

(2) The department, in consultation with the 9-1-1 Advisory Council, shall evaluate all eligible applications using the following criteria:

(a) completeness and effectiveness of the application (20 points maximum). The application must be complete and fully address the requirements in the application form and clearly describe the fulfillment of grant award criteria;

(b) the extent to which the application supports planning, implementation, operation, or maintenance of 9-1-1 systems, 9-1-1 services, or both (50 points maximum); and

(c) support for the project demonstrated by letters of support from private telecommunications providers, local governments, public safety answering points, and emergency services agencies (30 points maximum).

(3) The 9-1-1 Advisory Council shall provide grant award recommendations to the department utilizing the criteria provided in (2).

(4) The department, in consultation with the 9-1-1 Advisory Council, may make conditional or partial grant awards.

(5) The department shall post on its website the 9-1-1 Advisory Council's grant award recommendations and the department's final grant awards.

AUTH: 10-4-108, MCA

IMP: 10-4-106, 10-4-306, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is necessary to describe the priority and criteria for making grant awards. Because 10-4-306(3), MCA, specifies that preference must be given first to private telecommunications providers and certified PSAPs working with private telecommunications providers, grant applications from local government entities that are not working with private telecommunications providers will not be considered until grants have been awarded for all eligible applications from entities entitled to preference.

Under 10-4-108, MCA, the department is required to adopt rules establishing criteria for awarding grants. The department's criteria include the completeness of the application; the extent to which the application would support planning, implementation, operation, or maintenance of a 9-1-1 system or service; and the level of public support for the project. The department benchmarked other state grant programs and chose these criteria because completeness and effectiveness of the application and support for the project demonstrated by letters of support are standard grant program criteria. Support for the planning, implementation, operation, or maintenance of 9-1-1 systems, 9-1-1 services, or both is the purpose of the 9-1-1 grant program. This criterion was included and was given the most significant weight (50 points). Completeness of the application is important to allow the 9-1-1 Advisory Council and department to make fully-informed decisions. The level of community support is an indicator of the need for a project in a community. Community support is more important than application completeness because, under 10-4-306, MCA, the grant program is intended to support collaboration between private telecommunications providers and local governments. Because community support is relatively more important than a complete application (which can be supplemented by questions from the 9-1-1 Advisory Council), the department assigned a 30-point value to community support and 20 points to the application.

The 9-1-1 Advisory Council will review applications and make recommendations to the department as required by 10-4-106, MCA. The department anticipates that grant applications may exceed the amount of available funds in some years. When this occurs, the 9-1-1 Advisory Council and the department must apply the statutory preference and the criteria provided in NEW RULE IV. The 9-1-1 Advisory Council and department may find it necessary to make partial awards and may do so based on the application scoring.

To provide transparency to the public, recommendations from the 9-1-1 Advisory Council and grant awards made by the department will be posted on the department's website.

NEW RULE V GRANT REPORTING, MONITORING, AND RECORDKEEPING (1) The department may request periodic progress reports from grant award recipients, but not more frequently than quarterly.

(2) The department may audit transactions involving funds received from the 9-1-1 grant account and may request information and records necessary to determine whether an expenditure complies with these rules.

(3) A grant award recipient shall keep and maintain records regarding all transactions for which the recipient received grant funding, including, at a minimum, supporting documentation (e.g., invoices) for each expenditure that verifies an expenditure is allowable under the terms of the grant award and 10-4-306, MCA.

(4) A grant award recipient shall maintain the records described in (3) for a period of five years following grant expiration. The department may determine a grant award recipient does not comply with these rules if records are not kept and maintained as provided in this rule.

(5) A grant award recipient may request protection from public disclosure of information subject to trade secret confidentiality pursuant to Montana's Uniform Trade Secrets Act by submitting a trade secret confidentiality affidavit in the form found on the department's website.

AUTH: 10-4-108, MCA

IMP: 10-4-107, 10-4-108, 10-4-306, MCA

STATEMENT OF REASONABLE NECESSITY: Under 10-4-107, MCA, the department is required to monitor for allowable uses of grant funds to ensure funds are used for 9-1-1 purposes. To fulfill this requirement, NEW RULE V describes the recordkeeping and reporting obligations of private telecommunications providers and local government entities that host a certified PSAP and the department's duty to monitor for compliance with the requirements of Title 10, chapter 4, MCA.

To facilitate monitoring, the department has proposed a requirement that grant recipients provide progress reports and submit to audits related to the expenditure of grant funds. This approach was taken because it will allow the department to keep abreast of how the grant money is being used, while preserving the option of doing a more detailed audit review if issues arise.

The department does not expect to audit all grant recipients' expenditures of funds during each grant cycle, but the department will audit as needed to verify the information provided in progress reports and ensure local governments and providers are providing accurate information to the department and using funds appropriately.

The rule advises grant recipients that they must keep records regarding the expenditure of grant funds for a period of five years, which parallels existing record retention requirements for state government. Without a reasonable retention period, the department would have a difficult time conducting an effective audit.

The department included (5) to assure private telecommunications providers participating in the grant program that they may seek protection of proprietary information maintained as trade secrets by submitting a trade secret affidavit. Given the highly competitive nature of the telecommunications industry, the department anticipates that some private telecommunications providers may be reluctant to participate in the grant program without assurance that their legitimate trade secrets can be protected.

NEW RULE VI PROCEDURES FOR REPAYMENT OF GRANT FUNDS

(1) The department may determine a grant recipient does not comply with these rules if the grant recipient:

(a) is not in compliance with any of the requirements of Title 10, chapter 4, MCA;

(b) uses or distributes funds for any purpose other than those identified in the grant agreement and 10-4-306, MCA; or

(c) has not timely provided information requested by the department.

(2) If the department determines a grant recipient does not comply with these rules, the department shall send the entity a deficiency letter identifying the rule or requirement that is not met and the action needed to correct the deficiency. The entity has 60 days from the date of the deficiency letter to correct all deficiencies and demonstrate compliance.

(3) A grant recipient that has received a deficiency letter may request an additional 30 days to correct deficiencies and demonstrate compliance with the rules. The request must be filed within 30 days of the date of the deficiency letter referenced in (2).

(4) If a grant recipient disputes a department determination, the entity may ask the department to provide formal notice of agency action and an opportunity for hearing.

(5) Except as provided in (3) or (4), if an entity has not corrected all deficiencies and demonstrated compliance with these rules within 60 days of the deficiency letter, the department shall provide the entity notice and an opportunity for hearing under Title 2, chapter 4, part 6, MCA.

(6) The department may appoint a hearing examiner to conduct hearings under 2-4-611, MCA.

(7) The final determination in a contested case regarding a grant recipient's compliance with these rules is made by the department director.

(8) When the department makes a final determination that a grant recipient does not comply with these rules, the department may either:

(a) reduce or suspend payment to the grant recipient;

(b) require repayment of funds expended on activities determined not to meet the eligibility requirements; or

(c) both.

AUTH: 10-4-108, MCA

IMP: 10-4-108, 10-4-306, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is necessary to describe circumstances allowing the department to seek repayment of grant funds. Under 10-4-108, MCA, the department is required to implement post-disbursement activities to monitor use of funding and to create procedures for repayment of funds expended on activities that do not meet the grant program eligibility requirements.

An entity that does not meet the statutory requirements either for eligibility or for the expenditure of funds cannot receive 9-1-1 funds, and the department must seek to recoup grant funds paid to a recipient that does not meet the requirements of Title 10, chapter 4, MCA. Because the department cannot effectively monitor use of grant funds if recipients do not respond to the department's requests for information, the department must be able to seek repayment of grant funds paid to an entity that is not cooperating with the grant program.

The department must ensure payments are made only as permitted by 10-4-306, MCA. If a grant recipient is not in compliance, the department must have a process for notification, appeal, and compliance and provide sufficient time for this process to be completed. Sixty days are necessary to allow the department to complete any necessary fact gathering and prepare a formal notice of agency action.

Prior to suspending payment or requiring repayment, under the Montana Administrative Procedure Act (MAPA) and due process, the department must provide formal notice of deficiencies and provide the recipient an opportunity to address or contest the issue. NEW RULE VI sets forth the notice and hearing process required by MAPA and due process.

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 Rhonda Sullivan, Department of Administration, 1400 8th Ave., P.O. Box 200113, Helena, Montana 59620; telephone (406) 444-2420; fax (406) 444-2701; or e-mail rsullivan@mt.gov, and must be received no later than 5:00 p.m., August 17, 2018.

5. Don Harris, Department of Administration, has been designated to preside over and conduct this hearing.

6. The division maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the mailing list shall make a written request which includes the name and mailing address or e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding Public Safety Communications Bureau rulemaking actions. 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 department.

7. An electronic copy of this proposal notice is available through the department's website at [doa.mt.gov/administrativerules](http://doa.mt.gov/administrativerules). The department strives to make its online version of the notice conform to the official published version, but advises all concerned persons that if a discrepancy exists between the official

version and the department's online version, only the official text will be considered. In addition, although the department works to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor, Representative Frank Garner, was contacted on January 2, 2018, by electronic mail, telephone, and United States Postal Service first class mail.

9. The department has determined that under 2-4-111, MCA, the proposed adoption of NEW RULES I through VI will not significantly and directly affect small businesses.

By: /s/ John Lewis  
John Lewis, Director  
Department of Administration

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

Certified to the Secretary of State July 10, 2018.

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the matter of the adoption of New ) NOTICE OF PUBLIC HEARING ON  
Rules I through XX pertaining to the ) PROPOSED ADOPTION  
requirements for the issuance, )  
replacement, or renewal of a REAL )  
ID compliant driver's license or )  
identification card )

TO: All Concerned Persons

1. On August 14, 2018, at 10:00 a.m. the Department of Justice will hold a public hearing in the auditorium of the Department of Public Health and Human Services, 111 North Sanders, at Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The Department of Justice 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 of Justice Motor Vehicle Division no later than 5:00 p.m. on July 26, 2018, to advise us of the nature of the accommodation that you need. Please contact Michele Snowberger, Department of Justice Motor Vehicle Division, 302 North Roberts, P.O. Box 201430, Helena, Montana, 59620; telephone (406) 444-1776; fax (406) 444-2086; or e-mail msnowberger@mt.gov.

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

NEW RULE I PURPOSE (1) The purpose of these rules is to establish the various requirements for the issuance, replacement, or renewal of a REAL ID compliant driver's license or identification card.

AUTH: 61-5-125, 61-5-128, MCA  
IMP: 61-5-128, 61-5-129, MCA

NEW RULE II DEFINITIONS (1) "AAMVA" means the American Association of Motor Vehicle Administrators.

(2) "Applicant" means any individual applying to the department for a Montana credential.

(3) "Authorized presence" means an individual who is a U.S. citizen or who is a foreign national admitted for permanent or temporary residence in the United States.

(4) "Certified birth certificate" means a copy of the whole or part of a record of birth registered with the state that the state considers to be the same as the original record of birth on file with the state Office of Vital Statistics or equivalent government agency in an applicant's state of birth.

(5) "Credential" means any department-issued driver's license, driver permit, or identification card that contains the applicant's full legal name, digital photograph, date of birth, and address. This definition excludes department-issued employee identification cards.

(6) "Department" means the Montana Department of Justice.

(7) "DHS" means the United States Department of Homeland Security.

(8) "Employee identification card" means an identification card issued by the department for identification of employees of an entity without proving identity.

(9) "Exception processing" means the procedure the department has established for persons who are unable, for reasons beyond their control, to present all necessary documents and must rely on alternative documents to establish identity, date of birth, and authorized presence. Alternative documents to demonstrate authorized presence are only allowed to demonstrate U.S. citizenship.

(10) "First name" means the name that appears first in an individual's full name or is the individual's first given name.

(11) "Foreign national" means an individual who is in the United States and is not currently a citizen.

(12) "Full legal name" means the applicant's first name, middle name(s), and last name, without the use of initials or nicknames, as it appears on the applicant's presented source documents.

(13) "Identification card" means a credential issued by the department but that does not permit the individual to operate a motor vehicle.

(14) "Identity" means any information which can be used to distinguish or trace an individual, such as their name, driver's license or identification card, social security number, biometric record, including physical characteristics or a photograph or digital image, or signature; alone, or when combined with other personal or identifying information, which is linked or linkable to a specific individual, such as a date and place of birth or address.

(15) "Last name" means the final name or surname on a primary document. When the final two names are connected with a hyphen, it is both names connected by the hyphen.

(16) "Mailing address" means the postal address where the individual receives mail.

(17) "Middle name" means the name or names between the individual's first name and last name.

(18) "Montana resident" means an individual who resides in Montana as determined under 1-1-215, MCA.

(19) "Nonresident" means an individual who is not a Montana resident.

(20) "Permanent resident status" means a foreign national whose authority to lawfully remain in the United States is permanent.

(21) "REAL ID Driver's License or Identification Card" means a driver's license or identification card that has been issued by a state that has been certified by the DHS to be in compliance with the requirements of the REAL ID Act and accompanying regulations, including limited-term driver's licenses or identification cards.

(22) "Residency" means the physical address of where an individual lives.

(23) "SAVE" means the Department of Homeland Security Systematic Alien Verification for Entitlements system.

(24) "Source document" means an original document certified by the issuing agency, an amended original document certified by the issuing agency, or a true copy certified by the issuing agency, excluding miniature, wallet sized, or photocopies of documents.

(25) "SSA" means the Social Security Administration

(26) "SSN" means the Social Security Number issued to an individual by the SSA.

(27) "SSOLV" means Social Security Online Verification managed by the Social Security Administration.

(28) "State" means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(29) "Temporary lawful status" means a foreign national whose authority to lawfully remain in the United States is temporary.

(30) "United States citizen" means an individual who is either a natural born citizen or who has lawfully become a citizen of the United States under the U.S. Constitution and laws.

(31) "United States passport" means a passport booklet or card issued by the U.S. Department of State that denotes identity and citizenship as determined by the U.S. Department of State.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE III DECLARATION (1) Each applicant shall declare under penalty of perjury that the information submitted on their application is true and correct in a format approved by the department.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE IV SOURCE DOCUMENTS (1) When applying for a credential, the applicant shall provide source documents verifying proof of legal name, date of birth, social security number, authorized presence, and Montana residency.

(2) All documents presented must be legible and unaltered from the original (for example, no lamination, hand-writing, or hole punch), or a copy certified by the issuing agency.

(3) An applicant shall appear in person to apply for a REAL ID credential for the first time.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE V SOURCE DOCUMENT TRANSLATION PROCESS (1) All documents submitted to the department by the applicant must be in English or have been translated into English.

(2) The original and corresponding translated documents must be presented together at the time of application.

(3) All translated documents must have the following signed declaration included at the end, or of substantially similar wording (must be typed or electronically printed on the same page as the translation, not on separate pieces of paper or the translation will not be accepted by the department):

(a) "I, [insert printed translator's full name], declare under penalty of perjury that: (1) the translation is a complete and accurate translation from [insert foreign language] to the English language to the best of my ability. (2) I am fully competent to translate from [insert foreign language] to the English language and I am proficient in both languages."

(b) the number and state of issuance of the translator's unexpired driver's license, instruction permit, or identification card.

(c) translator's signature.

(d) date of translation.

(4) All translated documents and information required under this rule must be included in the applicant's driver record.

(5) Applicants are responsible for all translation costs.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE VI TRANSLATOR REQUIREMENTS (1) A translator shall be:

- (a) certified by the American Translators Association;
- (b) approved by an embassy or consulate of the United States or diplomatic or consular official of a foreign country assigned or accredited to the United States;
- (c) affiliated or approved by the DHS, or other U.S. government agency;
- (d) an attorney licensed to practice in the U.S.; or
- (e) an individual approved by the department at a regional manager level or above.

(2) A translator shall not be related by blood or marriage to the applicant, except as authorized by the department at a regional manager level or above.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE VII PROOF OF NAME AND DATE OF BIRTH (1) When applying for a REAL ID driver's license or identification card, each applicant shall submit one of the following primary source documents to prove full legal name and date of birth:

(a) certified U.S. birth certificate;

(b) valid, unexpired U.S. passport;

(c) consular report of birth abroad issued by the U.S. Department of State, Form FS-240, DS-1350, or FS-545;

- (d) certificate of naturalization issued by DHS, Form N-550 or Form N-570;
- (e) certificate of citizenship, Form N-560 or Form N-561, issued by DHS;
- (f) valid, unexpired permanent resident card, Form I-551, issued by DHS;
- (g) valid, unexpired REAL ID driver's license;
- (h) valid, unexpired REAL ID identification card;
- (i) unexpired employment authorization document issued by DHS, Form I-766 or Form I-688B; or
- (j) unexpired foreign passport with a valid, unexpired U.S. visa affixed accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States or an I-551 stamp.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE VIII ESTABLISHMENT OF NAME (1) The department shall use the full legal name as recorded on the presented primary source document, unless:

(a) the applicant submits one or more documents specified in [NEW RULE XX] verifying a name change; or

(b) the name has been truncated according to (2).

(2) The department shall use the applicant's full legal name on the credential unless the name must be truncated to fit in the available space. The department will apply the AAMVA 2016 card design standards for truncation.

(3) The department shall:

(a) record the individual's last name. If an individual has only one name, the department shall record the name as the individual's last name.

(b) only record hyphenations if the name is hyphenated on the presented primary source document.

(c) record a personal name suffix only if it appears in the presented primary source document (for example, "Jr." or "III").

(d) not record address titles (for example, "Ms." or "Dr.").

(e) not record an individual's first name if it is unknown.

(f) not record professional or academic name suffixes (for example, "Esq." or "MBA").

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE IX ESTABLISHMENT OF NAME OTHER THAN THE NAME THAT APPEARS ON THE PRIMARY SOURCE DOCUMENT (1) When an

applicant wants to establish a name other than the name that appears on the primary source document, the individual shall present one of the listed documents proving the name change. There must be evidence of the name change on the presented document.

(2) An applicant shall submit one of the following documents by a government agency or court to prove a name change because of a marriage, common law marriage, or domestic partnership:

(a) marriage license;

- (b) certificate of marriage;
  - (c) declaration of marriage;
  - (d) domestic partnership registration; or
  - (e) an equivalent documentation of marriage or domestic partnership from the issuing government jurisdiction.
- (3) The department cannot accept an affidavit of common law marriage to prove a name change.
- (4) An applicant shall submit one of the following documents to prove a name change because of a divorce or dissolution from a court of competent jurisdiction:
- (a) dissolution of marriage decree;
  - (b) divorce decree; or
  - (c) an equivalent documentation of a dissolution.
- (5) An applicant shall submit one of the following documents to prove a name change by other means:
- (a) court order from a court of competent jurisdiction granting a name change;
  - (b) certificate of naturalization issued by DHS, Form N-550 or Form N-570; or
  - (c) certificate of citizenship issued by DHS.
  - (6) All documents presented must be certified by the issuing agency.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE X SOCIAL SECURITY NUMBER (1) Individuals who apply for a REAL ID compliant credential shall present their SSA card.

(2) If an SSA card is not available, the individual may present any of the following documents bearing the applicant's name and SSN:

- (a) W-2 form;
- (b) SSA-1099 form;
- (c) non-SSA-1099 form; or
- (d) pay stub.

(3) Individuals who present an unexpired foreign passport shall present a SSN or demonstrate non-work authorized status.

(4) The department shall verify the SSN with the SSA or through another method approved by DHS. The department cannot issue a REAL ID credential to an applicant until the information is verified with SSA.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE XI CHANGE TO NAME, DATE OF BIRTH, OR SOCIAL SECURITY NUMBER (1) If there is any change to the applicant's name, date of birth, or social security number, after the department issues a credential to an applicant, the department shall not issue a new credential, a replacement, or renew the credential unless the applicant appears in person and submits proof of the change.

(a) The department cannot issue a REAL ID credential to an applicant until the information is verified with SSA.

(2) The applicant shall pay the associated fees for either a new issuance, replacement, or renewal to receive a credential with the name as demonstrated on the presented documents.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE XII PROOF OF AUTHORIZED PRESENCE (1) When applying for a REAL ID driver's license or identification card, each applicant shall present satisfactory evidence of authorized presence.

(2) It is satisfactory evidence of authorized presence when the applicant submits one of the following primary source documents:

(a) certified U.S. birth certificate;

(b) valid, unexpired U.S. passport;

(c) consular report of birth abroad issued by the U.S. Department of State, Form FS-240, DS-1350, or FS-545;

(d) certificate of naturalization issued by DHS, Form N-550 or Form N-570;

(e) certificate of citizenship, Form N-560 or Form N-561, issued by DHS; or

(f) valid, unexpired permanent resident card, Form I-551, issued by DHS.

(3) Secondary source document. If an applicant submits a primary source document not listed in (2), the applicant must also submit:

(a) a second document from [NEW RULE VII(1)]; or

(b) documentation issued by DHS or other federal agencies demonstrating lawful status.

(4) The department shall complete all required document verifications.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE XIII PROOF OF MONTANA RESIDENCY (1) When applying for a REAL ID driver's license or identification card, each applicant shall submit satisfactory evidence of Montana residency (physical address).

(2) If the applicant has a different mailing address than residency (physical address), the applicant shall provide a separate mailing address.

(3) The Montana residency address must be displayed on the credential except that an alternative address may be displayed for an applicant whom a statute, regulation, or department business standard permits the display of an alternative address.

(4) The residency of an unmarried minor is:

(a) the residency of the minor's parents or parent;

(b) the residency of the legal guardian or custodian appointed by a court of competent jurisdiction;

(c) as determined by district court order; or

(d) as approved by the department.

(5) The residency of a married minor is the minor's residency.

- (6) The residency of an emancipated minor is the minor's residency.
- (7) The residency address must be:
  - (a) the number and street name assigned for U.S. mail delivery;
  - (b) an address convention used by the U.S. postal service in areas where a number and street name have not been assigned; or
  - (c) a descriptive address of the location where the applicant resides (for example, under the west end of the east street bridge) if the applicant does not have a standard address or is homeless.
- (8) The document must show the applicant's name and current residency.
- (9) Each applicant shall establish residency by submitting two documents from the following list:
  - (a) valid Montana credential;
  - (b) valid Montana REAL ID credential;
  - (c) expired Montana credential;
  - (d) expired Montana REAL ID credential;
  - (e) a Montana hunting or fishing license or permit;
  - (f) utility bill;
  - (g) credit card statement;
  - (h) school transcript or report card;
  - (i) bank statement;
  - (j) mortgage document;
  - (k) rental agreement or rent receipt;
  - (l) insurance policy;
  - (m) tax document;
  - (n) pay stub;
  - (o) vehicle registration or title;
  - (p) voter registration;
  - (q) phone bill;
  - (r) federally recognized tribal identification;
  - (s) Montana recognized tribal identification;
  - (t) certified court documents (for example, court order, judgment, subpoena, warrant); or
  - (u) first class mail with postmark.
- (10) If the applicant is homeless, the applicant shall submit:
  - (a) a separate mailing address;
  - (b) a written statement from a social service agency on the agency's letterhead verifying the applicant's homeless status and the descriptive address given by the applicant.

AUTH: 61-5-125, 61-5-128, MCA  
IMP: 61-5-128, 61-5-129, MCA

NEW RULE XIV EXCEPTION PROCESS (1) Applicants who, for reasons beyond their control, are unable to present all necessary documents may request that the department issue a REAL ID credential through an exception process.

(2) If an exception is necessary, an applicant shall request an exception in writing on a form approved by the department and provide alternative documents.

(3) Alternative documents to demonstrate authorized presence will only be allowed to demonstrate U.S. citizenship.

(4) The request for an exception must be reviewed by the department. The department shall make reasonable efforts to establish the authenticity of the alternative documents at the time they are submitted.

(5) If the department grants an exception, the department shall note this decision on the driver record.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE XV DOCUMENT VERIFICATION REQUIREMENTS (1) For foreign nationals, the department shall verify the authenticity of the document through the SAVE system or alternative methods approved by DHS.

(2) The department shall verify social security numbers with SSA or through another method approved by DHS.

(3) The department shall verify the authenticity of U.S. passports through the U.S. passport verification system.

(4) If the documents presented do not appear authentic, the data does not match, and the use of an exception process is not warranted, the department shall not issue a credential and refer the applicant to the issuing office for resolution.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE XVI DENIAL OF APPLICATIONS (1) The department may delay issuing a credential to verify any document presented by an applicant.

(2) The department shall deny an application if the applicant presents fraudulent or altered documents or commits any other fraud in the application process.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE XVII FULL FACIAL DIGITAL PHOTOGRAPH (1) The department shall take a full facial photograph of the applicant and place it on the front of the credential.

(a) The applicant shall remove all head coverings.

(b) The applicant shall not wear eyewear that obstructs the iris or pupil of the eyes and shall not take any action to obstruct a photograph of their facial features.

(2) The department shall:

(a) ensure lighting is equally distributed on the face;

(b) ensure that the head from crown to the base of the chin and from ear-to-ear is clearly visible and free of shadows;

(c) ensure where possible, that there are no dark shadows in the eye-sockets due to the brow and that the iris and pupil are clearly visible; and

(d) take care to avoid "hot spots" (bright areas of light shining on the face).

(3) An applicant requesting to wear a head covering for religious purposes shall complete a statement under penalty of perjury on a form designated by the department.

(4) If the department grants a religious exception, but receives credible evidence that the applicant does not wear a religious head covering while in public, except when removal is necessary, the department shall cancel the credential.

(5) An applicant requesting to wear a head covering for medical reasons shall complete a statement under penalty of perjury on a form designated by the department.

(6) If the department grants a religious or medical exception, the applicant may wear a head covering that does not obscure any facial features. The exception must be noted on the driver record.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE XVIII FOREIGN NATIONAL WITH TEMPORARY AUTHORIZED PRESENCE (1) The department may only issue a temporary or limited-term credential to a foreign national after verifying the individual's authorized presence in the United States.

(2) The department shall not issue a temporary or limited-term credential for a period longer than:

(a) the expiration of the applicant's authorized stay in the United States, or, if there is no expiration date, for a period longer than one year; and

(b) the maximum credential duration term.

(3) The department shall clearly indicate on the face of the credential that the license or card is a temporary or limited-term credential.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE XIX PROHIBITION AGAINST HOLDING MORE THAN ONE REAL ID CREDENTIAL (1) An individual may hold only one REAL ID credential. An individual cannot hold a REAL ID driver's license and a REAL ID identification card at the same time.

(2) An individual may hold at the same time:

(a) a REAL ID driver's license and a non-REAL ID identification card;

(b) a non-REAL ID driver's license and a REAL ID identification card;

(c) a non-REAL ID driver's license, a REAL ID identification card, and a non-REAL ID identification card; or

(d) a non-REAL ID driver's license and non-REAL ID identification cards at the same time.

(3) If the department confirms an individual holds a driver's license or identification card in another state, the department shall void the other state's credential and notify the other state to cancel the other state's credential.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

NEW RULE XX SOURCE DOCUMENT RETENTION (1) The department shall retain copies of the application, declaration, and documents submitted to prove legal name, date of birth, social security number, authorized presence, and Montana residency.

(2) The department must scan and retain the digital images for the retention period required under state law, but not less than ten years.

AUTH: 61-5-125, 61-5-128, MCA

IMP: 61-5-128, 61-5-129, MCA

REASON: The 2017 Montana Legislature adopted SB 366 which authorized the department to develop driver's licenses and identification cards (credentials) which comply with the Federal REAL ID Act of 2005 (Public Law 109-13). The legislation allows Montana citizens to choose whether they want such REAL ID compliant credentials or not and included other provisions to aid in the implementation of this new credential production process.

The federal government has adopted extensive rules (6 CFR Part 37) which detail the specific requirements for states to develop a process for the issuance, replacement, or renewal of REAL ID compliant driver's licenses and identification cards and these rules are generally proposed to bring Montana's newly established REAL ID production process in line with the federal requirements.

Proposed New Rule I is necessary to clearly state a purpose for the rules proposed. Proposed New Rule II is necessary to create the definitions for words and phrases used in the proposed rules. Proposed New Rule III is advanced to require a declaration from any applicant for a REAL ID compliant credential to attest as to the application's truth and correctness.

Proposed New Rule IV is necessary to identify the subjects that must be verified in any application for the REAL ID compliant credentials. Proposed New Rules V and VI are necessary to establish translation requirements for REAL ID required documentation. Proposed New Rules VII, VIII, and IX are necessary to establish the requirements for proof of legal name on any REAL ID compliant credential.

Proposed New Rule X details the requirements for an applicant to prove the validity of the required social security number. Proposed New Rule XI is needed to address possible changes to an individual's name, date of birth, or social security number. Proposed New Rules XII and XIII are necessary to establish how an applicant proves authorized presence in the United States and Montana residency, both of which are required under current Montana law.

Proposed New Rule XIV is necessary to create a process for an applicant to apply to the department for an exception to the requirement that they provide all necessary documentation in an application for a REAL ID compliant credential. Such

exceptions are allowed by federal law and regulations. Proposed New Rule XV is needed to detail how the department will verify required application documents. Proposed New Rule XVI is necessary to detail the circumstances under which the department may deny an application for REAL ID compliant credentials.

Proposed New Rule XVII is needed to provide guidance to the department and applicants as to the nature of the photo to be used on any REAL ID compliant credentials. Proposed New Rule XVIII is needed to address the situation when a foreign national has a limited authorized presence in the United States. Proposed New Rule XIX is needed to establish a prohibition on any individual holding more than one REAL ID compliant credential. It is also addressed to the situation where an individual is a Montana applicant but currently holds a credential issued by another state. Proposed New Rule XX is needed to specify how long the department must maintain REAL ID application documents.

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: Michele Snowberger, Department of Justice Motor Vehicle Division, 302 North Roberts, P.O. Box 201430, Helena, Montana, 59620; telephone (406) 444-1776; fax (406) 444-2086; or e-mail [msnowberger@mt.gov](mailto:msnowberger@mt.gov), and must be received no later than 5:00 p.m., August 17, 2018.

5. Jeff Hindoien, Department of Justice, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list 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 2 above or may be made by completing a request form at any rules hearing held by the department.

7. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted by mail on June 27, 2018.

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

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

/s/ Timothy C. Fox  
Timothy C. Fox  
Attorney General  
Department of Justice

Certified to the Secretary of State July 10, 2018.

BEFORE THE PUBLIC SAFETY OFFICERS  
STANDARDS AND TRAINING COUNCIL  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 23.13.102, 23.13.201, ) PROPOSED AMENDMENT AND  
23.13.203 through 23.13.210, ) REPEAL  
23.13.212, 23.13.215, 23.13.217, )  
23.13.301, 23.13.601, 23.13.702 )  
through 23.13.704, and 23.13.714; )  
and the repeal of ARM 23.13.211 )  
pertaining to the certification of public )  
safety officers )

TO: All Concerned Persons

1. On August 15, 2018, at 10:00 a.m., the Public Safety Officers Standards and Training (POST) Council will hold a public hearing in Room 214 of the Karl Ohs Building of the Montana Law Enforcement Academy, 2260 Sierra Road East, at Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The POST Council 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 POST Council no later than 4:00 p.m. on August 8, 2018, to advise us of the nature of the accommodation that you need. Please contact Katrina Bolger, POST Council, 2260 Sierra Road East, Helena, Montana, 59602; telephone (406) 444-9974; or e-mail kbolger@mt.gov.

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

23.13.102 DEFINITIONS As used in this chapter, the following definitions apply:

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

(c) the document or statement, prior to the notice of agency action, that initiates the informal denial, revocation, suspension, or sanction proceeding against an officer.

(2) "Certification" or "certificate" means any ~~basic or advanced standards and training~~ certification granted by the council after completion of the specific requirements as set forth in these rules.

(3) through (16) remain the same.

(17) "POST-approved training" means training reviewed and approved ~~by the director or council~~ pursuant to ARM 23.13.301 for which POST gives training credit, including but not limited to basic, regional, and professional courses.

(18) and (19) remain the same.

(20) "Public safety officer" means an officer, as defined in 44-4-401, MCA. Nothing in these rules may be construed to apply the requirements of 7-32-303~~(5)~~, ~~(8)~~ or 44-4-403, MCA to an elected official.

(21) through (26) remain the same.

AUTH: 2-15-2029, 44-4-402, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: The amendments to this rule recognize the council and the director's authority to deny an application for POST certification and make the definitions consistent with other rules. They also provide clarity regarding certification and remove specific subsections of statutes, recognizing that the subsections may change in future legislative sessions. Finally, POST and the director will no longer approve training, but the employing authorities will review, track, and approve continuing training as outlined in other rules.

23.13.201 MINIMUM STANDARDS FOR THE APPOINTMENT AND CONTINUED EMPLOYMENT OF PUBLIC SAFETY OFFICERS (1) through (2)(g) remain the same.

(h) be in good standing with POST and any other licensing or certification boards or committees equivalent to POST in any other state such that no license or certification similar to a POST certification has been revoked or is currently suspended in any other state;

(i) through (k) remain the same.

(i) a review of the Code of Ethics ARM 23.13.203 and Grounds for Denial, Sanction, Suspension, and Revocation ARM 23.13.702;

(ii) through (3) remain the same.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: The Montana POST Council recognizes the need for public safety officers in Montana to be held to the highest standard. These amendments clarify that an officer must be in good standing with the Montana POST Council as well as any other licensing or certification boards. The amendments to this rule also recognize the council and the director's authority to deny an application for POST certification and make the language of this rule consistent with other rules adopted by POST.

23.13.203 CODE OF ETHICS (1) remains the same.

(2) All public safety officers hired or sworn before this rule's effective date are also bound by the code of ethics contained in this rule. Continued employment as a public safety officer in Montana constitutes an agreement to be bound by this code of ethics. Failure to comply with or violation of any part of the code of ethics may be grounds for denial, suspension, sanction, or revocation of any POST certificate.

(3) remains the same.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 7-32-303, 44-4-403, MCA

REASON: The amendments to this rule recognize the council and the director's authority to deny an application for POST certification and make the language of this rule consistent with other rules adopted by POST.

23.13.204 PURPOSE OF CERTIFICATES (1) remains the same.

(2) Basic, intermediate, advanced, supervisory, command, ~~administrative~~, and other certificates are established for the purpose of promoting ethical behavior, professionalism, education, and experience necessary to perform the duties of a public safety officer.

(3) remains the same.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 7-32-303, 44-4-403, MCA

REASON: The amendments to this rule remove reference to an administrative certification. POST has determined that the administrative certificate is redundant to the command certificate because the only additional requirement for the administrative certificate is a command certificate.

23.13.205 GENERAL REQUIREMENTS FOR CERTIFICATION (1) through (3) remain the same.

(4) Prior to issuance of any certificate, the public safety officer must have completed the designated combinations of education, training, and experience as ~~computed by the credit hour system~~ established by the council.

(5) and (5)(a) remain the same.

(b) maintain ethical conduct by upholding and abiding by the code of ethics set forth in ARM 23.13.203 and refrain from engaging in any behavior that constitutes a ground for denial, sanction, suspension, or revocation under ARM 23.13.702;

(c) through (6)(a) remain the same.

(b) acceptability of training hours claimed for training received from noncriminal justice sponsored agencies will be determined by the council, ~~and requires notice of application for credit.~~

(7) ~~In calculating the training hours for an intermediate, advanced, or supervisory certificate, no more than 25% of the required training hours will be allowed from any college or military training credits and no more than 15% will be allowed from in-service training.~~

(a) The POST Council is not responsible for maintaining records of regional, online, or in-service training hours acquired to satisfy the requirements of this rule. The employing agency must maintain records of regional, online, or in-service training hours acquired to satisfy this rule and provide those records with the application for intermediate, ~~or advanced, supervisory, command, and other~~ certificates.

(8) ~~In calculating the training hours for an intermediate, advanced, or~~

~~supervisory certificate, military training will be accepted hour for hour. The application must be accompanied by a written explanation that describes the training and states specifically how the training relates to and assists the public safety officer with the public safety officer's current position, duties and responsibilities, and other supporting documents requested by the director. A description of the training alone is not sufficient.~~

~~(9) In calculating the training hours for an intermediate, advanced, or supervisory certificate, college education will be credited for individual class work only. Credit will be given using the formula of ten hours for one semester credit hour and six hours for one quarter credit hour. The application must be accompanied by a written explanation that describes the course and states specifically how the higher education course relates to and assists the public safety officer with the public safety officer's current position, duties and responsibilities, and other supporting documents requested by the director.~~

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

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: These amendments remove officers' ability to receive POST training credit for college and military training due to the time and resources it requires to review and approve the credit. They also expand the types of training documentation that employing authorities must maintain because POST will no longer review, track, approve, or document regional or online training due to the time and resources it requires to do so.

23.13.206 REQUIREMENTS FOR THE BASIC CERTIFICATE (1) through (2)(b)(i) remain the same.

(ii) completed the basic course at the MLEA, or an equivalency as defined by the council; ~~or and~~

(iii) through (e) remain the same.

(f) A public safety officer who has been issued a basic certificate by the council and whose last date of employment as a public safety officer, in the discipline for which the officer received a basic certificate, was less than 36 months prior to the date of the person's present appointment as a public safety officer, in the discipline for which the officer received a basic certificate, is not required to fulfill the basic educational requirements as set forth in these rules.

(g) If the last date of employment as a public safety officer, in the discipline for which the officer received a basic certificate, is more than 36 months but less than 60 months prior to the date of present employment as a public safety officer, in the discipline for which the officer received a basic certificate, the public safety officer may satisfy the basic requirement by successfully passing a basic equivalency course administered by the academy. If the public safety officer fails the basic equivalency course, the basic course shall be completed within the time frames set forth in the rules. If no basic equivalency course exists for the public safety officer's specific discipline, then the applicable basic course must be completed within one year of the public safety officer's most recent appointment.

(3) remains the same.

AUTH: 2-15-2029, MCA  
IMP: 2-15-2029, 44-4-403, MCA

REASON: The amendments to this rule provide clarity regarding what a public safety officer must do to meet the basic requirements based upon when the officer was appointed and make the rules consistent with 7-31-203 and 7-32-303, MCA. They also clarify the results of a break in service in any specific discipline.

23.13.207 REQUIREMENTS FOR THE PUBLIC SAFETY OFFICER INTERMEDIATE CERTIFICATE (1) remains the same.

(2) In addition to ARM 23.13.204 and 23.13.205, ~~the~~ a peace officer or probation and parole officer who is an applicant for an award of the public safety officer intermediate certificate:

(a) and (b) remain the same.

(c) ~~must have four~~ three years of discipline-specific experience and 200 combined job-related training hours as ~~provided in these rules.~~ follows:

(i) an 80-hour intermediate course as approved by the council;

(ii) a minimum of 120 additional training hours consisting of a maximum of 30 hours of in-service training and any combination of online or regional training.

(3) In addition to ARM 23.13.204 and 23.13.205, a detention/corrections officer who is an applicant for an award of the intermediate certificate:

(a) must have served at least one year with the present employing agency and be satisfactorily performing the duties as attested to by the head of the employing law enforcement and/or public safety agency;

(b) must possess the discipline-specific basic certificate; and

(c) must have three years of discipline-specific experience and 144 combined job-related training hours as follows:

(i) a 24-hour intermediate course as approved by the council;

(ii) a minimum of 120 additional training hours consisting of a maximum of 40 hours of in-service training and any combination of online or regional training.

(4) In addition to ARM 23.13.204 and 23.13.205, a public safety communication officer who is an applicant for an award of the intermediate certificate:

(a) must have served at least one year with the present employing agency and be satisfactorily performing the duties as attested to by the head of the employing law enforcement and/or public safety agency;

(b) must possess the discipline-specific basic certificate; and

(c) must have three years of discipline-specific experience and 84 combined job-related training hours as follows:

(i) a 24-hour intermediate course as approved by the council;

(ii) a minimum of 60 additional training hours consisting of any combination of in-service, online, or regional training.

(3)(5) Officers who believe they are eligible for an intermediate certificate must submit a completed application, a certificate of completion for each regional training and a transcript of online and in-service training, with a verification from the

agency administrator approval that the officer's training meets the requirements of these rules and a recommendation that the applicant should be awarded the certificate, to the director. Applications are available from POST staff or on the POST web site.

(a) and (b) remain the same.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: The Montana POST Council has a duty to establish training standards for public safety officers pursuant to 44-4-403, MCA. The certificate-specific schools provide a statewide standard for every officer wishing to obtain a certificate. POST recognizes that certain disciplines carry more inherent risk, and therefore should have greater training requirements. Additionally, employing authorities often are not able to offer as much training to some disciplines. These changes create more equity and ability for officers in any discipline to obtain certification. They also change the requirements for the number of years required in order to provide a more reasonable career ladder for officers who work to obtain the required training. As established in other rules, the POST director no longer approves training. Instead employing authorities have the responsibility to review, track, and approve continuing training as outlined in other rules, and the council and director will approve only the certificate-specific courses required for a POST certificate. These rule amendments are necessary to maintain consistency throughout the rules.

23.13.208 REQUIREMENTS FOR PUBLIC SAFETY OFFICER ADVANCED CERTIFICATE (1) remains the same.

(2) In addition to ARM 23.13.204 and 23.13.205, ~~the~~ a peace officer or probation and parole officer who is an applicant for an award of the advanced certificate:

(a) remains the same.

(b) must have ~~eight~~ six years of discipline-specific experience and 400 combined job-related training hours as ~~provided in these rules.~~ follows:

(i) a 40-hour management course as approved by the council;

(ii) an 80-hour intermediate course as approved by the council;

(iii) a minimum of 280 additional training hours consisting of a maximum of 60 hours of in-service training and any combination of online or regional training.

(3) In addition to ARM 23.13.204 and 23.13.205, a detention/corrections officer who is an applicant for an award of the advanced certificate:

(a) must possess the discipline-specific intermediate certificate; and

(b) must have six years of discipline-specific experience and 304 combined job-related training hours as follows:

(i) a 40-hour management course as approved by the council;

(ii) a 24-hour intermediate course as approved by the council;

(iii) a minimum of 240 additional training hours consisting of a maximum of 80 hours of in-service training and any combination of online or regional training.

(4) In addition to ARM 23.13.204 and 23.13.205, a public safety communications officer who is an applicant for an award of the advanced certificate:

(a) must possess the discipline-specific intermediate certificate; and  
(b) must have six years of discipline-specific experience and 184 combined job-related training hours as follows:  
(i) a 40-hour management course as approved by the council;  
(ii) a 24-hour intermediate course as approved by the council;  
(iii) a minimum of 120 additional training hours consisting of any combination of in-service, online, or regional training.

~~(3)(5)~~ Officers who believe they are eligible for an advanced certificate must submit a completed application, a certificate of completion for each regional training and a transcript of online and in-service training, with a verification from the agency administrator approval that the officer's training meets the requirements of these rules and a recommendation that the applicant should be awarded the certificate, to the director. Applications are available from POST staff or on the POST web site.

(a) and (b) remain the same.

AUTH: 2-15-2029, MCA  
IMP: 2-15-2029, 44-4-403, MCA

REASON: See explanation with regard to ARM 23.13.207. Additionally, in practice, and through consultation with subject-matter experts and employing authorities, POST has determined that advanced officers should have a management course that includes training on providing instruction because many officers with the education and experience for an advanced certificate are supervisors and provide training to subordinates.

23.13.209 REQUIREMENTS FOR PUBLIC SAFETY OFFICER SUPERVISORY CERTIFICATE (1) through (2)(a) remain the same.

(b) must have successfully completed a ~~32~~ 40-hour POST-approved management course; and

(c) through (4) remain the same.

AUTH: 2-15-2029, MCA  
IMP: 2-15-2029, 44-4-403, MCA

REASON: See explanations with regard to ARM 23.13.207 and 23.13.208. This amendment is necessary to maintain consistency with other rules.

23.13.210 REQUIREMENTS FOR PUBLIC SAFETY OFFICER COMMAND CERTIFICATE (1) through (2)(a) remain the same.

(b) must have completed a minimum of a 160-hour command course approved by the council ~~professional development course or courses cumulating a minimum of 200 hours or more of POST-approved, supervisory, management or leadership topic matter;~~ and

(c) and (3) remain the same.

AUTH: 2-15-2029, MCA  
IMP: 2-15-2029, 44-4-403, MCA

REASON: See explanation with regard to ARM 23.13.207. POST has approved a Montana Executive Leadership Institute course that is 160 hours long and instructed by the MLEA. POST recognizes the benefits of officers receiving training with MLEA and has structured the hours requirement for the command certificate to match what the academy requires.

23.13.212 INSTRUCTOR CERTIFICATION REQUIREMENTS (1) remains the same.

(2) A public safety officer providing POST approved training courses as defined in these rules must be certified by the council as an instructor.

(3) remains the same.

(a) ~~three~~ two years of public safety experience;

(b) through (6) remain the same.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: The purpose of these amendments is to clarify the type of training required for certified instructors. This rule also changes the experience requirements. In POST's experience, many officers obtain the skills necessary to instruct after they have completed the basic certificate requirements and have had two years of actual experience as officers.

23.13.215 FIREARMS PROFICIENCY STANDARDS (1) and (1)(a) remain the same.

(b) designate a POST-certified instructor as defined in these rules to conduct or oversee and document annual firearms proficiency. The instructor must also have attended a minimum 40-hour firearms instructor course or its equivalent, which includes the following topics:

(i) through (4) remain the same.

AUTH: 2-15-2029, MCA

IMP: 7-32-303, 44-4-403, MCA

REASON: These changes are necessary to clarify who may perform firearms qualifications for public safety officers and the training that is required in order to perform that function.

23.13.217 REQUIREMENTS FOR SWAT PRIMARY COURSE CREDIT

(1) remains the same.

~~(2) The director will review applications and approve or deny POST credit pursuant to these rules, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.~~

~~(3) Upon approval by the director, the course will be reflected on the attending officers' POST training transcripts unless the council takes further action.~~

AUTH: 2-15-2029, MCA  
IMP: 44-4-403, MCA

REASON: POST and the director will no longer approve training. Employing authorities will be responsible to review, track and approve continuing training as outlined in these rules. The council and director will approve only the certificate-specific courses required for a POST certificate. POST has no statutory requirement to track such ongoing training, and the resources and time required to do so have become excessive.

23.13.301 QUALIFICATIONS FOR APPROVAL OF PUBLIC SAFETY OFFICER TRAINING COURSES ~~(1) The director may approve any request for POST training credit or course content accreditation. Any person aggrieved by a determination made by the director under this rule may seek review of the decision by the POST Council.~~

(2) through (2)(e) remain the same but are renumbered (1) through (1)(e).

(f) contain course content that ~~has been reviewed and approved~~ is retained by the ~~director~~ agency hosting the training, or the employing authority of the officer receiving credit for the training, either before or after the training occurs, through the procedures set forth in ~~(3)~~ (2).

~~(3)~~ (2) To receive POST training credit, A POST-certified instructor seeking course credit for public safety officers must have an active POST certificate that is not suspended or on probation and must ~~submit to the director~~ retain documentation of:

~~(a) an application for accreditation;~~

(b) through (d) remain the same but are renumbered (a) through (c).

~~(4)~~ (3) To receive POST training credit, an agency hosting a training by any other person or entity seeking course credit for a public safety officer or officers must submit to the director retain documentation of:

~~(a) an application for accreditation;~~

(b) through (d) remain the same but are renumbered (a) through (c).

~~(5)~~ (4) It is the responsibility of the employing authority or any person or entity wishing to receive POST-approved training credit to ~~follow~~ retain the required documentation reporting procedures set forth in these rules and ~~as set by the director~~ and monitor the standards for training, trainee attendance, and performance as set by the council. Agency records maintained under this rule are subject to audit by the executive director during normal business hours upon reasonable notice to the agency.

AUTH: 2-15-2029, MCA  
IMP: 2-15-2029, 44-4-403, MCA

REASON: See reason for ARM 23.13.217.

23.13.601 CORONER EDUCATION AND CONTINUED EDUCATION AND EXTENSION OF TIME LIMIT FOR CONTINUED CERTIFICATION (1) Coroner education shall be conducted ~~by the council~~ as prescribed in 7-4-2905, MCA.

(2) remains the same.

(3) Coroners must complete 16 hours of ~~advanced training~~ continuing coroner education at least once every two years.

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

(ii) absence of reasonable access to the ~~coroner's advanced course~~ continuing coroner education; or

(iii) through (d) remain the same.

AUTH: 2-15-2029, 7-4-2905, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: The amendments to this rule are necessary due to uncertainty in the statutes concerning who is required to conduct coroner education. In addition, the language regarding the advanced coroner training has been changed for clarity.

23.13.702 GROUNDS FOR DENIAL, SANCTION, SUSPENSION, OR REVOCATION OF POST CERTIFICATION (1) through (2)(n) remain the same.

(o) the denial, sanction, suspension, or revocation of any license or certification equivalent to a POST certification imposed by a board or committee equivalent to POST in any other state.

(3) It is a defense to an allegation of substance abuse, as defined in these rules, if the officer shows by a preponderance of the evidence that the officer's substance abuse ~~could be~~ has been eliminated or overcome by reasonable treatment.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403, MCA

REASON: These amendments recognize the council and director's authority to deny an application for POST certification and provide clarity and consistency with language in other rules. The amendments also provide that an officer can defend an allegation of substance abuse by showing that the officer's substance abuse has been eliminated or overcome by reasonable treatment. This amendment is necessary due to the recurring nature of substance abuse issues and the high position of public trust that officers hold.

23.13.703 PROCEDURE FOR MAKING AND RECEIVING ALLEGATIONS OF OFFICER MISCONDUCT AND FOR INFORMAL RESOLUTION OF THOSE ALLEGATIONS BY THE DIRECTOR (1) The POST Council will create, maintain, and adopt in public meetings a "~~flow chart~~" policy and procedure for processing and responding to allegations. The ~~flow chart~~ policy and procedure will be posted on POST's web site and made publicly available. It will comply with these rules and offer the director further guidance regarding the specific steps that the director and POST staff will take when responding to allegations.

(2) Any allegation made against a public safety officer that states potential grounds for denial, sanction, suspension, or revocation of POST certification must be made initially to the employing authority of the officer in question by the individual

making the allegation, unless the employing authority is making the allegation. All allegations must be made in writing unless the director initiates the allegation. Anonymous allegations will not be considered unless the director determines that public safety may be threatened if POST takes no action on an anonymous allegation.

(3) remains the same.

(4) ~~After~~ Within 30 days of being notified of the allegation, or in making its own allegation of misconduct, the employing authority must give POST a notice of the employing authority's investigation, action, ruling, finding, or response to the allegation, ~~preferably~~ in writing, which must include a description of any remedial or disciplinary action pending or already taken against the officer regarding the allegation in question. If available, a copy of the initial allegation made to the employing authority and the employing authority's written response must be forwarded to the director. The employing authority may make a written request to the director for additional time to respond. Such a request must provide good cause as to the reason more time is required. The director may grant or deny requests for additional time at his discretion.

(5) through (5)(b)(iii) remain the same.

(iv) the remedy sought, including a recommendation for a denial, sanction, suspension, or revocation of the officer's POST certification;

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

(b) ~~The flow chart and accompanying~~ policy provided in (1), will outline the number and nature of these letters.

(c) through (11) remain the same.

AUTH: 2-15-2029, MCA

IMP: 2-4-201, 2-15-2029, 44-4-403, MCA

REASON: These rules clarify that the council and director have the authority to deny an application for certification. They also provide a more definite timeframe for agencies to report findings to POST. POST has recognized the need for a written policy rather than a visual "flow chart" policy for allegation procedures because it is easier to provide specific references and citations to a written policy. POST has also received a number of requests from officers, citizens, and the press for such a written policy.

23.13.704 REQUESTS FOR A FORMAL CONTESTED CASE HEARING UNDER MAPA (1) and (2) remain the same.

(a) The proceedings and hearing can only be initiated by a request from the officer whose certificate was denied, sanctioned, suspended, or revoked, or the officer's attorney, and not by any other person or entity.

(b) To request a hearing, the officer must follow the instructions contained in the "notice of agency action" and notify the appropriate individual or the director that the officer requests a hearing within 30 days of the ~~officer receiving~~ date of the notice of agency action.

(c) Failure to notify and request a hearing within 30 days of receiving the date of the notice of agency action will constitute a waiver of the right to a hearing.

AUTH: 2-15-2029, MCA  
IMP: 2-4-201, 2-15-2029, 44-4-403, MCA

REASON: These amendments are necessary to clarify that any aggrieved party may request a contested case hearing under MAPA, and that they may do so through counsel. They also provide a more definite timeline in which officers may request a hearing.

23.13.714 CONTESTED CASE HEARING (1) remains the same.

(2) The director will set the venue for the hearing will be held in Helena, Montana, unless the director determines that another venue is more appropriate.

(3) through (8) remain the same.

(a) ~~the respondent~~ POST has the burden of proving by a preponderance of the evidence that there was ~~no~~ a basis for the denial, sanction, suspension, or revocation of certification imposed by the director, as stated in the notice of agency action;

(b) through (c)(i) remain the same.

(ii) presentation of evidence by ~~the respondent~~ POST;

(iii) cross examination by ~~POST~~ the respondent;

(iv) presentation of evidence by ~~POST~~ the respondent;

(v) cross examination by ~~the respondent~~ POST; and

(vi) remains the same.

AUTH: 2-4-201, 2-15-2029, MCA  
IMP: 2-4-201, 2-4-202, 2-4-611, 2-4-612, 44-4-403, MCA

REASON: These amendments are necessary to clarify that hearings will be held in Helena. They also put the burden of proof on POST, rather than the officer, due to constitutional questions that have arisen in hearings.

4. The department proposes to repeal the following rule:

23.13.211 REQUIREMENTS FOR PUBLIC SAFETY OFFICER  
ADMINISTRATIVE CERTIFICATE

AUTH: 2-15-2029, MCA  
IMP: 2-15-2029, 44-4-403, MCA

REASON: The administrative certificate is no longer necessary for the Montana POST Council. The certificate is redundant to the command certificate.

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: Katrina Bolger, POST Council, 2260 Sierra Road East, Helena, Montana, 59602; telephone (406) 444-9974; or e-mail kbolger@mt.gov, and must be received no later than 5:00 p.m., September 12, 2018.

6. Kristina Neal, Attorney at Law, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list 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.

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

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

/s/ Matthew Cochenour  
Matthew Cochenour  
Rule Reviewer

Sheriff Tony Harbaugh  
Chairman  
Public Safety Officers Standards  
and Training Council

By: /s/ Perry Johnson  
Perry Johnson  
Executive Director

Certified to the Secretary of State July 10, 2018.

BEFORE THE BOARD OF NURSING HOME ADMINISTRATORS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 24.162.301 definitions,	)	AMENDMENT AND REPEAL
24.162.501 application and	)	
documentation for licensure,	)	NO PUBLIC HEARING
24.162.506 temporary license,	)	CONTEMPLATED
24.162.510 licensure by credential,	)	
and the repeal of 24.162.402 public	)	
information	)	

TO: All Concerned Persons

1. On August 20, 2018, the Board of Nursing Home Administrators (board) proposes to amend and repeal the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the board no later than 5:00 p.m., on August 3, 2018, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, 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 dlibsdnha@mt.gov (board's e-mail).

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

24.162.301 DEFINITIONS ~~(1) "Experience in health care administration" shall mean having management responsibility, which shall include supervision of at least three staff persons, of a health care facility.~~

~~(2) "Education in health care administration" shall mean the completion of a course of instruction designed to teach the elements of health care facility administration and management, including training regarding the protection of the rights of residents or patients therein.~~

~~(3)~~ (2) "Health care facility" shall mean licensed long-term facility, or licensed acute care facility, as defined by 50-5-301~~(3)~~ (2)(b)(i), MCA.

(4) remains the same but is renumbered (1).

AUTH: 37-9-203, MCA

IMP: 37-9-203, 37-9-301, MCA

**REASON:** The board determined it is reasonably necessary to amend this rule to remove terms not contained in statute or rule and correct an erroneous statutory citation. Implementation citations are being amended to accurately reflect all

statutes implemented through the rule.

24.162.501 APPLICATION AND DOCUMENTATION FOR LICENSURE

(1) through (4) remain the same.

~~(5) The applicant must submit three statements of good moral character from individuals not related to the applicant.~~

AUTH: 37-1-131, 37-9-203, MCA

IMP: 37-1-131, 37-9-203, 37-9-301, 37-9-304, MCA

REASON: The board is amending this rule to no longer require statements of good moral character and align with standardized department application procedures. Noting that a letter from a friend or someone with knowledge of an applicant is not an accurate indication of "good moral character," the board concluded that an applicant's moral character is better evidenced through the application's disciplinary/criminal history questions. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.162.506 TEMPORARY PERMIT (1) remains the same.

(2) ~~The temporary license shall be permit is valid for 120 days or until the applicant either fails the first passes the national examination for which the applicant is eligible or passes the examination and is granted a license, whichever comes first.~~

(3) Only one temporary license permit will be issued per applicant.

AUTH: 37-1-319, ~~37-9-203~~, MCA

IMP: 37-1-305, ~~37-9-203, 37-9-302~~, MCA

REASON: The board determined it is reasonably necessary to amend this rule to utilize the correct terminology for temporary permits. While the requirements to receive a temporary permit are not changing, the board is further amending this rule to align with the timeline provisions in the implemented statute, 37-1-305, MCA.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.162.510 LICENSURE BY CREDENTIAL (1) ~~An application applicant for licensure by credential without examination must include a signed statement from the examining board of another jurisdiction attesting documents to prove:~~

(a) that the applicant attained a passing scaled score on an examination, as determined approved by the National Association of Boards of Examiners for Nursing Home Administrators; and

(b) that the applicant holds a currently valid license as a nursing home administrator in ~~that~~ any jurisdiction.

~~(2) An application for license by credential may be filed at any time and must be accompanied by the required fees, which shall not be refunded.~~

~~(3) The applicant must submit three statements of good moral character from individuals not related to the applicant.~~

AUTH: 37-1-131, 37-9-203, MCA  
IMP: 37-1-131, 37-1-304, 37-9-203, MCA

REASON: The board is amending this rule to align with and facilitate the department's current standardized application procedures for all licensing boards. Because other jurisdictions no longer issue signed statements to verify licensure, the requirement in (1) was unreasonable for applicants and unworkable for staff.

The board is striking (3) to no longer require statements to prove an applicant's good moral character. The board concluded that adequate information to demonstrate this is obtained through the application's disciplinary/criminal history questions, rather than letters of reference from people an applicant selects.

4. The board proposes to repeal the following rule:

24.162.402 PUBLIC INFORMATION

AUTH: 37-9-201, MCA  
IMP: 37-9-201, MCA

REASON: The board is repealing this unnecessary rule because the department administers a standardized public information procedure for all professional and occupational licensure boards, and this rule contains outdated provisions and processes that are no longer followed.

5. Concerned persons may submit their data, views, or arguments concerning the proposed amendment and repeal in writing to the Board of Nursing Home Administrators, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdnha@mt.gov](mailto:dlibsdnha@mt.gov), to be received no later than 5:00 p.m., August 17, 2018.

6. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Linda Grief at the above address no later than 5:00 p.m., August 17, 2018.

7. If the board receives requests for a public hearing on the proposed amendment and repeal from either 10 percent or 25, whichever is less, of the persons who are directly affected by the proposed rules; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 19 persons based on 189 active/inactive licensees.

8. An electronic copy of this notice of public hearing is available at [www.nha.mt.gov](http://www.nha.mt.gov) (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

9. 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 Nursing Home Administrators, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibsdnha@mt.gov](mailto:dlibsdnha@mt.gov), or made by completing a request form at any rules hearing held by the agency.

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

11. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.162.301, 24.162.501, 24.162.506, and 24.162.510 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.162.402 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Nursing Home Administrators, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; facsimile (406) 841-2305; or to [dlibsdnha@mt.gov](mailto:dlibsdnha@mt.gov).

BOARD OF NURSING HOME  
ADMINISTRATORS  
KATHRYN BEATY, PRESIDING OFFICER

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

/s/ GALEN HOLLENBAUGH  
Galen Hollenbaugh, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State July 10, 2018.

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

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.201.410 fee schedule,	)	PROPOSED AMENDMENT
24.201.415 use of CPA/LPA	)	
designation, 24.201.503 applicant for	)	
initial license, 24.201.510 certified	)	
public accountant examination,	)	
24.201.528 out-of-state licensees	)	
seeking a Montana license,	)	
24.201.529 foreign licensees seeking a	)	
Montana license, 24.201.532	)	
application review, 24.201.1103 peer	)	
review enrollment, 24.201.1108	)	
alternatives and exemptions,	)	
24.201.1109 approved peer review	)	
sponsoring organizations, programs,	)	
and peer review standards,	)	
24.201.2124 standards for CPE	)	
reporting, 24.201.2145 reporting	)	
requirements, and 24.201.2154	)	
extension or hardship exception	)	

TO: All Concerned Persons

1. On August 14, 2018, at 9:00 a.m., a public hearing will be held in the Small Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment of the above-stated rules.

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 Public Accountants no later than 5:00 p.m., on August 7, 2018, to advise us of the nature of the accommodation that you need. Please contact Grace Berger, Board of Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2244; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdpac@mt.gov (board's e-mail).

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

24.201.410 FEE SCHEDULE (1) through (1)(g) remain the same.

~~(h) CPE extension request~~ \_\_\_\_\_ 125

(i) remains the same but is renumbered (h).

~~(j) Upgrade certificate to license~~ 150  
(2) and (3) remain the same.

AUTH: 37-1-134, 37-50-204, MCA

IMP: 37-1-134, 37-1-141, 37-50-204, 37-50-209, MCA

REASON: The board is amending (1)(h) to eliminate the fee associated with filing for a CPE extension. After reviewing the two previous CPE audit results, the board concluded that the fee may have discouraged eligible licensees from requesting an exemption or exception and is further streamlining the extension/hardship exception request process at ARM 24.201.2154 in this notice. The board estimates that the repeal of this fee will affect approximately five individuals and result in a loss of approximately \$625 in annual revenue.

The board is amending (1)(j) to eliminate the fee to upgrade certificates to a full license. The certificate level of license was eliminated through 2015's House Bill 44, which required all existing certificates to terminate December 31, 2017. As the date has now passed, certificates are no longer eligible for upgrade, a new license application is required, and this fee is no longer necessary. Because this license type no longer exists, the fee elimination will have no impact on annual revenue and will not affect any applicant.

24.201.415 USE OF CPA/LPA DESIGNATION (1) through (3) remain the same.

~~(4) A person holding a certificate only does not have an active license and may not hold themselves out to the public as a CPA/LPA or use the CPA/LPA designation.~~

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-301, 37-50-325, 37-50-335, MCA

REASON: The board is striking (4) to remove the restrictions for the certificate-only level of licensure, which was eliminated through House Bill 44. Since all existing certificates terminated December 31, 2017, it is no longer necessary to identify limits on the license type.

24.201.503 APPLICANT FOR INITIAL LICENSE (1) through (1)(c) remain the same.

(i) meet the education requirements of ARM 24.201.501; or

~~(ii) meet the education waiver requirements of ARM 24.201.528; or~~

(iii) remains the same but is renumbered (ii).

(A) through (3) remain the same.

AUTH: 37-1-131, 37-50-201, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-302, 37-50-305, MCA

REASON: The board is amending the title to more clearly reflect that this rule applies to initial licensure applicants, and is eliminating the reference to the

education waiver requirements. Following an internal review of application procedures and subsequent advice from staff, the board is making these changes to align with amendments to ARM 24.201.528 and 24.201.529 to streamline the reciprocity licensure process. These changes are in line with the Uniform Accountancy Act.

24.201.510 CERTIFIED PUBLIC ACCOUNTANT EXAMINATION (1) and (2) remain the same.

(3) The board accepts the advisory grading service of the AICPA or its delegate.

(3) through (5) remain the same but are renumbered (4) through (6).

~~(6) The board may contract for:~~

~~(a) examination database and reporting services; and~~

~~(b) examination administrative services.~~

(7) and (8) remain the same.

AUTH: 37-1-131, 37-50-204, MCA

IMP: 37-1-131, 37-50-204, 37-50-302, MCA

REASON: The board is amending this rule to specify that the board accepts the AICPA advisory scoring of the Uniform CPA Exam. The AICPA develops the exam, performs the cut score, and determines the passing level for exam section. While this is the current practice, the board had not yet outlined the provision in rule.

The board is striking (6) regarding the board's ability to contract. Contracting for services is a responsibility of the department when providing administrative services to all professional and occupational licensing boards.

24.201.528 OUT-OF-STATE LICENSEES SEEKING A MONTANA LICENSE

(1) The board may issue a license to a license holder of an active, current, and unrestricted license from another a substantially equivalent jurisdiction who meets the requirements established in 37-50-302, MCA, and ARM 24.201.501 and 24.201.503;

(a) files a complete application;

(b) provides verification of licensure from jurisdictions where the applicant holds or has ever held a professional license; and

(c) pays the applicable fee.

~~(2) The board may waive the education requirements and issue a license to a holder of a current, unrestricted license issued by another jurisdiction. The applicant must show they:~~

~~(a) passed the examination required for issuance of the license with grades that would have been passing grades at the time in this state;~~

~~(b) had four years of experience in the practice of public accountancy after passing the examination upon which the license was based, within the ten years immediately preceding the application;~~

~~(c) maintained a license for more than four years prior to the application for issuance of a license in this state;~~

~~(d) passed the professional ethics for CPAs course developed by the AICPA;~~

and

~~(e) fulfilled the requirements of continuing professional education established under ARM 24.201.2106.~~

(3) remains the same but is renumbered (2).

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-304, 37-50-203, ~~37-50-302~~, 37-50-309, ~~37-50-314~~, ~~37-50-325~~,  
MCA

REASON: Following internal review of application requirements and procedures, board staff questioned the process for licensing individuals with active, current licenses in substantially equivalent states. These individuals previously met substantially equivalent requirements to obtain their original licenses. The board concluded it does not further public protection by requiring these applicants to submit the same documentation and meet the same requirements that have been evaluated and determined to be substantially equivalent for licensure as established by the Uniform Accountancy Act. The board is amending this rule to streamline the reciprocal licensing process and align with changes to ARM 24.201.503 and 24.201.529.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.201.529 FOREIGN LICENSEES SEEKING A MONTANA LICENSE

(1) A foreign-licensed applicant must meet the requirements established under ARM ~~24.201.528~~ 24.201.503, or for those applicants holding a foreign accounting credential that is covered by a currently valid MRA with IQAB, meet the following requirements:

(a) met the issuing body's education requirement and passed the issuing body's examination used to qualify its own domestic applicants ~~in a foreign jurisdiction. The board will rely on the IQAB for evaluation of foreign credential equivalency or NASBA International Evaluation Services;~~

(b) remains the same.

(c) pass a uniform qualifying examination to ensure that the holder possesses adequate knowledge of national practice standards. The board may rely on the NASBA, AICPA, or other professional bodies to develop, administer, and grade such a qualifying examination; and

(d) pass the professional ethics for CPAs course developed by the AICPA; ~~and~~

~~(e) provide evidence of having met an equivalent experience requirement obtained under the supervision or direction of a chartered accountant, Instituto Mexicano de Contradores Publicos, Hong Kong Institute of Certified Public Accountants, or certified public accountant permitted to practice in the original jurisdiction in order to be issued an initial license; and~~

~~(f) meet the continuing professional education requirements established under ARM 24.201.2106, in order to be issued an initial license.~~

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, ~~37-50-314~~, MCA

REASON: Following internal review of application requirements and procedures, board staff questioned the licensure process for applicants with foreign credentials that have been evaluated by the International Qualifications Appraisal Board and determined to have requirements equivalent to those in the U.S. resulting in a Mutual Recognition Agreement (MRA) between the foreign jurisdiction and NASBA. The board concluded it does not further public protection by requiring these applicants to submit evidence of meeting the requirements if their credential has been determined to be equivalent where an MRA exists. If a foreign-credentialed individual comes from a jurisdiction that does not have a current MRA, they can still qualify for licensure in Montana by meeting the same qualifications as other license applicants. The board is amending this rule to streamline licensure of foreign-credentialed individuals and align with changes to ARM 24.201.503 and 24.201.528.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.201.532 APPLICATION REVIEW (1) All applications, except applications for firm registration, out-of-state licensees seeking a Montana license under ARM 24.201.528, and foreign applicants seeking a Montana license under ARM 24.201.529, are considered nonroutine and must be reviewed by the board.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-101, 37-1-131, 37-50-203, ~~37-50-325~~, 37-50-335, MCA

REASON: The board is amending this rule to increase the types of applications that do not require board review and approval. Following staff review of application requirements and processes, the board determined that applications of those holding a license or certification from a substantially equivalent jurisdiction can be issued by staff and not require board review. The board is amending ARM 24.201.528 and 24.201.529 to provide licensure staff with clear standards and further streamline the issuance of these licenses.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.201.1103 PEER REVIEW ENROLLMENT (1) and (2) remain the same.

(3) Every Montana firm that is required to enroll in a peer review program shall enroll in the ~~AICPA Peer Review Program or the MSCPA Peer Review Program or other such~~ a board-approved program that uses AICPA Standards for Performing and Reporting on Peer Reviews or standards deemed equivalent by the board.

(4) A firm's due date for its initial peer review shall be 18 months from the date it enrolled or should have enrolled in a board-approved peer review program, ~~except as provided in (5).~~

~~(5) For firms under the board's previous profession monitoring program, the board may determine that the due date for an initial peer review is earlier than the sponsoring organization's peer review standards and guidance.~~

~~(a) Firms that were under the board's previous profession monitoring program are required to enroll in a board-approved peer review program by the deadline established by the board.~~

~~(b) Firms under the pre-issuance review requirement of the board's previous profession monitoring program will remain under the board-monitored pre-issuance review until the initial peer review is completed.~~

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

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board was recently informed that because of changes to the AICPA Peer Review Program, the MSCPA would no longer be an administering entity. The board determined it is reasonably necessary to remove the reference to the MSCPA in the administration of peer review rules and broaden the ability for the board to approve any administering entity that administers a program utilizing the AICPA standards or equivalent as determined by the board.

The board is also amending (4) and striking (5) regarding the transition of firms from the board's previous profession monitoring program to the AICPA peer review program. Because the transition period has passed, the language is no longer necessary.

24.201.1108 ALTERNATIVES AND EXEMPTIONS (1) remains the same.

(2) Alternative programs to the board-approved peer review program of the AICPA, ~~administered by the MSCPA,~~ shall include other non-AICPA programs recognized and approved by the board.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board is deleting the reference to the MSCPA administration of the AICPA peer review program after being recently notified that the MSCPA would no longer administer this program.

24.201.1109 APPROVED PEER REVIEW SPONSORING ORGANIZATIONS, PROGRAMS, AND PEER REVIEW STANDARDS (1) remains the same.

(2) The board adopts ~~the AICPA, the MSCPA, and other~~ peer review programs administered by entities fully involved in the administration of the AICPA peer review programs, as approved sponsoring organizations, without further requirements.

(3) through (5) remain the same.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: With the elimination of the MSCPA administering the AICPA peer review program, the board determined it is no longer necessary to specifically reference the AICPA and is striking reference to the MSCPA for clarity and simplicity.

24.201.2124 STANDARDS FOR CPE REPORTING (1) Licensees are responsible for accurately reporting ~~the appropriate number of CPE hours~~ and must retain appropriate documentation of their participation in learning activities.

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

(g) NASBA National Registry of CPE Sponsors ID (if applicable, applies to self-study and nano-learning).

(3) through (6) remain the same.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, ~~37-50-314~~, MCA

REASON: The board is amending this rule to clarify that acceptable documentation for nano-learning CPE includes a NASBA National Registry of CPE Sponsor ID. In 2017, the board added nano-learning as an acceptable CPE instruction method in MAR Notice No. 24-201-50 if it is from a NASBA National Registry of CPE sponsor. While not a new requirement, it is reasonably necessary to clarify the requirement in this rule, as well. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.201.2145 REPORTING REQUIREMENTS (1) Reporting of actual courses/credits is not required, unless the individual is selected for a random CPE audit as outlined in ARM 24.201.2148, or the individual must otherwise prove compliance for licensure purposes (i.e., restoring a license to active status, ~~transfer of license applicant~~).

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, ~~37-50-314~~, MCA

REASON: The board is amending this rule to no longer require reporting of actual CPE courses when license applicants are transferred. With the amendments to application processes in ARM 24.201.528 and 24.201.529, applicants will no longer need to provide CPE for licensure and this provision will no longer be necessary.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.201.2154 EXTENSION OR HARDSHIP EXCEPTION (1) The board has ~~authority to~~ or its designee may grant, for a specific period of time, an extension of ~~time~~ in order to complete the basic CPE requirement, ~~or to grant a written hardship exception for a specific period of time,~~ for reasons of individual hardship (i.e. health or military service).

~~(a) (2)~~ To request an extension or hardship exception, an individual must submit the appropriate form and fees prior to the CPE requirement deadline of ~~December 31~~. The board or designee will grant a hardship exception evaluate the

request on a case-by-case basis.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA  
IMP: 37-1-306, 37-50-203, ~~37-50-314~~, MCA

REASON: Following review of the past two CPE audit results, the board is addressing apparent confusion by clarifying the process for requesting extensions or hardship exceptions. While these amendments do not change the request process, the board intends for the changes and the elimination of the request fee from ARM 24.201.410 to further streamline the extension/hardship exception request process.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

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 Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdpac@mt.gov](mailto:dlibsdpac@mt.gov), and must be received no later than 5:00 p.m., August 17, 2018.

5. An electronic copy of this notice of public hearing is available at [publicaccountant.mt.gov](http://publicaccountant.mt.gov) (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site 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 Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to [dlibsdpac@mt.gov](mailto:dlibsdpac@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. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.201.410, 24.201.415, 24.201.503, 24.201.510, 24.201.528, 24.201.529, 24.201.532, 24.201.1103, 24.201.1108, 24.201.1109, 24.201.2124, 24.201.2145, and 24.201.2154 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Public Accountants, 301 South Park Avenue, P.O. Box

200513, Helena, Montana 59620-0513; telephone (406) 841-2244; facsimile (406) 841-2305; or to dlibsdpac@mt.gov.

9. Grace Berger, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF PUBLIC ACCOUNTANTS  
KATHLEEN VANDYKE  
PRESIDING OFFICER

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

/s/ GALEN HOLLENBAUGH  
Galen Hollenbaugh, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State July 10, 2018.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
AND THE BOARD OF SPEECH-LANGUAGE  
PATHOLOGISTS AND AUDIOLOGISTS  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.101.413 renewal dates and	)	PROPOSED AMENDMENT AND
requirements, 24.222.301 definitions,	)	REPEAL
24.222.701 supervisor responsibility,	)	
24.222.703 functions of speech-	)	
language pathology aides or	)	
assistants, 24.222.706 functions of	)	
audiology aides or assistants,	)	
24.222.910 delivery of telepractice	)	
services, 24.222.2102 continuing	)	
education – speech-language	)	
pathologists and audiologists,	)	
24.222.2402 screening panel, and the	)	
repeal of 24.222.514 license renewal,	)	
24.222.702 schedule of supervision -	)	
contents, 24.222.901 definitions	)	

TO: All Concerned Persons

1. On August 16, 2018, at 9:00 a.m., a public hearing will be held in the Small Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

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 Speech-Language Pathologists and Audiologists no later than 5:00 p.m., on August 9, 2018, to advise us of the nature of the accommodation that you need. Please contact Lucy Richards, Board of Speech-Language Pathologists and Audiologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or [dlibsdsplp@mt.gov](mailto:dlibsdsplp@mt.gov) (board's e-mail).

3. The department is proposing to amend the following rule. The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

24.101.413 RENEWAL DATES AND REQUIREMENTS (1) through (5)(a)l remain the same.

	BOARD OR PROGRAM JURISDICTION	LICENSE CATEGORY	FREQUENCY	RENEWAL DATE
(am)	Speech-Language Pathologists and Audiologists	Audiologist	Annually	February 1
		<del>Audiologist Aide*</del>	<del>Annually* Aides are not license type and do not renew, but must be registered by supervising licensee.</del>	<del>October 31</del>
		Speech-Language Pathologist	Annually	February 1
		<del>Speech-Language Pathologist Aide*</del>	<del>Annually* Aides are not license type and do not renew, but must be registered by supervising licensee.</del>	<del>October 31</del>
		Active Temporary Speech Pathologist or Audiologist	Nonrenewable Two-year license	
		<u>Limited (Speech-Language Pathologist)</u>	<u>Nonrenewable</u>	

(an) through (ao) remain the same.

(6) The following are nonrenewable licenses:

(a) through (d) remain the same.

(e) ~~active temporary speech pathologists and audiologists~~ limited speech-language pathologists;

(f) and (7) remain the same.

AUTH: 37-1-101, 37-1-141, MCA

IMP: 37-1-101, 37-1-141, MCA

**REASON:** It is reasonably necessary to amend this rule and delete renewal dates for speech-language pathology and audiology aides and assistants as they are not licensed by the board and therefore do not renew.

In 2017, the Montana Legislature enacted Chapter 90, Laws of 2017 (House Bill 347), an act providing for a limited speech-language pathologist license while applicants complete the required supervised professional experience. In August

2017, the board repealed ARM 24.222.503 regarding qualifications for active temporary licensure, as the license type was no longer necessary with the passage of the bill. To further implement the legislative changes, the board established licensing requirements for the limited license by adopting ARM 24.222.508 in November 2017. The department inadvertently missed updating this rule in 2017 and is doing so now to reflect the correct licensure types.

4. The board is proposing to amend the following rules. The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.222.301 DEFINITIONS (1) "Asynchronous" means interactive transmission of data occurring bi-directionally in real time and:

(a) when applied to telepractice, not requiring the patient and the provider be available at the same time. Examples of such communication, also known as "store-and-forward" transmission, include e-mails, faxes, recorded video clips, audio files, and virtual technologies and e-learning programs; or

(b) when applied to supervision of aides/assistants, not requiring the aide/assistant supervisor and the aide/assistant be available at the same time. Examples of such communication, also known as "store-and-forward" transmission, include e-mails, faxes, recorded video clips, audio files, and virtual technologies and e-learning programs.

(1) through (3) remain the same but are renumbered (2) through (4).

~~(4)~~ (5) ~~Speech-language pathology aides or assistants~~ aides/assistants shall be classified in one of the following categories:

~~(a) "aide or assistant~~ aide/assistant I" means a person who holds an undergraduate degree in communication sciences and disorders, ~~or its equivalent,~~ and is currently enrolled in an accredited graduate program for the purpose of completing licensure requirements or has successfully completed a post-baccalaureate program in communication sciences and disorders; and

~~(b) "aide or assistant~~ aide/assistant II" means a person who ~~holds~~ does not hold an undergraduate degree in communication sciences and disorders, ~~or its equivalent,~~ but is not currently enrolled in an accredited graduate program; and,

~~(c) "aide or assistant III" means a person who holds no undergraduate degree in communication sciences and disorders or its equivalent.~~

~~(5)~~ (6) ~~"Supervision of aide or assistant~~ aide/assistant " means ~~on-site observation and guidance by the supervising licensed speech-language pathologist or audiologist while a clinical activity is performed by the speech-language pathology or audiology~~ aide/assistant ~~aide or assistant. On-site supervision performed by the licensee may include but is not limited to the following~~ and may include the following:

(a) through (c) remain the same.

(7) "Synchronous" means interactive transmission of data occurring bi-directionally in real time and:

(a) when applied to telepractice, requiring the patient and the provider be available at the same time. Examples of such communication include videoconferencing, remote control software application, computer applications, e-mail, and self-monitoring/testing model (which refers to the patient who receives the

services and provides data to the provider without a facilitator present at the site of the patient); or

(b) when applied to supervision of aides/assistants, requiring the aide/assistant supervisor and the aide/assistant be available at the same time. Examples of such communication include videoconferencing, remote control software application, computer applications, and e-mail.

AUTH: 37-1-131, 37-15-202, 37-15-301, MCA

IMP: 37-1-131, 37-15-102, 37-15-202, 37-15-301, 37-15-303, 37-15-313,  
MCA

REASON: In 2014, the board defined "asynchronous" and "synchronous" in ARM 24.222.910 regarding data transmission in telepractice. In discussing and developing rules for telesupervision, the board decided to relocate the existing definitions to this rule at (1) and (7) as the same technologies apply to telesupervision. The board has further amended the relocated definitions to differentiate between telepractice and telesupervision.

The board is striking the reference to on-site observation from (6) to further facilitate telesupervision. The board determined the technology allowing licensees to safely conduct telepractice is sufficient for supervising aides/assistants and it is no longer necessary to limit supervision to on-site. Because aide/assistant supervisors are ultimately responsible for the aide/assistant's actions, the board is amending (6) to allow licensees to determine when, or if, on-site supervision is necessary.

After concluding that three classes of speech-language pathology aides/assistants are unnecessary, and to align with the national norm of two classes, the board is amending (5) accordingly. Following amendment, aides/assistants I must have completed either an undergraduate degree or a post-baccalaureate program in communication sciences and disorders. Anyone not meeting these qualifications will qualify as an aide/assistant II.

24.222.701 SUPERVISOR RESPONSIBILITY GENERAL REGISTRATION AND AIDE/ASSISTANT SUPERVISION REQUIREMENTS (1) ~~Speech-language~~ Per 37-15-313, MCA, ~~speech-language pathology aides and assistants~~ aides/assistants must work directly under the supervision of a Montana-licensed speech-language pathologist. ~~Audiology aides and assistants~~ aides/assistants must work directly under the supervision of a Montana-licensed audiologist. ~~All supervisors must have been fully licensed in Montana or another state or jurisdiction for at least one full year to qualify as a supervisor.~~

(2) ~~This~~ The aide/assistant supervisor assumes full legal and ethical responsibility for the tasks performed by the ~~aide or assistant~~ aide/assistant and for any services or related interactions with a client.

(4) In order to supervise, aide/assistant supervisors must have been licensed in Montana or another state or jurisdiction for at least one full year.

(5) No aide/assistant supervisor may supervise more than three full-time-equivalent aides/assistants.

(6) The aide/assistant supervisor must register aides/assistants annually per 37-15-313, MCA. The annual registration period is September 1 through October 31.

(7) As deemed appropriate by the aide/assistant supervisor, aides/assistants who are not supervised on-site may be supervised using asynchronous and synchronous methods as defined in ARM 24.222.301.

~~(3) When aides or assistants are providing direct services under a licensed supervisor to individuals under 18 years of age, the supervisor is responsible for so informing, in writing, the parent, guardian, surrogate parent, or person acting as a parent of a child in the absence of a parent or guardian.~~

~~(4) (8) The speech-language pathology or audiology supervisor and/or appropriate administrative agency is responsible for Aide/assistant supervisors shall:~~

~~(a) ensuring that ensure the speech-language pathology or audiology aide or assistant is aides/assistants are adequately trained and educated for the tasks the aide or assistant they will perform. The amount and type of training required must be based on the following:~~

~~(a) (i) the skills and experience of the speech-language pathology or audiology aide or assistant aide/assistant;~~

~~(b) (ii) the needs of the patients/clients served;~~

~~(c) (iii) the service setting;~~

~~(d) (iv) the tasks assigned; and~~

~~(e) (v) any other factors as determined by the supervising speech-language pathologist or audiologist aide/assistant supervisor; and~~

~~(b) maintain appropriate records regarding aide/assistant activities, including, but not limited to services and related client interactions.~~

~~(5) (3) Speech-language pathology and audiology Aide/assistant supervisors shall be are required to provide at least ten percent of direct the services to each individual client.~~

~~(6) The board or board designee shall review and approve all registration forms that indicate the supervision of three or more speech-language pathology or audiology aides or assistants.~~

~~(7) The supervisor is responsible for keeping records to demonstrate compliance with the supervision schedule and must provide proof of compliance to the board upon request.~~

~~(8) The supervisor must complete and submit to the board a midyear verification form by February 25 of each year, on the supervisor's renewal form, to indicate continuing compliance with the schedule of supervision previously filed under ARM 24.222.702(1).~~

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-1-131, 37-15-102, 37-15-313, MCA

REASON: The board determined it is reasonably necessary to amend this rule and its title to align the aide/assistant registration process with the board's statutory authority to require that supervisors register their aides annually. The amended and reorganized rule will clearly provide that aides/assistants are not licensed by the

board, and that the licensed supervisor assumes full responsibility for all tasks and services the aide/assistant performs.

The board is striking (3) as this is just one of many aide functions that require client notification and there is no additional reason to name it specifically. Providing services to minors falls within broad professional standards for supervising licensees to inform clients generally of the services to be provided and who will be involved in providing them.

The board is striking (6) and adding (5) to limit aide/assistant supervisors to supervising no more than three full-time aides/assistants. Following discussion, the board concluded that three aides is the most a supervisor could reasonably and effectively supervise while having to provide at least ten percent of services to each client.

The board is adding (7) to align with amendments in this notice permitting telesupervision using asynchronous and synchronous means.

It is reasonably necessary to strike the provisions regarding supervision plans and schedules to align with the repeal of ARM 24.222.702 in this notice.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.222.703 FUNCTIONS OF PROHIBITED SERVICES – SPEECH-LANGUAGE PATHOLOGY AIDES OR /ASSISTANTS (1) Speech-language pathology aides/assistants are not allowed to provide telepractice services per 37-15-314, MCA.

~~(1) The supervisor is obligated to ensure that the aide assist only in the provision of those services, which are within the abilities of the aide as determined by the training and experience of that aide or assistant. The supervisor is directly responsible for all decisions affecting the client in all phases of diagnosis, treatment, and disposition. It is recognized that administrative responsibilities for an aide or assistant may be with other than the professional supervisor and those responsibilities are not included in this regulation.~~

~~(2) All speech-language pathology aides or assistants shall be under the appropriate supervision for their category of aide. Each aide or assistant shall comply with the following function guidelines for the appropriate aide category:~~

~~(a) aide or assistant I may:~~

~~(i) perform tasks identified by the speech-language pathology supervisor according to the therapy plan, which do not violate any provision of Title 37, chapter 15, MCA, or these rules;~~

~~(ii) conduct speech-language evaluations and write evaluation reports, which have been properly signed off by the supervisor;~~

~~(iii) conduct screening activities;~~

~~(iv) interpret data or clinical experience into diagnostic statements of clinical management policies with supervisor review;~~

~~(v) transmit clinical information to appropriate persons with supervisor approval;~~

~~(vi) write or plan individual or group therapy/rehabilitation plans, which have been properly signed off by the supervisor;~~

~~(vii) attend and allow to function as part of the child study and individual education planning (IEP) meetings.~~

~~(b) aide or assistant II may:~~

~~(i) perform tasks identified by the speech language pathology supervisor according to the therapy plan, which do not violate any provision of Title 37, chapter 15, MCA, or these rules;~~

~~(ii) conduct speech language evaluations under the supervision of the supervisor, and write evaluation reports, which have been properly signed off by the supervisor;~~

~~(iii) conduct screening activities as permitted by the supervisor;~~

~~(iv) interpret data or clinical experience into diagnostic statements of clinical management policies, with the supervisor present or available, for the purpose of immediate communication and consultation;~~

~~(v) write or plan individual or group therapy/rehabilitation plans with supervisor review and sign off; and~~

~~(vi) attend child study and IEP meetings concerning reports and cases prepared by the aide.~~

~~(c) aide or assistant III may:~~

~~(i) perform tasks identified by the speech language pathology supervisor according to the therapy plan, which do not violate any provision of Title 37, chapter 15, MCA, or these rules; and~~

~~(ii) only conduct screening activities expressly permitted by the supervisor.~~

~~(3) (2) Speech language pathology aides or assistants aides/assistants I are not allowed to shall comply with the following guidelines on functions, which are not allowed for the appropriate aide category:~~

~~(a) aide or assistant I may not refer clients to outside professionals; or~~

~~(b) perform diagnostic evaluations under supervision unless the aide/assistant has:~~

~~(i) completed 100 graduate-level clinical clock hours, of which at least 25 hours were diagnostic; or~~

~~(ii) completed ten semester hours of graduate credits in the professional area.~~

~~(3) Speech language pathology aides/assistants II are not allowed to:~~

~~(a) transmit clinical information to anyone other than the aide/assistant supervisor directly supervising the aide/assistant;~~

~~(b) refer clients to outside professionals;~~

~~(c) conduct speech language evaluations;~~

~~(d) interpret data or clinical experience into diagnostic statements of clinical management policies;~~

~~(e) transmit clinical information, except to the aide/assistant supervisor;~~

~~(f) determine the selection of cases;~~

~~(g) write or plan individual or group therapy/rehabilitation plans;~~

~~(h) attend child study or individualized education plan (IEP) meetings without the permission of the aide/assistant supervisor; or~~

~~(i) refer clients to outside professionals.~~

~~(b) aide or assistant II may not:~~

- ~~(i) transmit clinical information to anyone other than the professional directly supervising the aide or assistant; or~~
- ~~(ii) refer clients to outside professionals.~~
- ~~(c) aide or assistant III may not:~~
  - ~~(i) conduct speech-language evaluations;~~
  - ~~(ii) interpret data or clinical experience into diagnostic statements of clinical management policies;~~
  - ~~(iii) transmit clinical information, except to the professional directly supervising the aide or assistant;~~
  - ~~(iv) determine the selection of cases;~~
  - ~~(v) write or plan individual or group therapy/rehabilitation plans;~~
  - ~~(vi) attend child study or IEP meetings, except with the permission of the supervisor; or~~
  - ~~(vii) refer clients to outside professionals.~~
- ~~(4) Speech-language pathologist aides or assistants I may perform diagnostic evaluations, under supervision, only if all of the following conditions have been met:~~
  - ~~(a) completion of 100 graduate level clinical clock hours, of which at least 25 hours were diagnostic;~~
  - ~~(b) completion of ten semester hours of graduate credits in the professional area;~~
  - ~~(c) completion of the master's program within five years of commencement;~~and
  - ~~(d) annual submission of a written request for waiver to perform diagnostic evaluations to the board for approval prior to performing any diagnostic evaluations.~~

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-1-131, 37-15-102, 37-15-313, 37-15-314, MCA

REASON: The board is amending this rule to eliminate outdated, redundant, and unnecessary provisions, and provide consistency, simplicity, better organization, and ease of use for the reader. The board determined it is reasonably necessary to amend this rule and its title to specify those services that speech-language pathology aides or assistants are prohibited from performing as it is nearly impossible to list all the services aides or assistants can perform. The board is also amending this rule to align with amendments in this notice changing from three types of speech-language pathology aides and assistants to two.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.222.706 FUNCTIONS OF PROHIBITED SERVICES – AUDIOLOGY AIDES OR /ASSISTANTS (1) Audiology aides/assistants are not allowed to provide telepractice services per 37-15-314, MCA.

~~(1) The supervisor is obligated to ensure that the aide assist only in the provision of those services that are within the abilities of the aide as determined by the training and experience of that aide or assistant. The supervisor is directly responsible for all decisions affecting the client in all phases of diagnosis, treatment,~~

and disposition. It is recognized that administrative responsibilities for an aide or assistant may be with other than the professional supervisor and those responsibilities are not included in this regulation.

~~(2) Audiology aides or assistants shall not perform any task without the expressed knowledge and approval of the supervising audiologist.~~

~~(3) All audiology aides or assistants shall be under appropriate supervision. Each aide or assistant shall comply with the following function guidelines:~~

~~(a) audiology aide or assistant may:~~

~~(i) greet, escort, and schedule patients;~~

~~(ii) package and mail earmold orders, device repairs, and factory returns;~~

~~(iii) perform inventories of equipment and supplies;~~

~~(iv) enter clinic supply orders;~~

~~(v) perform checks on hearing aids and other amplification devices;~~

~~(vi) clean hearing aids and other amplification devices;~~

~~(vii) perform troubleshooting and minor repairs to hearing aids, earmolds, and other amplification devices;~~

~~(viii) perform electroacoustic analysis of hearing aids and other amplification devices;~~

~~(ix) instruct patients in proper use and care of hearing aids and other amplification devices;~~

~~(x) demonstrate alerting and assistive listening devices;~~

~~(xi) instruct patients in proper ear hygiene;~~

~~(xii) assist audiologists in treatment programs;~~

~~(xiii) assist audiologists with setup and technical tasks, including restoring setting in hearing aids and other amplification devices;~~

~~(xiv) prepare materials for ear impressions;~~

~~(xv) maintain and restock test and treatment rooms;~~

~~(xvi) perform equipment maintenance and biological checks;~~

~~(xvii) conduct but not interpret hearing and tympanometric screening for children aged three and older and adults;~~

~~(xviii) conduct otoacoustic emission screening;~~

~~(xix) perform nondiagnostic otoscopy;~~

~~(xx) perform, but not interpret, audiologic and vestibular tests;~~

~~(xxi) assist audiologists in hearing testing of pediatric patients;~~

~~(xxii) perform pure tone hearing screening;~~

~~(xxiii) perform universal newborn hearing screening tests;~~

~~(xxiv) perform infection control duties within the clinic/service; and~~

~~(xxv) assist patients in completing case history or other relevant forms.~~

~~(4) (2) Audiology aides or assistants shall comply with the following guidelines on functions that aides/assistants are not allowed to:~~

~~(a) perform any task without the expressed knowledge and approval of the aide/assistant supervisor;~~

~~(a) audiology aide or assistant may not:~~

~~(i) and (ii) remain the same but are renumbered (b) and (c).~~

~~(iii) (d) participate in team or case conferences, or any interdisciplinary team, without the presence of the supervising audiologist aide/assistant supervisor or an audiologist designated by the supervising audiologist aide/assistant supervisor;~~

(iv) remains the same but is renumbered (e).

~~(v) (f) assist with patients without following the treatment plan prepared by the audiologist or without proper supervision~~ aide/assistant supervisor;

~~(vi) (g) compose or sign any formal documents (e.g., treatment plans, reimbursement forms, or reports); progress notes written by audiology assistants may be reviewed and cosigned by the supervising audiologist, subject to local facility policy;~~

~~(vii) (h) transmit clinical information either orally or in writing to anyone, including the patient, except at the direction of the supervising audiologist~~ aide/assistant supervisor;

(viii) remains the same but is renumbered (i).

~~(ix) (j) disclose clinical or confidential information either orally or in writing to anyone other than the supervising audiologist~~ aide/assistant supervisor, except at the direction of the ~~supervising audiologist~~ aide/assistant supervisor;

~~(x) (k) counsel or consult with the patient, family, or others regarding the patient status or service, or make referrals for additional services, except at the direction of the supervising audiologist~~ aide/assistant supervisor;

~~(xi) refer to themselves either orally or in writing with a title other than one determined by the supervising audiologist;~~

(xii) remains the same but is renumbered (l).

~~(xiii) (m) fit hearing aids or other amplification devices; or~~

~~(xiv) (n) map cochlear implants; or~~

(o) write progress notes that are not cosigned by the aide/assistant supervisor.

~~(5) (3) Audiology aides or assistants and industrial audiology aides or assistants~~ aides/assistants shall comply with the supervision plan and functions submitted by the aide/assistant supervisor at the time of application, and with all other statutory or rule requirements.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-1-131, 37-15-102, 37-15-313, 37-15-314, MCA

REASON: The board is amending this rule to eliminate outdated, redundant, and unnecessary provisions, and provide consistency, simplicity, better organization, and ease of use for the reader. The board determined it is reasonably necessary to amend this rule to specify those services that audiology aides or assistants are prohibited from performing as it is nearly impossible to list all the services aides or assistants can perform.

Additionally, the board is striking the prohibition on aides or assistants referring to themselves with titles other than one approved by the supervisor. Since the board does not license aides or assistants and has very limited authority over their conduct, the board concluded it lacks the authority to dictate and enforce titles.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.222.910 DELIVERY OF TELEPRACTICE SERVICES (1) Telepractice services may be delivered using asynchronous and synchronous methods as defined in ARM 24.222.301. in a variety of ways, including:

- (a) ~~Asynchronous transmission:~~
    - (i) ~~store and forward model/electronic transmission of stored clinical data from one location to another usually by the Internet via e-mail or fax; and~~
    - (ii) ~~video and audio transmission through regular mail service delivery and express delivery services; and~~
  - (b) ~~Synchronous transmission:~~
    - (i) ~~clinician interactive model is a real time interaction between provider and patient that may occur via audio or audio/video transmission over telecommunication links such as telephone, Internet, or other methods for distance communication, including:~~
      - (A) ~~videoconferencing;~~
      - (B) ~~remote control software applications;~~
      - (C) ~~computer applications;~~
      - (D) ~~e-mail correspondence, including attachments; or~~
      - (E) ~~self-monitoring/testing model, which refers to the patient who receives the services and provides data to the provider without a facilitator present at the site of the patient.~~
- (2) remains the same.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-1-131, 37-15-102, 37-15-202, 37-15-314, 37-15-315, MCA

REASON: The board is relocating the definitions for "asynchronous" and "synchronous" to ARM 24.222.301 to set forth all definitions in a single rule.

24.222.2102 CONTINUING EDUCATION – SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS (1) ~~Continuing education consists of educational activities designed to:~~

- (a) ~~review existing concepts and techniques;~~
- (b) ~~convey information beyond the basic professional education; and~~
- (c) ~~update knowledge on advances in speech-language pathology or audiology practices.~~

(2) (1) Licensees are required to obtain the following continuing education (CE) hours annually, prior to renewal on February 1. Credit will be granted only for CE completed during the one-year period prior to renewal:

- (a) and (b) remain the same.
- (3) remains the same but is renumbered (2).
- (3) Licensees are responsible for selecting quality programs that focus on protecting the health, safety, and welfare of the public and contribute to speech-language pathologists' and audiologists' professional knowledge and competence.

Acceptable CE activities:

- (a) directly relate to the scope of practice of speech-language pathology and audiology as defined in board statutes and rules;
- (b) review existing concepts and techniques;

(c) convey information beyond the basic professional education;  
(d) update knowledge on advances in speech-language pathology or audiology practices; and/or

(e) reinforce professional conduct or ethical obligations of the licensee.

~~(4) All licensees will affirm on the annual renewal form that they have completed the appropriate number of continuing education hours shall affirm an understanding of their recurring duty to comply with CE requirements as part of annual license renewal.~~

~~(5) The board will randomly audit up to 50 percent of renewed licensees' continuing education CE annually.~~

~~(6) All continuing education must be documented with evidence from the instructor or sponsoring organization CE must be documented to show proof of completion. The licensee is responsible for maintaining these records and making these records CE documentation available upon board request. Documentation must include the following information:~~

~~(a) participant's licensee name;~~

~~(b) presenter or sponsor;~~

~~(c) remains the same.~~

~~(d) course date(s); and~~

~~(e) location; and~~

~~(f) (e) number of continuing education CE hours granted earned.~~

~~(7) Licensees found to be in noncompliance with CE requirements may be subject to administrative suspension. Licensees may not apply CE hours used to complete delinquent CE requirements for the next education reporting period.~~

~~(8) Any CE hours required by disciplinary order do not apply toward the hours that are required annually under this rule.~~

~~(7) Credit will be granted only for continuing education completed during the one-year period prior to renewal.~~

~~(8) Continuing education offered by the following sponsors is approved by the board:~~

~~(a) American Speech-Language Hearing Association (ASHA);~~

~~(b) Montana Speech and Hearing Association (MSHA);~~

~~(c) American Academy of Audiology (AAA);~~

~~(d) Academy of Doctors of Audiology (ADA); and~~

~~(e) Montana Audiology Guild (MAG).~~

~~(9) Sponsors not meeting the criteria in (8) will be evaluated by the board on an individual basis.~~

~~(10) Licensees who serve as instructors in approved programs or academic courses may be allowed appropriate credit for one-time presentation. No credit will be allowed for repeat sessions.~~

~~(a) These programs and academic courses must also be approved by the board per (9).~~

~~(b) One quarter credit hour of academic course work shall be considered ten continuing education hours, and one semester credit hour of academic course work shall be considered 15 continuing education hours. Formal educational activities clearly related to the contemporary practice of speech-language pathology or~~

~~audiology offered by a recognized post-secondary training institution documented by transcript or grade sheet meet this criteria.~~

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

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

REASON: The board determined it is reasonably necessary to amend this rule to align with and further facilitate the department's standardized application, renewal, and audit procedures, and streamline the rule for better organization and ease of use for the reader. As a part of the standardization, the board concluded it is reasonably necessary to place the responsibility on licensees to select quality continuing education (CE) programs that contribute to their knowledge and competence. Following amendment, the board will no longer approve sponsors or courses as licensees must choose CE that meets the professional education objectives in this rule.

Following a recommendation by department legal staff, the board is amending (4) to align the affirmation of CE required at renewal with the provisions of 37-1-306, MCA. The amendments fall within standardized department procedures by having licensees with mandatory CE affirm an understanding of the requirement and the potential of being audited for compliance.

The board is clarifying in (7) that licensees not in compliance with CE may be subject to administrative suspension per 37-1-321, MCA, and in accordance with standardized department audit processes. To address licensee and staff questions, the board is adding (8) to clarify that any CE required pursuant to a licensee's disciplinary action is independent of regular CE requirements.

24.222.2402 SCREENING PANEL (1) The board screening panel shall consist of:

(a) one speech-language pathologist ~~board member~~ who has served longest on the board;

(b) one audiologist ~~board member~~ who has served longest on the board; and

(c) one public member of the board.

(2) The ~~chairman~~ presiding officer may reappoint screening panel members, or replace screening panel members as necessary at the ~~chairman's~~ presiding officer's discretion.

AUTH: 37-1-136, 37-15-202, MCA

IMP: 37-1-307, 37-15-201, MCA

REASON: It is reasonably necessary to amend this rule to reflect the correct term of "presiding officer" as used in 37-15-201 and for simplicity and ease of use.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

5. The board is proposing to repeal the following rules:

24.222.514 LICENSE RENEWAL

AUTH: 37-1-131, 37-15-202, MCA  
IMP: 37-1-141, MCA

REASON: The board is repealing this unnecessary rule as the department administers a standardized renewal process for all professional licensing boards.

24.222.702 SCHEDULE OF SUPERVISION - CONTENTS

AUTH: 37-1-131, 37-15-202, MCA  
IMP: 37-15-102, 37-15-313, MCA

REASON: It is reasonably necessary to repeal this rule as the board does not have authority to require supervision plans or schedules since aides are not licensees. Supervision provisions within the board's authority are relocated to ARM 24.222.701.

24.222.901 DEFINITIONS

AUTH: 37-1-131, 37-15-202, MCA  
IMP: 37-1-131, 37-15-102, 37-15-202, 37-15-314, 37-15-315, MCA

REASON: To provide consistency, simplicity, and house all definitions in a single rule, the board is repealing this rule and moving the definitions for "asynchronous" and "synchronous" to ARM 24.222.301.

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 the Board of Speech-Language Pathologists and Audiologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdspl@mt.gov](mailto:dlibsdspl@mt.gov), and must be received no later than 5:00 p.m., August 17, 2018.

7. An electronic copy of this notice of public hearing is available at <http://boards.bsd.dli.mt.gov/slp> (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

8. 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 Speech-Language Pathologists and Audiologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to [dlibsdsplp@mt.gov](mailto:dlibsdsplp@mt.gov); or made by completing a request form at any rules hearing held by the agency.

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

10. Regarding the requirements of 2-4-111, MCA, the department has determined that the amendment of ARM 24.101.413 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.222.301, 24.222.701, 24.222.703, 24.222.706, 24.222.910, 24.222.2102, and 24.222.2402 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.222.514, 24.222.702, and 24.222.901 will not significantly and directly impact small businesses.

Documentation of the department and board's above-stated determinations is available upon request to the Board of Speech-Language Pathologists and Audiologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; facsimile (406) 841-2305; or to [dlibsdsplp@mt.gov](mailto:dlibsdsplp@mt.gov).

11. Lucy Richards, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF SPEECH-LANGUAGE  
PATHOLOGISTS AND AUDIOLOGISTS  
LUCY HART PAULSON, Ed.D., CCC-SLP  
PRESIDING OFFICER

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

/s/ GALEN HOLLENBAUGH  
Galen Hollenbaugh, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State July 10, 2018.

BEFORE THE DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I ) NOTICE OF PUBLIC HEARING  
regarding the Lockwood Solvent ) ON PROPOSED ADOPTION  
Groundwater Plume Site Controlled )  
Groundwater Area )

To: All Concerned Persons

1. On August 23, 2018, at 1:00 p.m., the Department of Natural Resources and Conservation will hold a public hearing in the Board of Oil and Gas Conservation Conference Room, 2535 St. Johns Avenue, Billings, MT, to consider the proposed adoption of the above-stated rule.

2. 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 August 3, 2018, to advise us of the nature of the accommodation that you need. Please contact Millie Heffner, Montana Department of Natural Resources and Conservation, P.O. Box 201601, 1424 Ninth Avenue, Helena, MT 59620-1601; telephone (406) 444-0581; fax (406) 444-0533; or e-mail mheffner@mt.gov.

3. The department proposes to adopt the following rule:

NEW RULE I LOCKWOOD SOLVENT GROUNDWATER PLUME SITE CONTROLLED GROUNDWATER AREA (1) There is designated a Lockwood Solvent Groundwater Plume Site Controlled Groundwater Area (LSGPS CGWA). The LSGPS CGWA means an area of approximately 336 acres located east of Billings, Montana, and is generally described as follows:

(a) The LSGPS CGWA covers an area approximately 0.54 square miles and is generally located south and east of the Yellowstone River at Lockwood, Montana, between Rosebud Lane to the south, the Yellowstone River to the north and west, and Maier Road on the east (the east Section line of Sections 26 and 35, T1N, R26E). The boundaries are wholly within: N2N2 Section 35, T1N, R26E; S2 Section 26, T1N, R26E; and S2N2 Section 26, T1N, R26E.

(b) A map of the area within the LSGPS CGWA described in (1)(a) is posted at <http://dnrc.mt.gov/divisions/water/water-rights/controlled-ground-water-areas/lockwood>.

(2) Groundwater monitoring wells, test wells, and remediation wells are allowed within the boundaries of the LSGPS CGWA.

(3) Except as provided in (4), the department may not accept or process applications for any new or existing groundwater developments within the lateral boundaries of the LSGPS CGWA.

(4) The department may accept and process Forms 634 and 606 for the limited purpose of a replacement well within the LSGPS CGWA boundaries. To be considered a replacement well, the following criteria must be met:

(a) a well located outside the boundaries of LSGPS CGWA cannot be replaced within the boundaries of the LSGPS CGWA;

(b) the well to be replaced must be on record with the DNRC or must be a valid use based on 85-2-222, MCA;

(c) the replacement well must be in the same aquifer as the well being replaced;

(d) the flow rate of the replacement well must not exceed the flow rate of the well on record with the DNRC;

(e) the replacement well must be used for the same purpose as the well being replaced; and

(f) the well being replaced has been abandoned according to the current Montana Board of Water Well Contractor rules.

AUTH: 85-2-506, 85-2-508, MCA

IMP: 85-2-506, 85-2-508, MCA

**REASONABLE NECESSITY:** Section 85-2-506, MCA, authorizes the department to designate temporary or permanent controlled groundwater areas. A petition to designate a controlled groundwater area was filed with the department by the Yellowstone City/County Health Department doing business as RiverStone Health, Marilyn Tapia, director. The LSGPS CGWA area has been found to have chlorinated solvent contamination in soil and groundwater. The contaminants are primarily from Beall which manufactured and repaired tanker truck trailers and Soco West which historically operated as a chemical re-packaging and distribution company. Exposure to chlorinated solvents can occur through inhalation, ingestion, and skin contact or skin absorption. The designation of a permanent controlled groundwater area for the Lockwood Solvent Groundwater Plume Site is a remediation component specified in the Record of Decision (ROD [EPA/DEQ, 2005]) that is designed to protect human health. Chlorinated solvents have been detected in alluvial groundwater samples at levels that exceed human health standards and require remediation.

The proposed restrictions on groundwater development and changes to existing groundwater appropriations are needed to protect human health and safety.

A determination to initiate rulemaking proceedings was issued by the department on April 19, 2018.

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 in writing to Millie Heffner, Department of Natural Resources and Conservation, P.O. Box 201601, 1424 Ninth Avenue, Helena, MT 59620; fax (406) 444-0533; or e-mail mheffner@mt.gov, and must be received no later than 5:00 p.m. on August 23, 2018.

5. Mark Elison, Department of Natural Resources and Conservation, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list 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 Aliselina Strong, P.O. Box 201601, 1539 Eleventh Avenue, Helena, MT 59620; fax (406) 444-2684; e-mail astrong@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

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

/s/ John E. Tubbs  
JOHN E. TUBBS  
Director  
Natural Resources and Conservation

/s/ Brian C. Bramblett  
BRIAN C. BRAMBLETT  
Rule Reviewer

Certified to the Secretary of State July 10, 2018.

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

In the matter of the amendment of ) AMENDED NOTICE OF PUBLIC  
ARM 37.104.106 and 37.104.212 ) HEARING AND EXTENSION OF  
pertaining to updates to emergency ) COMMENT PERIOD ON  
medical service records and reports ) PROPOSED AMENDMENT

TO: All Concerned Persons

1. On July 6, 2018, the Department of Public Health and Human Services published MAR Notice No. 37-822 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1239 of the 2018 Montana Administrative Register, Issue Number 13.

2. The Department of Public Health and Human Services 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 of Public Health and Human Services no later than 5:00 p.m. on July 27, 2018, to advise us of the nature of the accommodation that you need. Please contact Todd Olson, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena MT 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

3. The Department of Public Health and Human Services is rescheduling the public hearing on the proposed amendment of the above-stated rules to comply with additional rulemaking notification requirements provided in 50-6-323, MCA.

4. On August 20, 2018, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules.

5. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Todd Olson, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210, no later than 5:00 p.m. on August 24, 2018. Comments may also be faxed to (406) 444-9744 or e-mailed to [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

/s/ Shannon McDonald  
Shannon McDonald  
Rule Reviewer

/s/ Laura Smith  
Laura Smith for Sheila Hogan, Director  
Public Health and Human Services

Certified to the Secretary of State July 10, 2018.

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

In the matter of the adoption of New )  
Rules I through III, the amendment of )  
ARM 37.95.127, 37.95.227, )  
37.106.2506, 37.111.523, and the )  
repeal of 37.115.101, 37.115.104, )  
37.115.105, 3.115.201, 37.115.301, )  
37.115.302, 37.115.303, 37.115.305, )  
37.115.306, 37.115.307, 37.115.308, )  
37.115.309, 37.115.311, 37.115.312, )  
37.115.313, 37.115.316, 37.115.317, )  
37.115.319, 37.115.321, 37.115.323, )  
37.115.502, 37.115.503, 37.115.504, )  
37.115.505, 37.115.506, 37.115.507, )  
37.115.508, 37.115.509, 37.115.510, )  
37.115.511, 37.115.513, 37.115.515, )  
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37.115.521, 37.115.522, 37.115.523, )  
37.115.601, 37.115.602, 37.115.604, )  
37.115.605, 37.115.701, 37.115.702, )  
37.115.703, 37.115.705, 37.115.706, )  
37.115.707, 37.115.801, 37.115.802, )  
37.115.804, 37.115.805, 37.115.807, )  
37.115.902, 37.115.903, 37.115.905, )  
37.115.1001, 37.115.1002, )  
37.115.1003, 37.115.1005, )  
37.115.1006, 37.115.1007, )  
37.115.1008, 37.115.1009, )  
37.115.1010, 37.115.1011, )  
37.115.1012, 37.115.1015, )  
37.115.1016, 37.115.1017, )  
37.115.1019, 37.115.1020, )  
37.115.1022, 37.115.1101, )  
37.115.1103, 37.115.1201, )  
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37.115.1304, 37.115.1305, )  
37.115.1307, 37.115.1308, )  
37.115.1309, 37.115.1310, )  
37.115.1311, 37.115.1313, )  
37.115.1314, 37.115.1315, )  
37.115.1401, 37.115.1402, )  
37.115.1403, 37.115.1404, )  
37.115.1405, 37.115.1406, )

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

37.115.1501, 37.115.1503, )  
37.115.1505, 37.115.1507, )  
37.115.1601, 37.115.1602, )  
37.115.1603, 37.115.1604, )  
37.115.1701, 37.115.1702, )  
37.115.1703, 37.115.1704, )  
37.115.1801, 37.115.1803, )  
37.115.1804, 37.115.1805, )  
37.115.1806, 37.115.1807, )  
37.115.1808, 37.115.1809, )  
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37.115.1835, 37.115.1836, )  
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37.115.1845, 37.115.1846, )  
37.115.1847, 37.115.1901, )  
37.115.1902, 37.115.1903, )  
37.115.1905, 37.115.1907, )  
37.115.1909, 37.115.1910, )  
37.115.1911, 37.115.1912, )  
37.115.2001, 37.115.2002, )  
37.115.2003, 37.115.2101, )  
37.115.2103, 37.115.2104, )  
37.115.2105, 37.115.2201, )  
37.115.2203, 37.115.2205, )  
37.115.2207, 37.115.2209, and )  
37.115.2211 pertaining to pools, )  
spas, and other water features )

TO: All Concerned Persons

1. On August 13, 2018, at 11:00 a.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed adoption, amendment, and repeal of the above-stated rules.

2. The Department of Public Health and Human Services 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 of Public Health and Human

Services no later than 5:00 p.m. on August 3, 2018, to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

NEW RULE I PURPOSE (1) The intent of this chapter is to help assure a safe and sanitary environment in and around public swimming pools.

(2) This chapter defines public swimming pools; establishes minimum standards for the construction, maintenance, and operation of public swimming pools; and provides for the enforcement of this chapter.

AUTH: 50-52-102, MCA  
IMP: 50-52-102, MCA

NEW RULE II APPLICABILITY (1) New and existing public swimming pools must conform to the provisions of this code, and any other standard and code referenced herein, except as specified in FCS 3-2018, O. Grandfather Clause, or elsewhere in this chapter.

AUTH: 50-52-102, MCA  
IMP: 50-52-102, MCA

NEW RULE III INCORPORATION BY REFERENCE (1) The Department of Public Health and Human Services, except as otherwise provided, adopts and incorporates by reference the following chapters of the International Swimming Pool and Spa Code (ISPSC), 2015, which sets forth design, construction, alteration, repair, and maintenance standards for public swimming pools. This publication may be obtained by contacting the International Code Council, 3060 Saturn Street, Suite 100, Brea, California 92821. The following chapters of this publication are being adopted with modifications as described:

(a) Chapter 1: Scope and Administration. This chapter has been deleted in its entirety.

(b) Chapter 2: Definitions. This chapter is adopted with the following modifications:

(i) the following definitions are excluded from chapter 2:

(A) Code Official;

(B) Pool;

(C) Residential; and

(D) Residential Swimming Pool.

(ii) The following definitions are modified in chapter 2:

(A) Public Swimming Pool – is modified to include 50-53-102(7)(a), MCA, for the purposes of department licensing and other administrative functions.

(B) Spa – is modified to include 50-53-102(8), MCA, for the purposes of department licensing and other administrative functions.

(c) Chapter 3: General Compliance. This chapter has been adopted with the following modification:

(i) Sub-Section 305.1 – Exceptions 1 and 2 are deleted in their entirety.

(d) Chapter 4: Public Swimming Pools. This chapter has been adopted with no changes.

(e) Chapter 5: Public Spas and Public Exercise Spas. This chapter has been modified with these changes:

(i) Section 509.2 is deleted in its entirety.

(f) Chapter 6: Aquatic Recreation Facilities. This chapter has been modified with the following changes:

(i) Section 611 is deleted in its entirety.

(g) Chapter 7: Onground Storable Residential Swimming Pools. This chapter has been deleted in its entirety.

(h) Chapter 8: Permanent Inground Residential Swimming Pools. This chapter has been deleted in its entirety.

(i) Chapter 9: Permanent Residential Spas and Permanent Residential Exercise Spas. This chapter has been deleted in its entirety.

(j) Chapter 10: Portable Residential Spas and Portable Residential Exercise Spas. This chapter has been deleted in its entirety.

(2) The Department of Public Health and Human Services adopts and incorporates by reference the American National Standard for Suction Entrapment Avoidance in Swimming Pools, Wading Pools, Spas, Hot Tubs, and Catch Basins, 2013, which sets forth design and performance criteria for circulation systems including components, devices, and related technology installed to protect against entrapment hazards in public swimming pools. This publication may be obtained by contacting The Association of Pool and Spa Professionals, 2111 Eisenhower Ave., Alexandria VA 22314.

(3) The department adopts and incorporates by reference the provisions in Circular FCS 3-2018. Circular FCS 3-2018 may be obtained by calling 406-444-2837 to request a copy; or email [hhsfcs@mt.gov](mailto:hhsfcs@mt.gov), or request one by mail by writing to DPHHS – FCS, P.O. Box 202951, Helena, MT 59620-2951.

AUTH: 50-52-102, MCA

IMP: 50-52-102, MCA

4. The department proposes to amend the following rules. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.95.127 CHILD CARE FACILITIES: SWIMMING (1) Children may not be allowed to use a swimming pool, spa, or other water feature unless it and the surrounding area are constructed and operated in accordance with ARM Title 37, chapter 115, ~~subchapters 1 through 22~~ [NEW RULES I through III].

(2) Portable wading pools, as defined in ARM Title 37, chapter 115, ~~subchapters 1 through 22~~ [NEW RULES I through III], are permitted in day care facilities.

(a) through (8) remain the same.

AUTH: 52-2-704, MCA  
IMP: 52-2-731, 52-2-735, MCA

37.95.227 SWIMMING POOLS (1) In regard to swimming, a day care center must:

- (a) allow children to use only a swimming pool which is constructed and operated in accordance with ARM Title 37, chapter 115, ~~subchapters 1 through 22~~ [NEW RULES I through III] and in accordance with ARM 37.95.127;  
(b) and (c) remain the same.

AUTH: 52-2-735, 53-4-506, MCA  
IMP: 52-2-735, 53-4-506, MCA

37.106.2506 RETIREMENT HOMES: POOLS, SPAS, AND OTHER WATER FEATURES (1) The construction and operation of any swimming pool, spa, or other water feature, which serves a retirement home must comply with the licensing procedures and requirements of Title 50, chapter 53, MCA, and ARM Title 37, chapter 115, ~~subchapters 1 through 22~~ [NEW RULES I through III].

AUTH: 50-5-103, MCA  
IMP: 50-5-103, 50-5-214, MCA

37.111.523 POOLS, SPAS, AND OTHER WATER FEATURES (1) The construction and operation of any swimming pool, spa, or other water feature owned and utilized by the youth camp must be in accordance with the standards pertaining to the type of facility in question contained in ARM Title 37, chapter 115, ~~subchapters 1 through 22~~ [NEW RULES I through III].

(2) The department adopts and incorporates by reference the rules in ARM Title 37, chapter 115, ~~subchapters 1 through 22~~ [NEW RULES I through III], which establish construction, equipment, and operation standards for swimming areas and swimming pools and spas, respectively. Copies of ARM Title 37, chapter 115, ~~subchapters 1 through 22~~ [NEW RULES I through III] and Circular FCS 2-2018, may be obtained from the Department of Public Health and Human Services, Public Health and Safety Division, Food and Consumer Safety Section, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

AUTH: 50-52-102, MCA  
IMP: 50-52-102, MCA

5. The department proposes to repeal the following rules:

37.115.101 PURPOSE AND APPLICABILITY is found on page 37-29281 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA  
IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.104 REQUIRED UPGRADING TO EXISTING FACILITIES AND OPERATIONS is found on page 37-29285 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.105 DEFINITIONS is found on page 37-29287 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.201 ADOPTION OF ANSI/NSPI STANDARDS is found on page 37-29311 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.301 CRITICAL HEALTH AND SAFETY VIOLATIONS THAT REQUIRE IMMEDIATE CLOSURE is found on page 37-29321 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.302 VIOLATIONS THAT MAY REQUIRE IMMEDIATE POOL CLOSURE is found on page 37-29323 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.303 REQUIRED INSTALLATION OF ULTRAVIOLET OR OZONE SECONDARY DISINFECTION SYSTEM is found on page 37-29323 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.305 PLAN REVIEW REQUIRED FOR POOLS, SPAS, AND OTHER WATER FEATURES is found on page 37-29325 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

37.115.306 QUALIFICATIONS REQUIRED FOR PERSONS PREPARING PLANS FOR REVIEW is found on page 37-29326 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA  
IMP: 50-53-103, MCA

37.115.307 SCOPE OF REVIEW BY THE DEPARTMENT is found on page 37-29326 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA  
IMP: 50-53-103, MCA

37.115.308 SUBMITTING PLANS FOR REVIEW is found on page 37-29327 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA  
IMP: 50-53-103, MCA

37.115.309 INCOMPLETE PLAN REVIEW APPLICATIONS is found on page 37-29329 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA  
IMP: 50-53-103, MCA

37.115.311 FEE TABLE is found on page 37-29331 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA  
IMP: 50-53-103, MCA

37.115.312 PAYMENT OF PLAN REVIEW FEES is found on page 37-29332 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA  
IMP: 50-53-103, MCA

37.115.313 OUTSIDE ENGINEERING REVIEW FEES is found on page 37-29332 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA  
IMP: 50-53-103, MCA

37.115.316 PLAN REVIEW APPROVAL AND EXTENSIONS is found on page 37-29335 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

37.115.317 PLAN REVIEW DURING CONSTRUCTION PHASE is found on page 37-29335 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

37.115.319 CHANGES FROM ORIGINALLY APPROVED PLANS AND FINAL CERTIFICATION is found on page 37-29336 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

37.115.321 INFORMATION AND TRAINING TO BE PROVIDED TO LICENSE APPLICANT is found on page 37-29337 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

37.115.323 UNAPPROVED CONSTRUCTION OR INSTALLATION is found on page 37-29338 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

37.115.502 LOCATION OF POOL, SPA, AND OTHER WATER FEATURES is found on page 37-29353 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.503 MATERIALS is found on page 37-29353 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.504 SURFACES is found on page 37-29354 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.505 SHAPE is found on page 37-29354 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.506 SLOPE is found on page 37-29357 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.507 LEDGES AND BENCHES is found on page 37-29358 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.508 DRAINS AND SUCTION OUTLETS is found on page 37-29358 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.509 DEPTH MARKERS is found on page 37-29359 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.510 WATER DEPTHS IN SHALLOW END OF POOL is found on page 37-29359 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.511 VENTILATION is found on page 37-29360 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.513 LIGHTING is found on page 37-29360 of the Administrative Rules of Montana

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.515 MAXIMUM FACILITY BATHER LOAD is found on page 37-29365 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.517 DECK AREAS is found on page 37-29366 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.518 DECK SURFACES is found on page 37-29366 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.519 DECK DRAINS is found on page 37-29367 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.521 HOSE CONNECTIONS is found on page 37-29367 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.522 WATER SUPPLY is found on page 37-29371 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.523 SEWAGE SYSTEM AND SOLID WASTE is found on page 37-29372 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.601 BARRIERS: GENERAL REQUIREMENTS is found on page 37-29381 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.602 BARRIERS FOR OUTDOOR POOLS AND WATER FEATURES is found on page 37-29381 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.604 BARRIERS FOR INDOOR POOLS is found on page 37-29382 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.605 DEADLINE FOR RETROFITTING BARRIERS IN EXISTING FACILITIES is found on page 37-29382 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.701 ENTRIES AND PLACEMENT OF STEPS AND LADDERS is found on page 37-29391 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.702 LADDER SPECIFICATION is found on page 37-29391 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.703 STAIR SPECIFICATIONS is found on page 37-29392 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.705 RECESSED TREADS is found on page 37-29393 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.706 HANDHOLDS is found on page 37-29393 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.707 HANDRAILS is found on page 37-29393 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.801 DIVING BOARDS – GENERALLY is found on page 37-29403 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.802 DIVING BOARDS – SPECIFICATIONS is found on page 37-29403 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.804 DIVING BOARDS – DIVING ENVELOPE DESIGN REQUIREMENTS is found on page 37-29405 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.805 DIVING BOARDS – MINIMUM REQUIREMENTS FOR DIVING ENVELOPE RELATIVE TO LENGTH AND HEIGHT OF DIVING BOARD is found on page 37-29406 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.807 DIVING BOARD INSTALLATION is found on page 37-29407 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.902 DRESSING ROOMS, TOILETS, AND SHOWER AREAS is found on page 37-29415 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.903 NUMBER OF FIXTURES REQUIRED is found on page 37-29416 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.905 BABY CHANGING TABLES is found on page 37-29417 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1001 CIRCULATION SYSTEMS is found on page 37-29427 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1002 TURNOVER RATES is found on page 37-29428 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1003 OPERATION OF CIRCULATION SYSTEM is found on page 37-29429 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1005 PUMPS is found on page 29431 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1006 INLETS is found on page 37-29432 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1007 OUTLETS is found on page 37-29433 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1008 OVERFLOW GUTTERS is found on page 37-29434 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1009 SKIMMERS is found on page 37-29435 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1010 VACUUM EQUIPMENT is found on page 37-29436 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1011 FILTRATION EQUIPMENT is found on page 37-29437 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1012 CROSS-CONNECTIONS AND FILL LINES is found on page 37-29438 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1015 PIPING SYSTEM is found on page 37-29443 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1016 DISINFECTANT AND CHEMICAL FEEDERS is found on page 37-29443 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1017 HAND DOSING OF DISINFECTANT NOT PERMITTED is found on page 37-29444 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1019 SALT GENERATORS is found on page 37-29444 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1020 EQUIPMENT ROOM is found on page 37-29444 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1022 CHEMICAL STORAGE is found on page 37-29447 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1101 OPERATOR QUALIFICATIONS is found on page 37-29459 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1103 RECORD KEEPING is found on page 37-29460 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1201 CHLORINE GAS STORAGE AND OPERATIONS is found on page 37-29471 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1202 CHLORINE GAS SAFETY EQUIPMENT AND TRAINING is found on page 37-29472 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1203 CARBON DIOXIDE USE AND STORAGE is found on page 37-29473 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1301 TEST KITS is found on page 37-29483 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1302 FREQUENCY OF WATER TESTING is found on page 37-29484 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1304 OXIDATION REDUCTION POTENTIAL (QRP) READING is found on page 37-29487 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1305 BACTERIOLOGICAL QUALITY is found on page 37-29488 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1307 DISINFECTANT USE is found on page 37-29491 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1308 WATER CHEMISTRY PARAMETERS is found on page 37-29492 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1309 CLOSURE OF POOL BASED ON WATER CHEMISTRY READING is found on page 37-29494 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1310 ALTERNATIVE DISINFECTANT METHODS is found on page 37-29495 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1311 CHEMICALS USED TO CONTROL ALGAE is found on page 37-29495 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1313 SATURATION INDEX is found on page 37-29497 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1314 SATURATION INDEX TABLE is found on page 37-29498 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1315 WATER CLARITY is found on page 37-29499 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1401 TYPES OF SIGNS REQUIRED is found on page 37-29509 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1402 GENERAL POOL SIGN REQUIREMENT is found on page 37-29510 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1403 SPA SIGNS is found on page 37-29511 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1404 SIGNS FOR WATER SLIDES is found on page 37-29512 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1405 SIGNS FOR FLUME WATER SLIDES is found on page 37-29512 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1406 SPRAY POOL/SPLASH DECK SIGNS is found on page 37-29513 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1501 SAFETY EQUIPMENT is found on page 37-29523 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1503 ROPES, FLOAT LINES, AND MARKING LINES is found on page 37-29524 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1505 FIRST AID KIT is found on page 37-29527 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1507 TELEPHONE REQUIRED is found on page 37-29528 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1601 WHEN LIFEGUARDS ARE REQUIRED is found on page 37-29539 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1602 WHEN LIFEGUARDS ARE NOT REQUIRED is found on page 37-29539 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1603 CERTIFICATION OF LIFEGUARDS is found on page 37-29540 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1604 NUMBERS OF LIFEGUARDS AND LIFEGUARD PLACEMENT is found on page 37-29540 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1701 POOL CARE is found on page 37-29551 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1702 DECK CARE is found on page 37-29551 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1703 FOOD, DRINK, TOBACCO USE is found on page 37-29552 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1704 NO ANIMALS PERMITTED IN OR NEAR POOLS is found on page 37-29552 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1801 REVIEW OF NONCONFORMING SPECIALTY POOLS AND WATER FEATURES is found on page 37-29559 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1803 WATER SLIDES GENERALLY is found on page 37-29561 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1804 CHILDREN'S ACTIVITY SLIDE is found on page 37-29561 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1805 DROP WATER SLIDES is found on page 37-29562 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1806 FLUME WATER SLIDES is found on page 37-29563 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1807 SPEED SLIDES is found on page 37-29563 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1808 CRITERIA FOR WATER SLIDES ENTRAPMENT is found on page 37-29564 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1809 ZERO DEPTH ENTRY TO POOL is found on page 37-29564 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1810 MULTISECTION RECREATIONAL POOLS is found on page 37-29565 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1811 SPLASH DECKS – WATER CIRCULATION is found on page 37-29566 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1812 SPLASH DECKS – GENERAL REQUIREMENTS is found on page 37-29567 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1813 SPLASH DECKS – DRAIN SYSTEMS is found on page 37-29567 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1815 SPLASH DECKS – CLEANING REQUIREMENTS is found on page 37-29568 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1817 SPAS TEMPERATURE is found on page 37-29571 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1819 SPA CIRCULATION REQUIREMENTS is found on page 37-29572 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1821 SPA SANITATION REQUIREMENTS is found on page 37-29575 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1823 SPA CLEANING REQUIREMENTS is found on page 37-29575 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1824 EXTERNAL SPA EQUIPMENT REQUIREMENTS is found on page 37-29576 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1825 SPA DEPTH is found on page 37-29576 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1826 SPA SEATING is found on page 37-29577 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1827 SPA DECK REQUIREMENTS is found on page 37-29577 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1828 SPA ENTRY REQUIREMENTS is found on page 37-29577 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1835 WADING POOLS is found on page 37-29579 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1836 WADING POOLS – CIRCULATION AND DISINFECTANT SYSTEM REQUIREMENTS is found on page 37-29579 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1837 WADING POOLS – BARRIER REQUIREMENTS is found on page 37-29580 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1838 WADING POOLS – DEPTH AND SLOPE is found on page 37-29581 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1839 WADING POOL ATTENDANT REQUIREMENTS is found on page 37-29581 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1840 WADING POOL RESTROOM AND CHANGING TABLE REQUIREMENTS is found on page 37-29581 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1845 FLOW-THROUGH HOT SPRINGS POOLS AND SPAS – GENERALLY is found on page 37-29587 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, 50-53-108, 50-53-115, MCA

37.115.1846 HOT SPRINGS POOLS AND SPAS AND FLOW-THROUGH HOT SPRINGS POOLS AND SPAS – CLEANING REQUIREMENTS is found on page 37-29588 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, 50-53-108, 50-53-115, MCA

37.115.1847 OTHER SPECIAL PURPOSE POOLS is found on page 37-29589 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1901 ANNUAL LICENSING AND FEES is found on page 37-29599 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1902 LICENSE TO BE RENEWED ANNUALLY is found on page 37-29599 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1903 LICENSE EXPIRATION: CONTINUATION OF LICENSE DURING RENEWAL PROCESS is found on page 37-29600 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 2-4-631, 50-53-204, MCA

37.115.1905 GRANDFATHER CLAUSE is found on page 37-29603 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-104, 50-53-204, 50-53-216, MCA

37.115.1907 APPLICATION AND FEE FOR LICENSE OR FOR LICENSE RENEWAL is found on page 37-29605 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1909 LICENSE NOT TRANSFERRABLE is found on page 37-29607 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1910 LICENSE TO BE DISPLAYED is found on page 37-29607 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1911 RETURN OF LICENSE is found on page 37-29607 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1912 WHEN LICENSE NOT REQUIRED is found on page 37-29608 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.2001 INSPECTIONS is found on page 37-29617 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-104, 50-53-105, 50-53-107, 50-53-108, MCA

37.115.2002 INSPECTIONS BY LOCAL HEALTH OFFICERS is found on page 37-29618 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-104, 50-53-105, 50-53-107, 50-53-108, 50-53-209, MCA

37.115.2003 VALIDATION OF LICENSE is found on page 37-29619 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-206, 50-53-207, MCA

37.115.2101 NOTICE OF VIOLATION is found on page 37-29625 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 2-4-631, 50-53-212, MCA

37.115.2103 CORRECTIVE ACTION PLAN is found on page 37-29628 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-212, 50-53-213, MCA

37.115.2104 REOPENING AFTER EMERGENCY CLOSURE is found on page 37-29628 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-104, 50-53-212, 50-53-213, MCA

37.115.2105 OTHER ENFORCEMENT ACTIONS, RECOVERY OF COSTS BY THE DEPARTMENT is found on page 37-29629 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-104, 50-53-109, 50-53-216, 50-53-217, MCA

37.115.2201 REQUEST FOR FAIR HEARING is found on page 37-29635 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 2-4-631, 50-53-213, MCA

37.115.2203 SHOW CAUSE HEARING is found on page 37-29637 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 2-4-631, 50-53-212, 50-53-213, MCA

37.115.2205 PREHEARING PROCEDURES is found on page 37-29638 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 2-4-601, 2-4-602, 2-4-631, MCA

37.115.2207 HEARING, ORDER OF PRESENTATION, BURDENS OF PROOF is found on page 37-29641 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 2-4-611, 2-4-612, 2-4-614, 2-4-631, 26-1-401, MCA

37.115.2209 LIMITS ON CONSIDERATION OF PRIOR VIOLATIONS is found on page 37-29642 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 2-4-612, 26-1-103, 26-1-501, 26-1-502, 26-1-602, 26-1-605, 26-1-606, 26-1-623, MCA

37.115.2211 RECORD, TRANSCRIPT, COSTS OF TRANSCRIPTION is found on page 37-29643 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 2-4-614, 3-5-604, MCA

## 6. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to adopt New Rules I through III. The new rules contain the most recent health and safety information and remove building code requirements that were interspersed throughout the old rules. The department is proposing amendments to ARM 37.95.127, 37.95.227, 37.106.2506, and 37.111.523 in order to correctly cite to the new rules. The department is proposing to repeal ARM 37.115.101 through 37.115.2211 because the previous rules were outdated and did not represent the most recent standards in pool construction and safety. They will be replaced with New Rules I through III. These rules are also being adopted for consistency with the building standards adopted by the Department of Labor and Industry in ARM 24.301.175.

### New Rule I

The department is proposing New Rule I because it is necessary to provide background information for compliance with the rules that will ensure that swimming pools are maintained in a safe manner to protect the public from injury or illness.

### New Rule II

The department is proposing New Rule II because it is necessary to describe when these rules should be used.

### New Rule III

The department is proposing New Rule III. This rule adopts and incorporates by reference the International Swimming Pool and Spa Code (ISPSC) building requirements which have been adopted by the Department of Labor and Industry for construction of swimming pools. Certain definitions of the ISPSC have been deleted as they either conflict with Montana statute or are unnecessary for the ongoing operation of a pool. A manual created by the Food and Consumer Safety Section of the department has also been adopted, which will inform swimming pool owners and operators of requirements to operate and maintain public swimming pools in a safe manner.

The following explains substantive changes to previous rules that have been changed to a "circular" format.

Chapter 1. Definitions. The definitions in the ISPSC have been adopted with certain exceptions that conflict with Montana statute or are more appropriately used in the context of construction in rules adopted by the Department of Labor and Industry.

Chapter 2. Pool Closures and Other Corrective Actions. Subsections A and B are necessary to provide clear authority for closure by the regulatory authority at facilities where environmental or mechanical conditions may lead to an imminent

health hazard or safety risk. These deficiencies require immediate closure in order to protect the health and safety of the public.

Subsection C. Corrective Action Plan – Use of Secondary Disinfection System is necessary for when an establishment is identified as the source of waterborne disease but no other rules appear to be in violation and additional safeguards are necessary to protect public health.

Subsection D. Fecal and Vomit Contamination Response is necessary to provide clear requirements for response to pool water contamination with human feces or vomit. The presence of these human byproducts can cause the spread of communicable disease.

Chapter 3. Plan Review. Plan review is required for Public Swimming Pools and is necessary to provide requirements for when and how plans should be submitted to the department.

Plan review is allowed under Montana statute for the review of design, construction, reconstruction, alteration, conversion, repair, and installation of equipment. Fees may be charged for this review.

Requirements in this section include rules reflecting the process for plan review and construction for the pool, such as the documents required and fees assessed for review, as well as qualifications of individuals preparing plans. This section also allows for changes that occur during the process, including timelines, changes to plans, and inspections during the construction phase.

This language allows for variances, consistent with those allowed by the Department of Labor and Industry, as well as review of nonconforming pools and additional safety requirements which may be imposed by the department.

The Grandfather Clause is necessary to ensure that pools are safe but are also not required to unnecessarily upgrade when they were built to the requirements in place at the time of construction.

Chapter 4. General Requirements. General requirements list general health and safety requirements for operating and maintaining public swimming pools.

Subsection A. Barriers is necessary to ensure that access to the public swimming pools is restricted to prevent children from accessing the public swimming pool without supervision, which may lead to injury or death caused by drowning.

Subsection B. Ventilation is necessary to ensure proper ventilation is in place at all public swimming pools. Proper ventilation ensures that the air quality is adequate in indoor areas which prevents health and safety risk to users.

Subsection C. Water supply is necessary to ensure that pathogens are not unknowingly introduced into a public swimming pool. Failure to do so may cause the spread of communicable disease, which is a health and safety risk to the public.

Subsection D. Wastewater and Solid Waste is necessary to ensure that waste from public swimming pools is disposed of in a sanitary manner. Failure to do so may cause the spread of communicable disease, which is a health and safety risk to the public.

Subsections E through L provide regulations to ensure that the facilities are maintained in a way that protects users from disease or injury caused by unsanitary or other dangerous conditions.

Chapter 5. Circulation Systems. This section is necessary to specify equipment and operation requirements that ensure that equipment is operated in a safe and effective manner that will maintain the water quality and not endanger the health and safety of the public. The requirements in this section reflect the current standards for operation of swimming pools.

Chapter 6. Facility Operations. This section is necessary to ensure that each public swimming pool employ appropriately trained personnel and keep appropriate records for the operations of the pool. This is necessary so that regulatory authorities can evaluate ongoing operations and safety of the facility.

Chapter 7. Water Testing. This section is necessary to regulate the requirements for water testing including sufficient requirements for test kits, frequency of testing, requirements for water samples including water chemistry and clarity, and appropriate disinfectant use.

Chapter 8. Safety Signs. This section is necessary to ensure appropriate safety signs are posted at the different classifications of pools. Safety signs notify the public of ways to prevent any risks of disease or injury in using the facility.

Chapter 9. Lifeguards. Trained lifeguards minimize safety risks for patrons of swimming pools. This section is necessary to set standards for certification of lifeguards, and set safety standards for when and where lifeguards are required and what equipment must be available for use by the lifeguard.

Chapter 10. Flow-Through Hot Springs Pools and Spas. This section is necessary to differentiate the requirements for these types of pools and spas. This section specifies operational and cleaning requirements.

Chapter 11. Licensing. This section clarifies procedures for licensing by the department. It is necessary for giving swimming pool owners and operators notice of the process for renewing a license and how it should be displayed.

Chapter 12. Inspections. This section sets forth the procedures for inspection by the regulatory authority. These procedures are necessary to specify the process and standards for inspections so that both the regulatory authority and the swimming pool operator understand expectations. The section also specifies and sets standards for who can conduct a swimming pool inspection.

In addition to the inspection itself, this section sets forth the process for reopening after an emergency closure or a license suspension, which is necessary for the process to be understood by the licensee and for the process to be consistent.

Chapter 13. Right to Hearing and Hearing Procedures. MAPA requires that the department set forth the process and requirements for a hearing if a licensee disagrees with an adverse action. This section specifies the standards for a hearing, including evidence, prehearing procedures, and the process of the hearing. This allows the licensee to understand its due process rights under the rule.

ARM 37.95.127, 37.95.227, 37.106.2506, and 37.111.523

The proposed amendments will correctly reference the new rules.

ARM 37.115.101, 37.115.104, 37.115.105, 3.115.201, 37.115.301, 37.115.302, 37.115.303, 37.115.305, 37.115.306, 37.115.307, 37.115.308, 37.115.309, 37.115.311, 37.115.312, 37.115.313, 37.115.314, 37.115.316, 37.115.317, 37.115.319, 37.115.321, 37.115.323, 37.115.502, 37.115.503, 37.115.504, 37.115.505, 37.115.506, 37.115.507, 37.115.508, 37.115.509, 37.115.510, 37.115.511, 37.115.513, 37.115.515, 37.115.517, 37.115.518, 37.115.519, 37.115.521, 37.115.522, 37.115.523, 37.115.601, 37.115.602, 37.115.604, 37.115.605, 37.115.701, 37.115.702, 37.115.703, 37.115.705, 37.115.706, 37.115.707, 37.115.801, 37.115.802, 37.115.804, 37.115.805, 37.115.807, 37.115.902, 37.115.903, 37.115.905, 37.115.1001, 37.115.1002, 37.115.1003, 37.115.1005, 37.115.1006, 37.115.1007, 37.115.1008, 37.115.1009, 37.115.1010, 37.115.1011, 37.115.1012, 37.115.1015, 37.115.1016, 37.115.1017, 37.115.1019, 37.115.1020, 37.115.1022, 37.115.1101, 37.115.1103, 37.115.1201, 37.115.1202, 37.115.1203, 37.115.1301, 37.115.1302, 37.115.1304, 37.115.1305, 37.115.1307, 37.115.1308, 37.115.1309, 37.115.1310, 37.115.1311, 37.115.1313, 37.115.1314, 37.115.1315, 37.115.1401, 37.115.1402, 37.115.1403, 37.115.1404, 37.115.1405, 37.115.1406, 37.115.1501, 37.115.1503, 37.115.1505, 37.115.1507, 37.115.1601, 37.115.1602, 37.115.1603, 37.115.1604, 37.115.1701, 37.115.1702, 37.115.1703, 37.115.1704, 37.115.1801, 37.115.1803, 37.115.1804, 37.115.1805, 37.115.1806, 37.115.1807, 37.115.1808, 37.115.1809, 37.115.1810, 37.115.1811, 37.115.1812, 37.115.1813, 37.115.1815, 37.115.1817, 37.115.1819, 37.115.1821, 37.115.1823, 37.115.1824, 37.115.1825, 37.115.1826, 37.115.1827, 37.115.1828, 37.115.1835, 37.115.1836, 37.115.1837, 37.115.1838, 37.115.1839, 37.115.1840, 37.115.1845, 37.115.1846, 37.115.1847, 37.115.1901, 37.115.1902, 37.115.1903, 37.115.1905, 37.115.1907, 37.115.1909, 37.115.1910, 37.115.1911, 37.115.1912, 37.115.2001, 37.115.2002, 37.115.2003, 37.115.2101, 37.115.2103, 37.115.2104, 37.115.2105,

37.115.2201, 37.115.2203, 37.115.2205, 37.115.2207, 37.115.2209, and 37.115.2211

The department is proposing to repeal these rules because they will be addressed in Circular FCS 3-2018.

Fiscal Impact

These proposed new rules affect 892 licensed pool establishments and approximately 15 to 25 new establishments per year. The proposed adoption should not have a fiscal impact. There are no proposed changes to licensure or plan review fees.

7. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov), and must be received no later than 5:00 p.m., August 17, 2018.

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

9. 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 6 above or may be made by completing a request form at any rules hearing held by the department.

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 department has determined that the adoption, amendment, and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Shannon L. McDonald  
Shannon L. McDonald  
Rule Reviewer

/s/ Erica Johnston  
Erica Johnston for Sheila Hogan, Director  
Public Health and Human Services

Certified to the Secretary of State July 10, 2018.

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

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 6.6.3504 regarding annual )  
audited financial reports )

TO: All Concerned Persons

1. On May 25, 2018, the Commissioner of Securities and Insurance, Montana State Auditor published MAR Notice No. 6-244 pertaining to the proposed amendment of the above-stated rule at page 996 of the 2018 Montana Administrative Register, Issue Number 10.

2. The commissioner has amended the above-stated rule as proposed.

3. No comments or testimony were received.

/s/ Michael A. Kakuk  
Michael A. Kakuk  
Rule Reviewer

/s/ Kristin Hansen  
Kristin Hansen  
Chief Counsel

Certified to the Secretary of State July 10, 2018.

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

In the matter of the amendment of ) NOTICE OF AMENDMENT AND  
ARM 37.40.307 and 37.40.361, and ) REPEAL  
the repeal of ARM 37.40.309 )  
pertaining to nursing facility )  
reimbursement rates for state fiscal )  
year 2019 )

TO: All Concerned Persons

1. On May 25, 2018, the Department of Public Health and Human Services published MAR Notice No. 37-845 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 1016 of the 2018 Montana Administrative Register, Issue Number 10.

2. The department has amended and repealed the above-stated rules as proposed.

3. The department has thoroughly considered the comments and testimony received from individuals representing associations, organizations, and nursing facilities. Many commenters made the same comments. A summary of the comments received and the department's responses are as follows:

COMMENT #1: Several commenters stated that the proposed nursing home Medicaid reimbursement rates for State Fiscal Year (SFY) 2019 do not cover the cost of providing care to the residents.

RESPONSE #1: The department considered the impact of the rate changes on efficiency, economy, quality of care, and access to Medicaid services and concluded that the rates are sufficient to meet the requirements of 42 USC 1396(a)(30)(A).

COMMENT #2: Several commenters stated that there are additional costs associated with high acuity Medicaid residents that the proposed rates do not address.

RESPONSE #2: The current reimbursement methodology adjusts a facility's rate based on the level of care the facility's residents require. If a facility's residents require a higher level of care, the rate is adjusted. This is referred to as the "acuity adjustment." The acuity adjustment is based on the facility's Medicaid average case mix index and the statewide average Medicaid case mix index.

Each nursing facility receives the same operating per diem rate, which is 80 percent of the statewide rate. The remaining 20 percent is the direct resident care component of the rate and is acuity-adjusted. Each facility's direct resident care component rate is specific to that facility and is based on the acuity of Medicaid

residents served in that facility. As acuity changes in each facility, based on the level of complexity of the residents being served relative to the state-wide acuity, facility rates adjust upward or downward to account for this change in acuity. The statewide average acuity has gone from 1.0072 in 2016, to 1.0114 in 2017, to 1.0185 in 2018, and is currently at 1.0354. The current methodology adjusts 20 percent of the total rate for acuity, which was a desired characteristic when the price based reimbursement system was first adopted to mitigate wide fluctuations in rates when acuity changes occurred in facilities.

COMMENT #3: The department received several comments that the department is not correctly applying the language of House Bill 618 (2017) (HB 618).

RESPONSE #3: The proposed rate represents an 8.2 percent increase over the rates established on January 1, 2018. This rate increase complies with the combined requirements of House Bill 2 (2017) (HB 2), Senate Bill 261 (2017) (SB 261), and HB 618.

COMMENT #4: In the 2017 special legislative session, Senate Bill 9 (SB 9) was adopted. If revenue benchmarks are achieved on August 15, 2018, SB 9 provides additional appropriations for state government.

RESPONSE #4: The proposed rule amendments reflect Montana Code Annotated and legislatively authorized appropriations currently in effect. The impact of potential future actions is not considered in this rule.

COMMENT #5: The statewide rate is not in the proposed rule. The proposed rule did not address the rate cuts or the amount of the decrease. Is the decrease 3 percent, 4.5 percent, or 1.5 percent?

RESPONSE #5: The proposed nursing home rates are not a decrease. The proposed rate represents an 8.2 percent increase over the rates established on January 1, 2018. This rate increase complies with the combined requirements of HB 2, SB 261, and HB 618.

COMMENT #6: The department received a comment to leave the current state fiscal year in the direct care wages rule, ARM 37.40.361. The language in the direct care wages rule should be more specific in using the word "increases." Use the word "increases" and/or "maintains."

RESPONSE #6: The Medicaid adjustment for nursing facility direct care wages is calculated annually. Previously, the department changed the state fiscal year referenced in the rule annually. The department proposes replacing the reference to the specific state fiscal year to that of a general fiscal year reference so this amendment will be unnecessary in the future.

The word "increased" is removed, because funding increases for direct care wages do not occur every state fiscal year.

COMMENT #7: The department received a comment in support of the repeal of ARM 37.40.309.

RESPONSE #7: The department thanks the commenter and concurs with the comment.

COMMENT #8: The department received several comments that the notice for this proposed rulemaking was inadequate.

RESPONSE #8: The notice meets the requirement of the Montana Administrative Procedure Act. The notice provided the public with notice of the proposed substantive rule changes including the change in rates.

COMMENT #9: A commenter stated that it appears that the department proposes to pay nursing facilities about \$9 million less for SFY 2019 than what was required and appropriated in HB 618.

RESPONSE #9: The proposed rate represents an 8.2 percent increase over the rates established on January 1, 2018. This rate increase complies with the combined requirements of HB 2, SB 261, and HB 618.

COMMENT #10: A commenter stated that SB 261, section 12, included a reduction of 0.5 percent and this reduction is 2.99 percent.

RESPONSE #10: The proposed rate represents an 8.2 percent increase over the rates established on January 1, 2018. This rate increase complies with the combined requirements of HB 2, SB 261, and HB 618.

COMMENT #11: Several commenters stated that the department implied to the Legislature that the 2.99 percent decrease in rates would only apply for six months (to the end of SFY 2018). Why isn't the department adjusting the proposed rates to remove the decrease?

RESPONSE #11: The proposed rate represents an 8.2 percent increase over the rates established on January 1, 2018. This rate increase complies with the combined requirements of HB 2, SB 261, and HB 618.

COMMENT #12: Commenters asked why the department does not publish proposed rate schedules when it publishes proposed rule changes impacting rates.

RESPONSE #12: The department adopts rates through rulemaking, and nursing home rates are readily available to the public and to the industry.

COMMENT #13: Commenters stated that the proposed rates would not cover the cost of care of facilities with high percentages of Medicaid residents, would shift the cost of care to private pay residents, and may lead to facility deterioration or closure.

RESPONSE #13: The rulemaking proposes an increase in rates which the department believes will lessen the possibility of these effects.

COMMENT #14: Commenters stated Montana rates are lower than those in Idaho and North Dakota.

RESPONSE #14: The rate increases the department proposes are not required to reflect the circumstances in Idaho or North Dakota.

4. These rule amendments and rule repeal are retroactively applied to July 1, 2018.

/s/ Geralyn Driscoll  
Geraldyn Driscoll  
Rule Reviewer

/s/ Marie Matthews  
Marie Matthews for Sheila Hogan, Director  
Public Health and Human Services

Certified to the Secretary of State July 10, 2018.

## **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.

**Water Policy Interim Committee (where the primary concern is the quality or quantity of water):**

- 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 an online 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 recent rulemaking 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.                |

## RECENT RULEMAKING BY AGENCY

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 March 31, 2018. This table includes notices in which those rules adopted during the period January 1, 2018, through July 6, 2018, occurred 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 March 31, 2018, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, notice numbers in ascending order, the subject matter of the notice, and the page number(s) at which the notice is published in the 2018 Montana Administrative Registers.

To aid the user, this table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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(Board of Optometry)

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(Board of Outfitters)

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(Board of Pharmacy)

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(Board of Realty Regulation)

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(Board of Sanitarians)

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## EXECUTIVE BRANCH 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 executive branch appointees and upcoming vacancies on those boards and councils.

In this issue, appointments effective in June 2018 appear. Potential vacancies from August 1, 2018 through October 31, 2018, are also listed.

### IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of July 1, 2018.

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.

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2018**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>9-1-1 Advisory Council</b>			
Chief Richard E. Cowger Columbus	Governor	None Stated	6/1/2018 9/1/2021
Qualifications (if required): Representative of the Montana Fire Chief's Assoc.			
Chief Mike Doto Butte	Governor	Not Stated	6/1/2018 9/1/2019
Qualifications (if required): Representative of the Montana State Volunteer Firefighter's Assoc.			
Mr. Pat Roos Miles City	Governor	Not Stated	6/1/2018 9/1/2021
Qualifications (if required): Representative of the Montana Sheriffs and Peace Officers Assoc.			
<b>Board of Architects and Landscape Architects</b>			
Mr. Steven Thomas Small Billings	Governor	Cornish	6/1/2018 4/1/2019
Qualifications (if required): Representative of the Public			
<b>Board of Hail Insurance</b>			
Mrs. Judy P. Tureck Coffee Creek	Governor	Reappointed	6/1/2018 5/1/2021
Qualifications (if required): Public Member			

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2018**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Personnel Appeals</b>			
Mr. Mario Valdez Martinez Great Falls	Governor	Severson	6/1/2018 1/1/2019
Qualifications (if required): Alternative member who is a full-time employee or elected official of a labor union			
<b>Board of Psychologists</b>			
Ms. Shelley Marie Windsor Anaconda	Governor	Holden	6/29/2018 9/1/2022
Qualifications (if required): Behavior Analyst			
<b>Board of Realty Regulation</b>			
Mrs. Lindsey W. Hromadka Whitefish	Governor	None Stated	6/15/2018 5/1/2021
Qualifications (if required): Representative of the public			
<b>Board of Regents of Higher Education</b>			
Ms. Brianne Kristine Rogers Dugan Bozeman	Governor	Johnstone	6/29/2018 2/1/2024
Qualifications (if required): District 1 Democrat			
<b>Economic Development Advisory Council</b>			
Director Pam Haxby-Cote Helena	Governor	O'Leary	6/1/2018 1/1/2021
Qualifications (if required): Department of Commerce Director			

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2018**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Economic Development Advisory Council Cont.</b>			
Mr. Joseph J. Willauer Butte	Governor	Haxby-Cote	6/1/2018 7/1/2019
Qualifications (if required): Headwaters Resources Conservation & Development Region			
<b>Family Support Services Advisory Council</b>			
Ms. Hollin Marie Buck Missoula	Governor	Reappointed	6/11/2018 4/1/2020
Qualifications (if required): Provider of Part C Services			
Ms. Melanie Bush Great Falls	Governor	Reappointed	6/11/2018 4/1/2020
Qualifications (if required): Provider of Part C Services			
Ms. Patricia Butler Helena	Governor	Reappointed	6/11/2018 4/1/2020
Qualifications (if required): Agency Representative			
Ms. Laura Christiaens Valier	Governor	Hoover	6/11/2018 4/1/2020
Qualifications (if required): Provider of Part C Services			

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2018**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Family Support Services Advisory Council Cont.</b>			
Ms. RaLea Harbrige Belgrade Qualifications (if required): Parent Representative Region 4	Governor	Banna	6/11/2018 4/1/2020
Mrs. Cathy Jury St. Ignatius Qualifications (if required): Montana School for the Deaf & Blind	Governor	Reappointed	6/11/2018 4/1/2020
Ms. Jeannie Keller Helena Qualifications (if required): Agency Representative	Governor	Nyland	6/11/2018 4/1/2020
Ms. Erin Kintop Helena Qualifications (if required): Agency Representative	Governor	Kolar	6/11/2018 4/1/2020
Dr. Christine Lux Bozeman Qualifications (if required): Personnel Preparation Representative	Governor	Reappointed	6/11/2018 4/1/2020
Ms. Alexis Marthaller Butte Qualifications (if required): Agency Representative	Governor	Holzwarth	6/11/2018 4/1/2020

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2018**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Family Support Services Advisory Council Cont.</b>			
Ms. Danielle McCarthy Helena Qualifications (if required): Agency Representative OPI Part B	Governor	Reappointed	6/11/2018 4/1/2020
Ms. Laura McKee Billings Qualifications (if required): Parent Representative	Governor	Simonsen	6/11/2018 4/1/2020
Mr. David Munson Billings Qualifications (if required): Provider of Part C Services	Governor	Reappointed	6/11/2018 4/1/2020
Ms. Catherine Murphy Helena Qualifications (if required): Agency Representative	Governor	Reappointed	6/11/2018 4/1/2020
Ms. Sarah Odette Goldsmith Great Falls Qualifications (if required): Parent Representative Region 2	Governor	Reappointed	6/11/2018 4/1/2020
Mrs. Caitlyn Ashley Patera Helena Qualifications (if required): Agency Representative	Governor	Bell	6/11/2018 4/1/2020

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2018**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Family Support Services Advisory Council Cont.</b>			
Ms. Jean L. Price Great Falls Qualifications (if required): State Legislator	Governor	Reappointed	6/11/2018 4/1/2020
Ms. Girlie Daylinda Quiroz Radley Helena Qualifications (if required): Speech Language Therapists Assoc.	Governor	Hart-Paulson	6/11/2018 4/1/2020
Ms. Kathleen Rich Helena Qualifications (if required): Head Start Representative	Governor	Jones	6/11/2018 4/1/2020
Ms. Karen Shevlin Helena Qualifications (if required): Agency Representative	Governor	Frick	6/11/2018 4/1/2020
Ms. Karen Thornton Great Falls Qualifications (if required): Provider of Part C Services	Governor	Guilford	6/11/2018 4/1/2020

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2018**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Future Ready Montana Cabinet</b>			
Superintendent Elsie Arntzen Helena	Governor	None Stated	6/19/2018 6/30/2019
Qualifications (if required): Superintendent of Public Instruction			
Governor Steve Bullock Helena	Governor	None Stated	6/19/2018 6/30/2019
Qualifications (if required): Governor			
Commissioner Clayton Christian Helena	Governor	None Stated	6/19/2018 6/30/2019
Qualifications (if required): Commissioner of Higher Education			
Lt. Governor Mike Cooney Helena	Governor	None Stated	6/19/2018 6/30/2019
Qualifications (if required): Lieutenant Governor			
Mr. Ken Fichtler Helena	Governor	None Stated	6/19/2018 6/30/2019
Qualifications (if required): Director of the Governor's Office of Economic Development			
Director Sheila Hogan Helena	Governor	None Stated	6/19/2018 6/30/2019
Qualifications (if required): Director of the Department of Public Health and Human Services			

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2018**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Future Ready Montana Cabinet Cont.</b>			
Commissioner Galen Hollenbaugh Helena	Governor	None Stated	6/19/2018 6/30/2019
Qualifications (if required): Commissioner of the Department of Labor and Industry			
Major General Matthew Quinn Helena	Governor	None Stated	6/19/2018 6/30/2019
Qualifications (if required): Adjutant General of the Montana National Guard			
<b>Interstate Compact on Educational Opportunity for Military Children</b>			
Captain Michelle Bogden Fort Harrison	Governor	Bushnell	6/29/2018 2/5/2019
Qualifications (if required): Executive Branch Representative			
<b>Labor-Management Advisory Council</b>			
Ms. Vicki Evans Great Falls	Governor	Jones	6/1/2018 12/31/2018
Qualifications (if required): Self-Insurers			
Mr. Adam Haight Helena	Governor	Ekblad	6/13/2018 12/31/2018
Qualifications (if required): Employees			

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2018**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Montana Heritage Preservation and Development Commission</b>			
Ms. Pamela Dawn Bucy Helena	Governor	Durham	6/29/2018 5/1/2021
Qualifications (if required): Experience in business			
Mr. Floyd William Howell West Yellowstone	Governor	Reappointed	6/29/2018 5/1/2021
Qualifications (if required): Extensive experience in managing facilities			
<b>Montana Information Security Advisory Council</b>			
Mr. Andy Hanks Helena	Governor	Pizzini	6/1/2018 6/30/2019
Qualifications (if required): State Agency			
Commissioner Tony O'Donnell Helena	Governor	New	6/1/2018 6/30/2019
Qualifications (if required): State Agency			
<b>Montana Pulse Crop Committee</b>			
Mr. Colby Johnson Conrad	Governor	Sammons	6/22/2018 6/30/2018
Qualifications (if required): At-large member from either district			

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2018**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Montana Wheat and Barley Committee</b>			
Mr. Charles Bumgarner Great Falls Qualifications (if required): District V Independent	Governor	Mylymaki	6/22/2018 6/1/2021
Mr. Adam Carney Scobey Qualifications (if required): District I Democrat	Governor	Mattelin	6/22/2018 6/1/2021
Ms. Denise Conover Broadview Qualifications (if required): District VI Independent	Governor	Reappointed	6/22/2018 6/1/2021
<b>Public Employee's Retirement Board</b>			
Commissioner Robyn Driscoll Billings Qualifications (if required): Member At-Large	Governor	McGinley	6/15/2018 4/1/2023
Mrs. Sheena Wilson Helena Qualifications (if required): Retired public employee, member of the system	Governor	Reappointed	6/15/2018 4/1/2023

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2018**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>State Library Commission</b>			
Ms. Jamie Doggett White Sulphur Springs	Governor	Eissinger	6/22/2018 6/1/2021
Qualifications (if required): Public Representative			
Mr. Kenneth Wall Missoula	Governor	Reappointed	6/22/2018 6/1/2021
Qualifications (if required): Public Representative			
<b>Water and Wastewater Operator's Advisory Council</b>			
Dr. Eleazer P. Resurreccion Havre	Governor	Reappointed	6/15/2018 10/1/2023
Qualifications (if required): Faculty of a university or college whose major field is related to water supply			
<b>Youth Justice Council</b>			
Sheriff Craig Anderson Glendive	Governor	Reappointed	6/22/2018 3/1/2020
Qualifications (if required): Experience and competence in addressing problems related to school violence and vandalism			
Mr. Dave Bailon Kalispell	Governor	Reappointed	6/22/2018 3/1/2020
Qualifications (if required): Volunteer who works with delinquents or potential delinquents			

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2018**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Youth Justice Council Cont.</b>			
Mr. Peter Brooks McIntosh Helena	Governor	Quinn	6/22/2018 3/1/2020
Qualifications (if required): Under the age of 24			
Mr. Tim Brurud Havre	Governor	Reappointed	6/22/2018 3/1/2020
Qualifications (if required): Chair Non-profit			
Ms. Rachel Marie Gemar Bozeman	Governor	Kindsfather	6/22/2018 3/1/2020
Qualifications (if required): Under the age of 24			
Honorable Mary Jane McCalla Knisely Billings	Governor	Reappointed	6/22/2018 3/1/2020
Qualifications (if required): Law enforcement and juvenile justice agencies			
Commissioner Laura Obert Townsend	Governor	Reappointed	6/22/2018 3/1/2020
Qualifications (if required): Local Government and Board of Crime Control Member			
Mr. Randy Shipman Dillon	Governor	Reappointed	6/22/2018 3/1/2020
Qualifications (if required): Public Agency concerned with delinquency prevention or treatment			

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2018**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Youth Justice Council Cont.</b>			
Ms. Geri Small	Governor	Reappointed	6/22/2018
Lame Deer			3/1/2020
Qualifications (if required): Experience and competence in addressing problems related to disabilities			
Ms. RaeGyn Trombley	Governor	Cox	6/22/2018
Great Falls			3/1/2020
Qualifications (if required): Under the age of 24			

**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2018 THROUGH OCTOBER 31, 2018**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Achieving a Better Life Experience (ABLE) Program Oversight Committee</b>		
Ms. Katalin Kallay Patterson, Bozeman	Governor	9/1/2018
Qualifications (if required): Knowledge, skill, and experience in accounting, risk management, or investment management		
<b>Alternative Health Care Board</b>		
Ms. Mary Ann Brown, Bozeman	Governor	9/1/2018
Qualifications (if required): Midwife		
<b>Board of Alternative Health Care</b>		
Ms. Ingrid Clare Lovitt-Abramson, Missoula	Governor	9/1/2018
Qualifications (if required): Public Representative		
<b>Board of Barbers and Cosmetologists</b>		
Mr. Wendell Petersen, Missoula	Governor	10/1/2018
Qualifications (if required): Cosmetologist		
Ms. Sherry Wieckowski, Thompson Falls	Governor	10/1/2018
Qualifications (if required): Barber		
Mrs. Connie Leistiko, Kalispell	Governor	10/1/2018
Qualifications (if required): General Public Representative		
<b>Board of Medical Examiners</b>		
Dr. Anna Earl, Chester	Governor	9/1/2018
Qualifications (if required): Doctor of Medicine		

**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2018 THROUGH OCTOBER 31, 2018**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Medical Examiners Cont.</b> Dr. Nathan Thomas, Missoula Qualifications (if required): Podiatrist	Governor	9/1/2018
Dr. Bruce Hayward, McAllister Qualifications (if required): Osteopath	Governor	9/1/2018
<b>Board of Outfitters</b> Mr. Matthew Allen Greenmore, Twin Bridges Qualifications (if required): Outfitter licensed to provide fishing services but not hunting services	Governor	10/1/2018
<b>Board of Private Security</b> Mr. Charles Pesola, Kalispell Qualifications (if required): Contract security company or proprietary security organization	Governor	8/1/2018
Mr. Martin Mangan, Helena Qualifications (if required): Licensed private investigator	Governor	8/1/2018
Mr. Wynn Meehan, Townsend Qualifications (if required): County Sheriff's Office	Governor	8/1/2018
Captain Mark O. Guy, Laurel Qualifications (if required): City Police Department	Governor	8/1/2018
Sergeant Harold Eugene Richardson, Bozeman Qualifications (if required): City Police Department	Governor	8/1/2018

**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2018 THROUGH OCTOBER 31, 2018**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Psychologists</b>		
Dr. James English, Helena Qualifications (if required): Psychologist in private practice	Governor	9/1/2018
Ms. Sara P. Boilen, Whitefish Qualifications (if required): Licensed Psychologists in Private Practice	Governor	9/1/2018
<b>Board of Veterans' Affairs</b>		
Mr. Byron Erickson, Helena Qualifications (if required): Region 2 Representative	Governor	8/1/2018
Representative Kathy Swanson, Anaconda Qualifications (if required): Representative of State Administration and Veterans' Affairs Interim Committee	Governor	8/1/2018
Dr. Trena Bonde, Fort Harrison Qualifications (if required): Representative of the U.S. Department of Veterans Affairs	Governor	8/1/2018
Ms. Casey Jourdan, Billings Qualifications (if required): Region 4 Representative	Governor	8/1/2018
Mr. Ronald Milam, Missoula Qualifications (if required): Region 1 Representative	Governor	8/1/2018
Ms. Brenda York, Belgrade Qualifications (if required): Training, Education, or Experience related to Veterans issues	Governor	8/1/2018

**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2018 THROUGH OCTOBER 31, 2018**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Veterans' Affairs Cont.</b> Dr. William Campbell, Fort Harrison Qualifications (if required): U.S. Veterans Affairs Representative, non-voting member	Governor	8/1/2018
<b>Burial Preservation Board</b> Mr. William Big Day, Crow Agency Qualifications (if required): Crow Tribe Representative	Governor	9/1/2018
Mr. Carl Davis, Missoula Qualifications (if required): Representative of the Montana Archaeological Association	Governor	9/1/2018
<b>Information Technology Managers Advisory Council</b> Mr. Eric Tarr, Helena Qualifications (if required): Information Technology Manager	Governor	8/1/2018
Mr. Sean Higginbotham, Great Falls Qualifications (if required): Local government representative	Director	8/1/2018
Mr. Rennan Rieke, Helena Qualifications (if required): Information Technology Manager	Director	8/1/2018
<b>State Historical Preservation Review Board</b> Mr. Zane Fulbright, Lewistown Qualifications (if required): Historical researcher	Governor	10/1/2018

**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2018 THROUGH OCTOBER 31, 2018**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>State Historical Preservation Review Board Cont.</b> Dr. C. Riley Auge, Missoula Qualifications (if required): Historian	Governor	10/1/2018
<b>State Rehabilitation Council</b> Ms. Katherine M. Meier, Great Falls Qualifications (if required): Advocacy Community	Governor	10/1/2018
<b>Water and Wastewater Operators' Advisory Council</b> Mr. Andrew Loudermilk, Kalispell Qualifications (if required):	Governor	10/16/2018

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**COREY STAPLETON**  
SECRETARY OF STATE

P.O. BOX 202801  
HELENA, MONTANA 59620